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COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR
BEYOND THE LIMITS OF NATIONAL JURISDICTION

PROVISIONAL SUMMARY RECORD OF THE ONE HUNDRED AND FOURTH MEETING*/

held at the Palais des Nations, Geneva,
on Friday, 24 August 1973, at 3.30 p.m.

Chairman:

Mr. AMERASINGHE

Sri Lanka

Rapporteur:

Mr. VELLA

Malta

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N.B. Participants wishing to submit corrections to this provisional summary record are requested to submit them in writing, preferably on a copy of the record itself, to the Official Records Editing Section, Room LX.2332, United Nations, New York, by 20 September 1973.

*/ This provisional summary record, together with the corrections to be issued in consolidated form after the session, will constitute the final record of the meeting.

GE.73-8568

CLOSURE OF THE SESSION (continued)

Mr. ROMANOV (Union of Soviet Socialist Republics) said that after reviewing the work done, his delegation had arrived at the conclusion that the preparatory work had not been completed and should therefore be continued. It had noted with satisfaction that a number of other delegations shared that view, as was shown in particular by the Mexican representative's statement at the 103rd meeting.

When the General Assembly had decided, at its twenty-eighth session, that the Committee would hold two sessions in 1973, it had not excluded the possibility that the preparatory work for the Conference should continue beyond those two sessions. In operative paragraph 5 of part A of its resolution 3029 (XXVII), the Assembly had decided to review at its twenty-eighth session the progress of the preparatory work of the Committee and, if necessary, take measures to facilitate completion of the substantive work for the Conference and any other measures which it might deem useful. Since the preparatory work on the substance of the Conference had not been completed, it would be necessary to take the measures in question. The form and duration of the additional preparatory work could be determined by the General Assembly itself, of which the Committee was a subsidiary body. Throughout its successive sessions, the Committee had always applied the method of consensus and it should continue to do so, in particular for the articles which had not been approved on second reading. The representative of Turkey had rightly argued at the 103rd meeting that the preparatory work for the Conference should not be conducted on the basis of majority decisions. To do so would be to treat the solution of the problems involved merely as a mathematical exercise, and he for one was firmly in favour of the consensus method, which was the very essence of international co-operation. He also shared the views expressed at the 103rd meeting by the Bulgarian representative that the additional preparatory work should not be unduly prolonged.

In conclusion, he stressed that the establishment of a 200 mile territorial sea was not in line with any rule of international law. A large number of States refused to recognize that limit, or else wished to see different provisions adopted. There was also a proposal for the establishment of an exclusive economic zone, but it was only one of several alternatives proposed.

Mr. ANDERSEN (Iceland) said that although the results achieved during the present session might be disappointing, it had nevertheless provided an opportunity for different points of view to be expressed. The Icelandic Delegation would have preferred the General Assembly to be given stronger and more explicit guidance.

Widely sponsored texts proposing a maximum limit of 12 miles for the territorial sea and an exclusive economic zone of up to 200 miles would have clarified the situation; nevertheless, the various proposals that had been put forward and the statements that had been made would help to show what the position was.

Since all those proposals would be examined by the General Assembly, his delegation hoped that further efforts of consultation and co-operation would be made. It was opposed to any delay in the Committee's work and considered that the proposals made by the Mexican representative at the previous meeting deserved careful consideration.

Mr. TARCICI (Yemen) said that his delegation was greatly interested in the Committee's work. It wished to pay tribute to the eminent jurists and diplomats who had defended the views it held, particularly on innocent passage, a question of importance to Yemen as a country bordering straits, and on the exclusive economic zone. It hoped that the countries concerned would make further concessions to ensure the final success of the Committee's work and to ensure that fairness prevailed over the interests inherited from a selfish past.

After briefly reviewing the history of the Committee's work, the CHAIRMAN noted that, at its twenty-seventh session, the General Assembly (resolution 3029 (XXVII)) had reaffirmed the Committee's mandate and had requested it to hold two sessions in 1973, with a view to completing its preparatory work, and to submit a report with recommendations to the General Assembly at its twenty-eighth session. It had in addition requested the Secretary-General to convene the first session of the Third United Nations Conference on the Law of the Sea in New York for a period of approximately two weeks (in November and December 1973) for the purpose of dealing with organizational matters, and had decided to convene the second session of the Conference at Santiago (Chile) for a period of eight weeks in April and May 1974 for the purpose of dealing with substantive work and, if necessary, further sessions, bearing in mind the offer of the Austrian Government of Vienna as a site for the Conference in 1975.

In the same resolution, the Assembly had authorized the Secretary-General, in consultation with the Chairman of the Committee, to make such arrangements as might be necessary for the efficient organization of the work of the Conference and, towards the end of its spring 1973 session, the Committee had requested the Chairman to hold informal consultations with the geographical groups and individual members of the Committee regarding organizational matters, including the rules of procedure of

the Conference. The intention was to secure as large a measure of agreement as possible on matters of organization and procedure so as to facilitate the work of the inaugural session. So far, the consultations held had not achieved any concrete results. He therefore urged the various regional groups to examine the problems further after the end of the session; he himself would hold consultations in order to secure some measure of understanding.

Needless to say, the consultations and discussions which would take place within the various regional groups should not be confined to the members of the Committee but should include all members of the group in question.

The most important question was to determine whether the Committee had made sufficient progress to justify a recommendation to the General Assembly that it should adhere to the original decision to hold the second session of the Conference in April and May 1974. The main achievement of the Committee had been the adoption in 1970 of the draft declaration of principles governing the sea-bed and the approval in 1972 of the list of subjects and issues, which was the outcome of strenuous negotiations and could well serve as the basis of the agenda for the Conference.

If the Committee had been able to discharge its mandate in ideal fashion, it would have prepared a consolidated text dealing with the two main sections of that mandate, namely (a) the international régime - including international machinery - and the question of limits and the equitable sharing of benefits derived from the exploration and exploitation of the resources of the sea-bed and its sub-soil, and (b) the other issues of the law of the sea specified in the list of subjects and issues.

If that ideal result had not been attained, the reason was that, unlike the preparations for the previous two United Nations Conferences on the Law of the Sea, which had been entrusted to the International Law Commission - a body of jurists - the preparations for the Third Conference had been undertaken by a large Committee whose approach was essentially political. That difference in approach reflected the changes that had occurred since the Second Conference on the Law of the Sea, and it was therefore a matter neither for surprise nor for criticism that the results of the Committee's efforts were not similar to those achieved by the International Law Commission.

General Assembly resolution 3029 (XXVII) implied that the Committee would assist the Assembly in deciding whether the preparatory work which had been done was of a nature to justify holding the inaugural session of the Third United Nations Conference on the Law of the Sea during the twenty-eighth session of the General Assembly, and the first substantive session at Santiago (Chile) in

April and May 1974. It was therefore necessary to have a clear understanding from the outset on what had been expected from that preparatory work and what was feasible, having regard to the composition and character of the Committee. Different delegations had adopted different yardsticks for measuring the progress that had been made, and there was not enough agreement in the Committee to justify making a recommendation to the General Assembly as representing a consensus. It was abundantly clear, however, that a large number of delegations favoured holding a first session in April and May 1974 at Santiago, preceded by an inaugural session during the twenty-eighth session of the General Assembly, because they believed that it would give delegations an incentive to negotiate in order to narrow their differences. A sense of urgency would thus be imparted to the international community and the necessary momentum created to carry it towards the conclusion of a treaty. That powerful argument was, however, rejected by certain delegations, who felt that the progress accomplished was not sufficient, that the preparatory work had to be continued and that the Committee's mandate had to be reaffirmed for that purpose. However that might be, delegations agreed in thinking that informal negotiations should be continued until the Santiago Conference, in order to establish the basis of a political understanding which would contribute to a reconciliation of divergent views. In his opinion, the formulation of an agreed text, which was desired in some quarters, was unlikely to prove possible. It would be preferable to persevere with negotiations rather than reiterate fixed positions, and it was important not to lose sight of the fact that any compromise would require efforts on both sides. It would be left to the General Assembly to make an assessment of the preparatory work so far done by the Committee and to take a decision accordingly.

He wished to express to the members of the Committee his appreciation for the confidence they had placed in him throughout the six years during which he had presided over the Sea-Bed Committee. Those six years had been a highly rewarding experience for him and had enabled him to meet some of the leading minds in the international legal community and to form deep and enduring friendships. He expressed his gratitude to all those who had helped the Committee in its work, and in particular to Mr. Stavropoulos, Under-Secretary-General for Legal Affairs, and Mr. David Hall, Secretary of the Committee; he also thanked all the members of the Secretariat whose unceasing efforts, often unseen, had helped the Committee to proceed with its work. On his own behalf and on behalf of the Committee, he wished to thank most specially the Director-General of the Office of the United Nations at Geneva and

the members of his staff for all their efforts to provide facilities for the Committee's sessions at Geneva and to make those meetings pleasant. He also wished to say how much he owed to all those who had been most closely associated with his own work, and in particular the Chairmen, Vice-Chairmen and Rapporteurs of the three Sub-Committees. He also thanked the specialized agencies and the intergovernmental organizations whose representatives and observers had participated in the Committee's work, making special mention of the Fisheries Committee of FAO, the International Oceanographic Commission, the Intergovernmental Maritime Consultative Organization and the United Nations Environment Programme. The Committee had consistently striven, in accordance with the resolutions of the General Assembly, to avoid any duplication of activities with those institutions and organizations.

Finally, he wished to stress that, if the Conference on the Law of the Sea was to be successful and establish a viable and durable law, it was essential to recognize the supremacy of justice and equity. All parties should realize the limits of their strength, whether it was based on power or on numbers, for it was urgently necessary that negotiations should continue. Such negotiations, which could proceed on the basis not only of geographical groups but also of groups sharing common interests and concerns, offered given a willingness to compromise, the only real hope of success. It was important not to fritter away that opportunity, since it might well be many years before a new chance arose to draft a consolidated law of the sea which would bring peace and harmony, a law which would be appropriate to the circumstances of the modern world and consonant with the principles of the Charter of the United Nations.

Mr. CISSE (Senegal), speaking on behalf of the Group of African countries, stated that the Group, which had not been consulted on the matter, wished the Conference on the Law of the Sea to meet in 1974, at a date to be determined by the General Assembly. In the meanwhile, the members of the African Group would endeavour, at a conference of ministers of foreign affairs to be held before the Conference, to bring their positions into line, bearing in mind those of the other groups, in the hope of arriving at a law of the sea capable of bridging the gap between the developing and the developed countries, with due regard for the interests of the geographically disadvantaged countries.

Mr. ZECERS (Chile) said that, as representative of the host country for the Conference, he welcomed the progress made since the question of the peaceful uses of the sea-bed had been placed on the agenda of the General Assembly. It would now be for the Assembly to take the necessary decisions regarding the forthcoming Conference on the Law of the Sea. Chile, for its part, would welcome any suggestions.

After an exchange of courtesies, the Chairman declared the session closed.

The meeting rose at 5 p.m.