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Weekly report by the Co-Chairmen on the activities of the workshop

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume VI (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Fifth Session)*

(c) The draft report of the work done in the workshop in each meeting will be prepared by the secretariat and will be given to the Co-Chairman who presided over that particular meeting. That Co-Chairman will then settle the report and submit it to the other Co-Chairman for his approval. The two Co-Chairmen will exchange views every day and inform the Chairman about the progress of work thereafter.

(d) The joint written report of the two Co-Chairmen will be settled by evening of Thursday if possible, and submitted to the formal meeting of the First Committee on Friday morning. After the report has been submitted, the Committee meeting should be adjourned. The next formal meeting of the First Committee will be held the following Monday when the joint report may be considered. The rest of the time should be spent in meetings of the workshop.

(e) The issues to be considered and the method of work in the workshop should be determined by the workshop.

3. The 1st meeting of the workshop on Monday, 9 August, was chaired by Dr. Jagota and the second meeting on Tuesday, 10 August, by Mr. Sondaal, in accordance with the agreed method of conducting meetings.

4. At the 1st meeting, the subject under discussion was the manner in which the workshop would proceed with its substantive tasks, particularly the order in which issues would be dealt with. It was agreed that interest groups and regional groups would first be given the opportunity to discuss these

questions, and that the workshop would therefore postpone its decision until the next meeting.

5. At its 2nd meeting, the workshop was informed that the Group of 77 preferred that the workshop begin with two topics in the following order: first, the Assembly and the Council of the Authority, including composition, powers and functions, and decision-making procedures; and secondly, the system of exploitation of the international area in all its aspects. It was also indicated that the Group of 77 would require time for regular negotiations, meeting alternately with the workshop.

6. Several other proposals were made and considered by the workshop, including the difficulty of some delegations to start discussion immediately on the question of the Council and the Assembly.

7. At its 2nd meeting, the workshop agreed that it would commence its subsequent discussion on Monday, 16 August, on the system of exploitation of the international area, starting with article 22 of part I of the revised single negotiating text⁶² and the related provisions of annex I. Time was given to regional and interest groups to prepare themselves for discussion and negotiation. It was also decided that the workshop would, if it felt it was necessary, review its procedures in order to ensure that satisfactory progress could be made.

⁶²*ibid.*, document A/CONF.62/WP.8/Rev.1.

DOCUMENT A/CONF.62/C.1/WR.2*

Weekly report by the Co-Chairmen on the activities of the workshop

[Original: English]
[20 August 1976]

1. The workshop held five meetings between 16 and 20 August 1976. The first two meetings were adjourned in order to allow the Group of 77 to complete its consultations on the system of exploitation and prepare concrete proposals. These proposals dealing with articles 22 and 23 of part I of the revised single negotiating text⁶³ and related paragraphs 2, 7 and 8 of annex I, were presented to the workshop on Wednesday, 18 August, and have been distributed as workshop paper No. 1. At the meeting the next day, in response to these proposals, two further concrete proposals were submitted and distributed as workshop papers Nos. 2 and 3. One of these two proposals concerns article 22. The other proposal deals with articles 22 and 23 and paragraphs 2 and 5 to 9 of annex I. The workshop thus has three workshop papers before it covering essentially the same subject matter and is consequently in a better position to negotiate questions in a more systematic manner. The meeting of Friday, 20 August, was consequently devoted to questions arising from the proposals presented.

2. Workshop paper No. 1 asserts the pre-eminence of the Authority and its full and effective control over activities in the international sea-bed area as a means of ensuring compliance with the provisions of the convention. According to this proposal, it will be necessary to make the Enterprise a concrete and financially viable entity. The proponents of this proposal do not support a parallel system of exploitation as set forth in the revised single negotiating text.

3. Workshop paper No. 2 provides that the activities in the area shall be conducted by States parties and directly by the Authority. The Authority shall determine the part or parts of the area in which the activities shall be carried out by States parties and by the Authority directly, the Authority's area not exceeding that in which activities are carried out by States parties. The activities of States parties shall be under the effective fiscal and administrative supervision of the Authority. All States shall have equal opportunities in conducting these activities, particular consideration being given to the needs of developing countries including those which are landlocked or geographically disadvantaged. States parties may carry out activities through State enterprises or juridical persons registered in these States and sponsored by them.

4. Workshop paper No. 3 takes as its basic principle the necessity of a parallel system placing the conduct of activities by States parties and other entities on an equal footing with those directly conducted by the Authority through the Enterprise. Activities by States parties and other entities as well as by the Enterprise shall be conducted on the basis of contracts entered into with the Authority on the basis of clearly defined criteria in the convention.

5. Statements were made by delegations both individually and on behalf of groups concerning these proposals. One group accepted the principle of direct operations by the Authority, provided that the convention would reflect a guarantee of access for other operators on equal and acceptable economic conditions, and would specify in which cases the Enterprise and developing countries would receive a more favourable treatment.

*Incorporating document A/CONF.62/C.1/WR.2/Corr.1 of 24 August 1976.

⁶³*ibid.*

6. Another group, while sharing the expressed view that the Authority must be equipped with broad powers of participation, regulation and control, stated that the best hope for a compromise package for the system of exploitation would be to combine these powers with the right to contract for qualified applicants who are prepared to abide by all applicable rules and regulations. The other essential element in such a compromise would be provisions creating such conditions for the Enterprise as would allow it to establish itself as a viable concern. The suggestion was made in this connexion that efforts should be made to reach an agreed formula on the question of reserved areas.

7. Further statements were made on 19 August supporting the parallel system of exploitation.

8. At the meeting held on 20 August, detailed discussions took place concerning the concrete proposals contained in workshop papers Nos. 1, 2 and 3. Questions were asked concerning specific aspects of these proposals. Views were expressed that the proposals in workshop paper No. 1 would confer discretionary powers upon the Authority to reject applications for contracts without assigning reasons. Deep seabed mining was a high risk venture and involved sophisticated technology and high investments and therefore security of tenure and investments were necessary. Contracts based on objective criteria set out in the convention would meet these

concerns of the operators who would be able to participate in such enterprises from the outset.

9. One delegation supported the principles contained in workshop paper No. 1 and opposed those contained in workshop papers Nos. 2 and 3, including the parallel system of exploitation referred to therein.

10. The view was also expressed that there was no need to be dogmatic on the question whether access to the international sea-bed area should be automatic or whether the Authority should have discretionary powers. What was necessary to emphasize was that neither the Authority nor the contractor should have arbitrary powers.

11. Concrete questions were asked with reference to the proposals contained in workshop paper No. 1, in particular concerning the proposed text of article 22. Replies were given to these questions and it was stated that negotiations could take place concerning the criteria which should be borne in mind by the Authority in negotiating its contracts with the applicants and that the provisions in the proposed paragraph 8 *bis* (f) could be further examined.

12. There was a general readiness, as indicated in the statements made from all sides, to engage in productive negotiations on the subject under consideration.

13. The two Co-Chairmen shared this view of optimism.

DOCUMENT A/CONF.62/C.1/WR.3*

Weekly report by the Co-Chairmen on the activities of the workshop

[Original: English]
[26 August 1976]

1. The workshop held four meetings during the period 23-25 August 1976, during which time it continued its consideration of the system of exploitation of the international sea-bed area, in particular of the three papers submitted to the workshop on this subject.

2. At these meetings several delegations stressed the fundamental character of the international area as the common heritage of mankind, and the commitment of all States to seek a practical realization of that concept, which in the first place requires that the international community, through the Authority, exercise joint sovereignty over the area, and not alienate any part of it to States parties or other entities. Furthermore, the Enterprise, as the operating arm of the Authority, was intended to work on behalf of all States. Priority should therefore be given to consideration of ways and means of enabling the Enterprise to commence productive operations as soon as possible. It was also suggested that an acceptable compromise would seem to be one which established the over-all and effective control of the Authority over all activities in the area, while adopting decision-making procedure in the organs of the Authority which would ensure that the essential interests of all, including those of the minority, would be adequately safeguarded.

3. Reference was also made to the Declaration of Principles governing the Sea-Bed and the Ocean Floor, and the Subsoil thereof, beyond the Limits of National Jurisdiction by the General Assembly in its resolution 2749 (XXV) and to the recognition of the right of all States to participate in the exploitation of the area. Certain principles should therefore be

observed if the Authority were to be an effective institution in the co-ordination of international co-operation. States or State-sponsored entities as well as the Authority itself should be eligible to engage in activities, and the conclusion of contracts between the Authority and entities, regarding those activities, should not absolve States parties of their obligations under international law. These principles, it was noted, were reflected in workshop paper No. 2, which was supported by some delegations.

4. One way of balancing the control of the Authority against the right of all States, it was suggested, might be to reserve favourable mine sites for the Enterprise as well as for States which are not immediately able to participate so that there would be an opportunity for all to eventually exploit the resources of the sea-bed.

5. Attention was also drawn to the necessity of promoting and protecting the interests of the land-locked and geographically disadvantaged States in applying the selection procedure to be set out in annex I of part I of the revised single negotiating text.⁶⁴

6. Further questions were raised with respect to the content of the three workshop papers. It was asked, for example, whether there might not be sufficiently harmonious elements in the proposals made in the three workshop papers concerning annex I to promote a general understanding on the practical application of the Authority's powers to refuse to enter into or conclude contracts.

*Incorporating document A/CONF.62/C.1/WR.3/Corr.1 of 30 August 1976.

⁶⁴*Ibid.*