

Third United Nations Conference on the Law of the Sea

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49th meeting of the General Committee

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since there would be no reason to restrict them to small groups or to hold them at the informal level.

75. Mr. ADIO (Nigeria) said that he did not agree that a flexible position must in principle be adopted with regard to the separate steps required to complete the work at each stage. In any case, his delegation could not countenance spending more than three weeks on the first three stages, nor a session of more than eight weeks to complete all the work.

76. Mr. de LACHARRIÈRE (France) drew attention to the dangers of excessively rigid planning and the imposition of inordinate obligations, because such a procedure could discredit the very idea of obligation. He proposed that the flexibility required in planning work at the different stages should be kept in mind. Nevertheless, it was necessary to decide very precisely whether one or two sessions should be held, and how long they would be in either case.

77. Mr. RICHARDSON (United States of America) said he was confident that the work could be completed within the proposed stages. He agreed with those who had suggested the need for some flexibility in the planning of the work in each stage. He further stressed the need for preserving the unofficial atmosphere of the informal negotiations. Once the text had been appropriately amended or revised and the final draft convention became available, there would be time to make official statements which would be reflected in the summary records.

78. Mr. ARIAS SCHREIBER (Peru) said that excessive flexibility was what had brought the Conference to its current situation.

79. The opinion seemed to be prevalent that the Conference should have three weeks for the first stage instead of the two weeks called for in the President's note.

80. He proposed that, after the fourth paragraph concerning the first stage, the first paragraph relating to the second stage should be included and that the beginning of that paragraph should be amended to read "At the beginning of the fourth week . . .".

81. That paragraph would then be followed by the existing final paragraph on the first stage, which would be amended to read: "Half-way through the fifth week the President and the Chairmen of the Committees, assisted by the Chairman of the Drafting Committee and the Rapporteur-General within their respective spheres of competence, should prepare the next and final revision of the informal composite negotiating text." Then the revised text would be considered with a view to making it a final document, the committees would study it and formal amendments would be submitted, a process which would take about six weeks. An additional four or five weeks would be needed for consideration of the formal amendments, attempts to arrive at a consensus and the adoption of the relevant decisions.

82. Finally, he disagreed with the United States representative regarding the formal or informal nature of the negotiations. In his view, a record must be kept of the views of the various delegations, for that was the only way that the second revision of the negotiating text would gain widespread acceptance.

83. Mr. BAILEY (Australia), referring to the 15-minute limit on speakers mentioned in the first paragraph concerning the second stage, asked whether a decision had to be taken on that issue at the current session. With regard to the proposal in the same paragraph that delegations could present written statements to be included in the official records of the Conference, he wished to know whether delegations would be able to comment on those statements in plenary meeting.

84. The CHAIRMAN said he hoped that a decision would be reached at the current session on his suggestion of a 15-minute limit on speakers.

85. With regard to the second question by the representative of Australia, he suggested that delegations should submit their written statements far enough in advance to be distributed, enabling the participants to make statements in plenary meeting.

The meeting rose at 1.15 p.m.

49th meeting

Thursday, 23 August 1979, at 10.20 a.m.

Chairman: Mr. H. S. AMERASINGHE

Organization of work for the ninth session (*continued*)

1. The CHAIRMAN submitted document A/CONF.62/BUR/12/Add.1, containing a series of amendments to that part of his note referring to the organization of work for the ninth session, to take account of the comments made by various delegations.

2. Mr. ARIAS SCHREIBER (Peru) said that the amendments submitted by the President met the concerns expressed by various delegations at the previous meeting. Two basic premises had to be borne in mind when considering the work of the final session: first, that the work of the Conference would have to be arranged in such a way as to ensure its completion in 1980, and, secondly, that decisions would be taken preferably by consensus, having regard to the gentlemen's agreement. If that proved impossible, the relevant provisions of the rules of procedure would apply.

3. Some, but not all, developed countries would wish the next session to be conducted with the same flexibility and informality as had hitherto been the case, so that they could prolong the negotiations at will and give final consent only at the end of the session, when there would be no time to

implement the rules of procedure of the Conference and it would be forced to accept the conditions imposed by those countries or run the risk of ending up without a convention. That would clearly damage the interests of the developing countries, and his delegation reiterated its flat rejection of the use of such a procedure. Where it was impossible to take a decision by consensus, it would request that the matter should be put to the vote, following the normal procedure, and decided by a simple majority, in accordance with article 39, paragraph 3, of the rules of procedure.

4. Mr. UPADHYAY (Nepal) said that the amendments proposed by the President were acceptable to his delegation. He stressed that it would be useful to hold the session in two parts, the first for the purpose of detailed consideration of all outstanding issues. He recalled that his delegation had submitted two informal proposals to negotiating group 6 (NG6/15) and to an informal meeting of the Second Committee (C.2/Informal meeting/45) which had been sponsored by nine countries. In his note (A/CONF.62/BUR/12), the President had proposed that during the first three weeks of the ninth session the Chairmen of the Committees, assisted by the Chairmen of the established negotiating groups, should con-

duct the necessary consultations within their respective spheres of competence in order to reach compromise solutions on outstanding issues. Since his delegation considered its proposals to be among the outstanding issues, and given the interest which they had aroused, he proposed that extensive negotiations should be held on them during the first three weeks of the next session, either in negotiating group 6 or in some other form.

5. Mr. ENGO (United Republic of Cameroon) said that the formulation "subsequent stages" in the proposed amendments was somewhat vague. In any case, he would like the Committee to decide on the precise programme of work and exact dates of the resumed ninth session. Although the African countries were not opposed to the idea of a certain flexibility, they had expressed a preference for a single session that was uninterrupted, save for a short suspension to allow delegations to consult their Governments and discuss any textual changes among themselves. However, if the majority supported the holding of the session in two stages, then exact details of the programme of work for the resumed session would have to be worked out to ensure that the rules of procedure could be implemented and the Conference concluded on the date planned.

6. The CHAIRMAN said that "subsequent stages" referred solely to the process of taking decisions. The decision on those stages would have to be taken at a plenary meeting on the first day of the resumed session, on the basis of a prior recommendation from the General Committee.

7. Mr. RICHARDSON (United States of America) said that the statement he had made at the previous meeting seemed to have given rise to a misunderstanding which he wished to clear up. According to the representative of Peru, the developed countries had apparently conspired to prevent the developing countries from placing their official positions on record. As far as he knew, no developed country, much less his own, harboured such an intention.

8. Referring to the second stage foreseen in the President's note, he said that a clear distinction had to be made between the discussion on the revision of the text and those statements to be placed on record in official documents, but not directly connected with the items under consideration. Certainly, delegations should be given the opportunity to make statements to be recorded in the official documents, but only once the draft convention had been approved. The process of preparing a second revision was something very different. The proceedings would be informal since the rules of procedure would not have been applied, and the Conference would not have a draft convention before it. For that reason, the discussion should be restricted to items on which revisions had been proposed. If the second stage was to be made formal and the submission of written statements allowed, there would be a danger of confusing it with the stage when delegations could make formal statements on issues not directly related to the revision of the text. That might hold up the revision process and the approval of a revised text, as well as the stage when the rules of procedure would be applied. For those reasons, he had, at the preceding meeting, questioned the appropriateness of making formal statements at the second stage. It was the Conference which would have to decide on the time to be allocated. If a date was fixed for the conclusion of discussions on the revised text, the Conference would be free to keep to it or not, as it deemed necessary. No group of countries could control that. Finally, he stressed that his delegation was anxious to see the discussions concluded and a convention adopted as soon as possible.

9. The CHAIRMAN said that he had already explained the reasons which had led him to propose a formal debate before the second revision. However, as the United States representative had suggested, once a draft convention was avail-

able, nothing stood in the way of holding a formal debate that would be part of the process of exhausting every attempt to reach a consensus.

10. Mr. MARSIT (Tunisia) said that the prime objective was to formulate a convention as soon as possible. Even though he understood that certain countries wished to employ every means of reaching a consensus, which seemed to have become illusory, he asked the developed countries to appreciate the situation of the developing countries, especially the least advanced ones. As could be verified, the majority of the participants absent from the current session were, precisely, developing countries.

11. The Conference had to adopt a specific programme of work. If at Caracas 10 weeks had been sufficient, in the next session 10 weeks ought also to suffice. The developing countries favoured holding a single eight-week session, with the possibility of suspending it for one week. He asked all delegations to take into account the material, physical and economic difficulties that would face the developing countries, especially if that session were to be divided into two parts.

12. The CHAIRMAN urged the representative of Tunisia to accept a split session. Although 10 weeks had no doubt sufficed in Caracas, the situation and the atmosphere of the deliberations at that time had been very different. A 10-week session would place an intolerable burden on delegations.

13. Mr. ABOUL KHEIR (Egypt) asked the Chairman how he planned to proceed with holding consultations during the first stage if all the delegations were to participate in them.

14. He also wished to know if the session would be adjourned before or after the formal submission of amendments to the informal composite negotiating text, and what the Chairman's suggestions were with regard to the period of time during which deliberations would be suspended.

15. The CHAIRMAN said that, in the text dealing with the first stage, he had inserted a special reference to the need for participation in the consultations by all delegations, since objections had been raised to holding consultations during that stage only within small groups.

16. With regard to the Egyptian representative's second question, he reiterated that the session would be suspended after amendments to the negotiating text had been submitted. The period of suspension of the deliberations would be a time of apparent inactivity.

17. Mr. KE Zaishuo (China) said that if the ninth session was to be productive a definite time-table should be established. He agreed that the session should be suspended once the draft convention had been prepared, since in that way delegations could consult their respective Governments, which should have sufficient time to study the draft so as to formulate the necessary amendments and suggestions.

18. He therefore wished to know how long the deliberations would be suspended. Although the coming session should not be too long, enough time was needed to complete the necessary work.

19. The CHAIRMAN said that deliberations would be suspended for about four months, between April and the end of July 1980.

20. Mr. EVRIVIADES (Cyprus) said that he concurred with Peru's approach, which he considered very constructive. Cyprus felt that only one uninterrupted 10- to 12-week session should be held before the signing of the convention at Caracas the following year. However, it would not insist on that position if the Conference decided on a split session.

21. Mr. UL-HAQUE (Pakistan) said that he agreed with the changes introduced by the President, which reflected the opinions expressed at the preceding meeting by the majority of delegations. However, the President had suggested that, in the middle of the fifth week, the plenary Conference

should begin to consider whether it would give formal status to the informal composite negotiating text, and that 8 or 10 calendar days should be devoted to studying the formal amendments. Experience had shown that the Conference would not be able to decide in one meeting whether to give formal status to the negotiating text, a process which could take up the entire fifth week. On the first day of the sixth week, the delegations would submit amendments and the debate would last 10 more days.

22. Allowing only one day for the submission of formal amendments in the first part of the session would also present difficulties; that would, in fact, militate against the purpose of suspending the session, which was to give delegations time to study the amendments they wished to have incorporated in the text. He therefore suggested that the first part of the session should conclude with the formalizing of the text at the end of the fifth week and at the beginning of the second part, which would last four or five weeks, amendments should be submitted in the first two or three days, to be followed by the debate.

23. The CHAIRMAN said that the main reason for holding a formal discussion before the second revision was to simplify the formalization of the revised text. If any disagreement arose over the contents thereof, the necessary decisions could be taken in the final stage.

24. Mr. FLEISCHHAUER (Federal Republic of Germany) agreed with the changes in paragraph 10 proposed by the President and suggested that the session should be suspended immediately after the decision was taken to give the text the status of a formal conference document, before a first reading had been begun, in order to allow Governments time to decide whether they wished to submit amendments.

25. MR. LUKABU-K'HABOUJI (Zaire) said that, although his country was not in favour of dividing the ninth session into two parts, it was willing to co-operate and to accept the sacrifices that would entail, provided that the next session would be the last. He also asked the President to clarify whether the session would be suspended before the text was given the status of a formal conference document or after amendments had been submitted.

26. The CHAIRMAN said that the session would be suspended after the revised informal composite negotiating text had been given the status of a formal conference document. With regard to the discussions in the Committees, he explained that those amendments on which no final decision had been taken would be examined at the beginning of the resumed session, as part of the final stage. Under the circumstances, he thought that the second part of the session would inevitably last six weeks. If delegations needed to consult their Governments regarding any of the amendments submitted, the appropriate changes would have to be made in the programme of work.

27. Mr. MAHIOU (Algeria) said that, in general, his delegation had supported the President's first note. As a result of the opinions expressed, many changes had been made. His delegation was prepared to view them in a spirit of co-operation, so long as the basic guidelines set forth in the first note were not altered and the duration of the session was not unduly extended. Although his delegation would have preferred a single, uninterrupted session, it would not object to its being divided into two parts, if a maximum duration was set for each part.

28. After noting that the objectives of the second part of the session were somewhat vague, he stressed the need for all delegations to hold consultations before the final stage, at which a definitive decision would be taken on the draft convention.

29. The CHAIRMAN said that the first part of the session would last six weeks and the second, four weeks. The ses-

sion would be suspended after the revised negotiating text had been given the status of a formal draft convention. During the first part of the session, the Committees would start their discussion of the draft convention and would consider the formal amendments. The point at which the session was suspended would depend on the calendar of conferences and the amount of time Governments needed in order to examine the final draft convention. The second part of the session would begin at the end of July or the beginning of August; in any case, the Conference should conclude its work in August.

30. Mr. BAILEY (Australia) was in favour of dividing the session and of setting a strict time-table for the completion of the work of the Conference at the end of the second part of the session. He asked whether it would be possible to submit amendments during the second part of the session, since some Governments might wish to do so, after they had examined the text carefully during the suspension of the session.

31. The CHAIRMAN said that delegations would also be able to propose amendments during the second part of the session, during the debate in plenary meeting.

32. Mr. KOZYREV (Union of Soviet Socialist Republics) said that experience had shown that the programme of work would need to be re-examined during the ninth session.

33. On the other hand, he asked whether the Conference was not showing a lack of respect towards the United Nations itself, for, despite the fact that the General Assembly had endorsed the President's statement referring to a gentlemen's agreement, it had been suggested that that General Assembly resolution should be ignored or that it should be somehow distorted. His delegation therefore supported the statement of the representative of Tunisia regarding the way in which the Conference should proceed with its work.

34. His delegation had stated repeatedly that it would strive to fulfil the task of the Conference, namely, to reach a broad agreement which would be acceptable to all States, not only to a group of them, and which would make it possible to organize peaceful co-operation among States in that particular field.

35. On the basis of those observations, he suggested that, under the heading "Second Stage" a sentence should be added to reflect the gentlemen's agreement endorsed by the General Assembly and to reiterate that the Conference should seek to adopt, by consensus, a convention that would be acceptable to all.

36. Mr. ARIAS SCHREIBER (Peru) said that he endorsed the President's suggestion that delegations should be entitled to propose formal amendments in the Committees before the end of the first part of the session and, for a previously agreed upon period which could last for one week, during the second part. In that way, the two positions would be reconciled and Governments would have sufficient time to consider the draft convention and proposed amendments as well as to prepare, during the suspension, the amendments they would present in the second part of the session. It would be useful to include in the President's note a paragraph specifying that the second part of the session would be devoted exclusively to taking decisions on the draft convention in accordance with the rules of procedure of the Conference and the gentlemen's agreement.

37. Mr. CALERO RODRIGUES (Brazil) said that, although his delegation would prefer the next session to be uninterrupted, it would accept the President's suggestion to divide it. With regard to the proposed programme of work, he hoped that during the week of debate in formal session, the general debate at Caracas would not be repeated, for that would serve no useful purpose. He further hoped that delegations, rather than making statements of general policy,

would confine their remarks to specific points for inclusion in the revised text.

38. The suspension of the session in the middle of the debate in the Committees would not be logical. It would be preferable to have the suspension immediately after the formalization of the informal composite negotiating text and to postpone the entire process of taking decisions until the second part of the session. The President had said that the Conference would have 8 to 10 days during the first part of the session for debate in the Committees, which meant that six weeks would be needed to complete the whole process of taking decisions in the Committees and in plenary meetings of the Conference. If a suspension were to be held in the middle of the debate in the Committees, the second part of the session would duplicate the work that had already been done.

39. The 8 or 10 days proposed by the President for the Committees to examine the draft convention at the end of the third stage would not be enough. The process of taking decisions in the Committees and the plenary Conference would require six weeks, and that period could not easily be divided into two parts as proposed in the time-table under discussion. The length of the process would clearly depend on the amendments submitted and some amendments might destroy the whole package. In order to avoid that situation, delegations might agree not to amend the basic aspects of the agreement.

40. The CHAIRMAN explained that he had suggested a period of 8 or 10 days as the time necessary to consider amendments at the end of the third stage. With regard to the length of the session, although work would be suspended immediately after the informal composite negotiating text had been formalized, the first part would take up no less than five weeks. He was convinced, however, that the decision-making process would require an additional five weeks. The session would thus consist of two parts of five weeks each.

41. Mr. ABOUL KHEIR (Egypt) supported the proposal made by the representative of Peru that formal amendments

should be submitted at the beginning of the resumed session. It might be preferable for the Committee to take a decision at the end of the first part of the session as to the submission of formal amendments in the second part.

42. The CHAIRMAN explained that the reason for submitting amendments before the suspension of the session was to allow time for Governments to study them. He therefore requested delegations to agree to that procedure.

43. Mr. ABOUL KHEIR (Egypt) said that in any case Governments should be able to submit additional formal amendments once they studied the amendments submitted during the first part of the session. A time-limit of three or four days after the beginning of the second part of the session could be fixed for that purpose.

44. Mr. SEALY (Trinidad and Tobago) said that, although he did not oppose the suspension of the session once the informal composite negotiating text had been formalized, he was strongly in favour of beginning the decision-making process towards the end of the first part of the session. Nevertheless, if the majority insisted on postponing the beginning of that stage, he would go along with it.

45. Mr. MOMTAZ (Iran) said that he believed that the amended time-table would facilitate the work. Although he did not endorse the idea of a split session, he was prepared to support the proposal as long as it was clear that the two final stages would in fact precede the signing of the convention.

46. Mr. GOERNER (German Democratic Republic) said that the changes in the President's note had fully met his delegation's concerns. At the preceding meeting he had stated his delegation's position with regard to the final stages of the Conference. He supported the Soviet Union's proposal that specific mention should be made of the gentlemen's agreement, which should guide the work of the ninth and final session.

The meeting rose at 1.05 p.m.

50th meeting

Thursday, 23 August 1979, at 3.50 p.m.

Chairman: Mr. H. S. AMERASINGHE

Organization of work for the ninth session (concluded)

1. The CHAIRMAN drew attention to document A/CONF.62/BUR/12/Add.1, containing changes to his note in document A/CONF.62/BUR/12, concerning the programme of work for the rest of the eighth session and proposals in regard to the work of the ninth session.

2. Mr. ABOUL KHEIR (Egypt) deplored the fact that document A/CONF.62/BUR/12/Add.1 was not yet available in Arabic.

3. Mr. ZULETA (Special Representative of the Secretary-General) expressed the apologies of the secretariat for the fact that the Arabic version was not yet available, despite every effort. The secretariat continued to adhere strictly to the principle that no document would be circulated that was not available in all working languages unless the Conference decided otherwise.

4. Mr. MARSIT (Tunisia), supported by Mr. de LACHARRIÈRE (France), requested that all steps should be taken to ensure that documents were circulated simultaneously in all working languages.

5. The CHAIRMAN also expressed his regret at the delay in issuing the Arabic version of the document, which was due to technical reasons beyond the control of the Conference secretariat. Since, however, the Arabic version was now being circulated, he wished to proceed with the consideration of the document.

6. He observed that the question of the programme of work for the rest of the eighth session had been overtaken by events and that the addendum applied only to the organization of work of the ninth session.

7. With regard to amendment 8, concerning the second stage, he felt that, as suggested by the representative of Brazil at the 49th meeting, delegations should, in the formal discussion in plenary meetings address themselves to the substance of the revised informal composite negotiating text, and should avoid commenting on questions of a general nature. However, that was not an injunction, merely an exhortation.

8. Referring to amendment 17, he pointed out that the side heading should be amended to read "Final stage" and that the period of 10 calendar days referred to in the text included