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1973-1982

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57th meeting of the General Committee

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outstanding issues as the final clauses and participation, they might require further time for negotiations but the status of the third revision was not dependent on them.

7. Mr. KOZYREV (Union of Soviet Socialist Republics) said that he could not agree with that view. It would be for the Conference itself to decide whether a particular issue was important or secondary in character. Besides, on any question that was felt to be important, delegations would need to obtain instructions from their Governments. He urged that the question of the status of the third revision should be postponed until the conclusion of the general debate.

8. The CHAIRMAN said that the definition of the status of the third revision must be left to the Conference itself, in the light of the substance of the text.

9. If there was no objection, he would take it that the General Committee adopted his suggestion that the general debate should be scheduled to commence on the morning of Monday, 25 August and continue on Tuesday, 26 and, if necessary, part of Wednesday, 27 August.

It was so decided.

The meeting rose at 11 a.m.

57th meeting

Thursday, 28 August, 1980 at 11.10 a.m.

Chairman: Mr. H. S. AMERASINGHE

Organization of work for the tenth session

1. The CHAIRMAN outlined the programme of work for the current session (A/CONF.62/91) which had been adopted at the 118th plenary meeting. Various circumstances, in particular the difficulty encountered in one of the committees in resolving important issues, had prevented the Conference from keeping to that schedule and had compelled it to prolong the final negotiations and accept the need for a third revision of the informal composite negotiating text. Negotiations had commenced at the beginning of the resumed session on certain aspects of the system for exploration and exploitation, production policy, the financial arrangements of the Authority, the financing of the Enterprise, the decision-making procedure in the Council, the final clauses, general provisions and settlement of disputes, together with the delimitation of maritime zones between States with adjacent or opposite coasts and the settlement of disputes thereon. A satisfactory solution on the latter issue had not been found but it was gratifying to note that the two main interest groups had shown a genuine willingness to arrive at a mutually acceptable compromise text.

2. Negotiations on First Committee issues had improved the prospects of a consensus and the Collegium had noted the results of the negotiations and the observations made during the general debate. The Collegium's conclusions were reflected in the third revision of the negotiating text.

3. The time had come for the Conference to consider and decide upon its programme of work for the tenth session, on the understanding that the ninth session must be regarded as the last negotiating session except on issues on which agreement had not yet been reached. The programme of work for the tenth session must provide for the adoption of the convention during 1981 and the signature of the final act at a date to be determined in consultation with the Government of Venezuela. In the absence of a definite programme which the Conference accepted as binding, there was a serious risk that final decisions might be deferred in the belief that more time was available. Before the Conference could reach the stage of formal decisions, the Drafting Committee must be given time to review the text article by article and complete the harmonization and textual concordance process, in accordance with rule 53 of the rules of procedure.

4. When the Conference resumed its work at the tenth session, some outstanding issues would have to be considered, including: participation; the mandate of the preparatory commission, including recommendations which would enable the system of exploration and exploitation to be initiated and ensure that the Enterprise operated efficiently as early as possible after the convention entered into force; and the treatment to be accorded to preparatory investments made before the convention entered into force, pro-

vided that such investments were compatible with the convention and would not defeat its object and purpose.

5. At the same session, the committees and the Conference would have to examine the recommendations of the Drafting Committee and consultations would have to take place between delegations in an effort to bring the Conference as close as possible to consensus on issues for which adequate solutions had not been found in the third revision of the negotiating text. At the end of the third week of the tenth session, the Conference would have to decide what status to give to the text, as finally drafted, bearing in mind that in that form it would supersede all formal proposals previously submitted, without prejudice to the right of every participating delegation to submit formal amendments in accordance with the rules of procedure. If amendments proved unavoidable, the Conference would have to establish a time-limit for their presentation, taking into account the fact that the application of rules 37 and 39 of the rules of procedure called for a period of deferment of up to five calendar days in the case of the main committees and up to 10 calendar days in the case of the plenary Conference. In reaching that decision, the Conference would have to bear in mind that the purpose of those rules was to ensure that the convention could be adopted in the spirit of the gentlemen's agreement, so that it could command the broadest possible support.

6. His statement superseded document A/CONF.62/BUR./13, which should be disregarded. He had made no specific reference to the timing or venue of the tenth session or the intersessional meetings of the Drafting Committee; the regional groups could make suggestions on the matter to the plenary Conference on 29 August 1980.

7. Mr. ARIAS SCHREIBER (Peru) said that the Conference must do three things at its tenth session: it must complete negotiations on outstanding issues, it must prepare a final text and it must take a decision on the draft convention. In his view, up to three weeks would be required to complete negotiations on outstanding issues. During that time, the Drafting Committee could harmonize the text, which should take about a week. The committees and the plenary Conference would then have to consider the Drafting Committee's text, which might take over a week, after which the Conference must consider whether to give the text the status of a draft convention and the Secretariat must be given time to prepare the final draft of the text. Delegations should then have an opportunity to state whether they agreed with the text or whether they had difficulties which would prevent a consensus. If a consensus could not be reached, delegations had the right under the rules of procedure to present formal amendments. However, he hoped that all members would try to avoid the voting procedure. If all went well and no voting was required, the latter stage would take one to two weeks. Thus in

order to conform to the rules of procedure and the gentlemen's agreement, he proposed that six to eight weeks should be allocated for the Conference's tenth session, with a recess of a few days in the sixth week to enable the Secretariat to prepare the final text. If a spirit of compromise prevailed, six weeks should be sufficient, but it would be more realistic to allow eight weeks.

8. Mr. MHLANGA (Zambia) said that the work of the Conference should conclude with a document which equitably reflected the positions reached. In his delegation's view, the outstanding issues enumerated by the Chairman left much to be desired. Production policy and control, compensation, transfer of technology and the outstanding questions concerning the economic zone and the continental shelf, as well as the access of land-locked States to the sea, should also have been mentioned. He did not feel that it was appropriate at the current time to take a decision on the status of the negotiating text, but it might be useful to maintain the third revision, rather than prepare the draft convention immediately. It was his delegation's understanding that the text still required further negotiation before it became a just reflection of the views of all, and that opinion had been expressed by a number of delegations in the plenary Conference.

9. The CHAIRMAN pointed out that the general debate had concluded and that his list had been illustrative rather than exhaustive. Delegations must be willing to compromise now if a general agreement was to be reached.

10. Mr. KOZYREV (Union of Soviet Socialist Republics) said that he had no specific comments on the general guidelines laid down by the Collegium for the tenth session or the list of issues requiring further negotiation. His delegation had had difficulty with the question of preparatory investment, but had no objection to debating that issue further. He therefore suggested that the General Committee agree to the conclusions and recommendations proposed by the Chairman on behalf of the Collegium.

11. His delegation felt that four weeks would be sufficient for the tenth session, but if the majority of the members of the Group of 77 preferred more detailed consideration of the issues suggested for the agenda, his delegation would be prepared to accept six weeks. He agreed with the Chairman that the regional groups should discuss the timing and venue of the tenth session.

12. Mr. CALERO RODRIGUES (Brazil) said that it would be helpful to the regional groups if the Committee could give some idea of the duration of the tenth session. He agreed in principle with the Chairman's summing-up of the work remaining to be done at the tenth session. Obviously, the Drafting Committee would have to meet before the tenth session and, in his delegation's view, it would be more realistic to allocate three or four weeks to consideration of the new text submitted by the Drafting Committee and the outstanding issues in the plenary Conference. The Chairman had suggested that while the plenary Conference considered the outstanding issues, the main committees could consider the recommendations of the Drafting Committee. He was not certain that such a schedule would be possible, since, for example, the question of the preparatory commission was closely connected with the work of the First Committee. He hoped that the programme of work would be drawn up with due consideration for that point.

13. The Chairman had suggested that consultations between delegations should take place in order to reach a consensus, but it would be better to say that they might take place. A new formula must be devised for incorporating the results of consultations in the text because, in his opinion, the Collegium could not produce a fourth revision of the text. He suggested that amendments resulting from the consultations should be included only if a consensus was reached on them in the committees or the plenary Conference; on that understanding the text could then be altered accordingly before a decision was taken on its formal status. That was why he felt it was realistic to allocate four weeks to that part of the Conference's work. It would take some time to reach a consensus on the final draft and he felt that it would be realistic to allow four weeks for that process too. Although the

Conference might be able to conclude its work in six or seven weeks, it would be better to allow eight weeks.

14. The CHAIRMAN assured the representative of Brazil that the programme of work would be arranged so that the work in the Conference and the main committees did not clash. In his view, the session should last six weeks with the possibility of extending it to eight weeks.

15. Mr. WAPENYI (Uganda) agreed with the proposed duration of the tenth session and felt that the General Committee should give some indication of the venue, timing and duration to the regional groups. He would appreciate it if the Secretariat could provide information on the possible availability of facilities in Vienna for the tenth session. The tentative dates suggested for the intersessional meeting of the Drafting Committee were 19-27 January 1981, which would mean that the Conference could meet from 9 March to 17 April 1981.

16. The CHAIRMAN said that it was absolutely essential for the Drafting Committee to meet during the period between sessions. It could thus meet from 19 January to 27 February 1981. Accordingly, the Conference itself could not meet any earlier than 9 March; its session would probably continue until 17 April 1981.

17. Mr. TSHIKALA KAKWAKA (Zaire) said that he agreed with the representative of Zambia that the list of three outstanding questions mentioned by the Chairman was not exhaustive. Other outstanding issues included control of production, the question of compensation, access to the sea for land-locked States and the delimitation of the continental shelf.

18. The CHAIRMAN, replying to a question asked by the representatives of Uganda and Zaire, said that the letter sent to the President of the Conference by a number of African delegations, including those of Uganda and Zaire, had been referred to the Chairman of the First Committee.

19. Mr. YOLGA (Turkey) noted that in document A/CONF.62/BUR.13 the list of three outstanding questions was followed by a short paragraph reading: "While the Plenary examines these questions, the three Committees will have to examine the recommendations of the Drafting Committee". He wished to know if the intention was to bypass the main committees in the consideration of those questions. In other words, would they be referred directly to the Conference? If they were, that method would constitute a violation of the rules of procedure.

20. The CHAIRMAN assured the representative of Turkey that there was no intention of circumventing the rules of procedure. However, he urged delegations to refrain from reopening questions concerning which a consensus had already been reached.

21. Mr. BENCHEIKH (Algeria) said that in many respects the Chairman's statement represented an improvement in relation to document A/CONF.62/BUR.13. It was unfortunate that the new version had not been circulated in writing, although he understood the reasons for not doing so, namely, the lack of time to produce it in all languages.

22. That being said, his delegation had reservations regarding the inclusion of the list of outstanding issues and the problem of the treatment to be accorded to preparatory investments made before the convention entered into force. Those were investments for which the vast majority of the countries represented in the Conference were not prepared to accept any responsibility. He saw no reason why the General Committee should give some sort of endorsement to that type of investment.

23. He thanked the representative of Uganda for giving delegations some information regarding the timing and duration of the next session. On that point, he was opposed to a long session, which would create difficulties for countries which did not have extensive financial and personnel resources.

24. The CHAIRMAN said that the special representative of the Secretary-General had informed the chairmen of the regional

groups and of the Group of 77 of the position with regard to available facilities for the next session.

25. Mr. DJALAL (Indonesia) said that, although his delegation was not a member of the Drafting Committee, like many other delegations in that position it wished to follow the work of that important body. Hence its interest in knowing when and where the Drafting Committee would meet and for how long.

26. As for the Conference itself, he favoured a six-week session as being reasonable in length, provided that there was an interruption at the point when delegations would have to consult their Governments.

27. Mr. BEESLEY (Canada), Chairman of the Drafting Committee, said that the Drafting Committee was due to meet that same afternoon. He could not therefore express its views but could only state his own impressions.

28. He felt that the Drafting Committee would need six weeks, and unfortunately perhaps even eight weeks, in order to complete its work. It could therefore meet from 12 January to 27 January 1981 (with an additional week before and after if necessary) either in New York or in Geneva; there appeared to be a slight preference for New York.

29. Apart from reviewing the wording of all the articles, the Drafting Committee had to undertake their final harmonization, since it was essential to ascertain that the various changes made in the various parts of the text in separate proceedings could be reconciled. Lastly, there was the separate work of concordance in all languages, to eliminate any inaccuracies of translation that might have crept into the wording. It was impossible to do all that work in less than six weeks and a period of eight weeks was more likely to be necessary. Like the representative of Peru, he did not like that prospect, but realities had to be faced.

30. Lastly, many delegations had made it clear that the work of the Drafting Committee could not be accepted overnight. Recent experience in the Third Committee had shown that three or four days' discussion had been found necessary for the acceptance of purely drafting changes. It was a fact that sometimes the smallest drafting change could require a considered legal opinion.

31. Mr. AL-WITRI (Iraq) said that, by and large, he supported the contents of document A/CONF.62/BUR.13. Regarding the listing of outstanding issues, he wished to reiterate the position of the group of Arab States that the question of the continental shelf should be added to that list since it had not yet been sufficiently negotiated.

32. Apart from that, his own delegation considered that the question of the delimitation of maritime boundaries between States with adjacent or opposite coasts had not been sufficiently negotiated. He therefore supported the remarks of the representatives of Turkey and Algeria with regard to the listing of outstanding questions. In addition, the provisions on land-locked and geographically-disadvantaged States were still incomplete and needed further study.

33. In conclusion, his delegation considered that the package deal should represent a balanced compromise, for otherwise, the future convention was unlikely to attract general acceptance.

34. The CHAIRMAN explained that the list of three questions which he had mentioned, far from being exhaustive, had been given purely for illustrative purposes. He had, of course, been guided by the chairmen of the main committees with regard to the status of negotiations in their respective bodies.

35. Mr. HAYES (Ireland) requested that the Chairman's statement should be issued as a Conference document. He welcomed the specific reference in that statement to the issue of delimitation, which lagged behind all other sensitive issues before the Conference. He had also been pleased to note the reference to negotiations. Such negotiations, which should take place initially among interested groups, should in due course also be held in the competent organs of the Conference. His delegation was confident that a settlement was near and that, with goodwill, agreement could be reached early in the next session.

36. Mr. RUDKOWSKI (Poland) said that his delegation sincerely hoped that the tenth session would be the final session of the Conference. The progress achieved at the current session gave grounds for optimism on that point. The session should be long enough to enable the Conference to prepare the final draft of the convention; a six-week or eight-week period appeared reasonable. If too long a period was allowed, there might be a temptation to raise new issues or reopen matters that had been concluded earlier, thus prejudicing the conclusion of the work.

37. He agreed with the Chairman's proposals regarding the programme of work but pointed out that there were other outstanding matters to which some time should be devoted, in addition to those enumerated.

38. Mr. MAHMOOD (Pakistan) said that, while he understood that the list of questions mentioned by the Chairman was not exhaustive, it nevertheless had the effect of giving prominence to certain issues, which would no doubt receive priority. During the general debate, a number of delegations had referred to various issues on which, in their view, there should be further negotiations. While it was not possible to list all the items concerned, a specific reference should be made to those on which a large number of delegations had expressed a desire for continued negotiations. Two such items were delimitation and the passage of warships through the territorial sea.

39. The Chairman had referred to the need for consultations among delegations with a view to bringing the Conference as close as possible to consensus. While his delegation had no objection to continued consultations, negotiations within the formal framework of the Conference would also be necessary.

40. There should be a pause of adequate length between the earlier phase of the next session and the decision-making process in order to give all the relevant government departments time to examine the convention as a whole.

41. Mr. SHARMA (Nepal) said that he, too, hoped that the list of issues mentioned by the Chairman was not exhaustive. The common heritage of mankind, to which many delegations had referred in the general debate, should be specifically included as a subject for discussion. It was not clear to what the word "participation" referred.

42. The CHAIRMAN said that the word "participation" had always been understood to refer to participation in the convention.

43. Mr. ENGO (United Republic of Cameroon), Chairman of the First Committee, said that he had not received the letter from a number of African delegations, to which reference had been made. The report he had submitted as Chairman of the First Committee indicated the areas on which further efforts should be made to improve the text, and he could assure the Committee that none of those matters would be ignored. Consultations had already begun on some of them.

44. He had not yet received full details of the information provided by the delegation of Uganda. It should be clear from rule 53 of the rules of procedure that any changes recommended by the Drafting Committee should be referred to the respective Committees for consideration. He did not believe that the Drafting Committee would make recommendations without its members consulting their Governments or their colleagues in other committees. The Drafting Committee should not be considered as separate from the rest of the Conference. The holding of separate sessions would be difficult for Governments of young countries. Meetings of the Drafting Committee might begin earlier than those of the Conference as a whole, but they should be part of a continuing session.

45. It should be pointed out that the tenth session would differ from earlier sessions, in which negotiations had proceeded throughout. There would be some breaks for dealing with procedural matters. It was essential to have a firm programme that would ensure that the tenth session would be the last.

46. The CHAIRMAN said that the Drafting Committee would

require some time between sessions to go through sections of the text which it had not yet examined, though he agreed that its meetings should run into the next session of the Conference. One problem was the processing of documents in all languages.

47. Mr. ORREGO VICUÑA (Chile) said that the list of questions mentioned by the Chairman was realistic and should not be extended by topics reflecting the interests of individual delegations. He would have preferred the more generic listing contained in document A/CONF.62/BUR.13.

48. The Chairman had used the term "negotiations" in place of the term "consultations" used in document A/CONF.62/BUR.13. It was essential not to prejudge the consultations that were yet to be held.

49. He agreed with the Brazilian representative that any changes introduced at the next session must be the result of a consensus.

50. With regard to the duration of the tenth session, five weeks should be ample for concluding the negotiations. Six weeks should be the maximum period allowed. Whatever period was chosen should be non-extendible so as to leave no doubt as to the urgency of the Conference's task.

51. The CHAIRMAN said that consultations preceded negotiations; the two were not mutually exclusive.

52. Mr. RICHARDSON (United States of America), associating himself with previous speakers who had stressed that apart from the final session at Caracas for signature of the Convention, the next session must be the last, said that the points made by the Chairman were useful and constructive. The regional group to which his delegation belonged had not yet received the information to which the representative of Uganda had referred. He hoped that information would be available before the next group meeting.

53. Realism had been invoked as an argument in favour of a session lasting as long as eight weeks, apparently on the premise that five weeks would be required after the initial period of consultations or negotiations in order to dispose of amendments. He found that an alarming prospect in the light of another element of realism: the danger to the results of years of work that could arise from the amendment process itself. He did not question the right of delegations to propose amendments, but the existence of a right did not compel its exercise. He recognized, however, that

there must be an opportunity to encourage consensus and allow time for the necessary consultations to achieve such consensus, and he was prepared to agree that the session should be scheduled for a fixed period of six weeks, for the reasons given by other delegations.

54. On the basis of a 40-hour week and on the assumption that work might progress at an average rate of 10 articles a day, it would take the Drafting Committee eight weeks to deal with the 400 or so articles in the text. It was important for interested delegations to know when particular parts of the text were to be considered. It would be helpful, for example, to know in advance when Part XI would be considered so that delegations that had been engaged most closely with the Chairman of the First Committee could be available during the period concerned.

55. He did not share the view of the representative of the United Republic of Cameroon concerning a possible break between the meetings of the Drafting Committee and the meetings of the Conference as a whole. Governments would wish to review the work of the Drafting Committee and determine whether it was consistent with their views on substantive questions in the text. That would be a realistic approach, taking account of the whole range of factors that had to be dealt with in order to ensure that the necessary work of the Conference could be completed without reopening matters that had already been the subject of intensive negotiation.

56. Mr. TSHIKALA KAKWAKA (Zaire) explained that the letter to which the Chairman of the First Committee had referred had been addressed by a number of delegations, including Zaire, to the President of the Conference, and not to the Chairman of the First Committee. It had been intended for circulation to delegations for their information, and its authors had not asked for it to be sent to the Chairman of the First Committee.

57. The CHAIRMAN said that it had been the consistent procedure of the Conference, based on a decision taken in 1975 when the informal composite negotiating text had first been issued, that no documents reflecting possible changes to an informal text would be circulated as formal documents. That was why he had requested that the letter addressed to him by the delegations in question should be sent to the Chairman of the First Committee, and not circulated.

The meeting rose at 1.10 p.m.

58th meeting

Thursday, 28 August 1980, at 3.35 p.m.

Chairman: Mr. H. S. AMERASINGHE

Organization of work for the tenth session (*concluded*)

1. The CHAIRMAN said that, if there was no objection, he would take it that the members of the General Committee agreed to limit the length of their statements to three minutes.

It was so decided.

2. Mr. RAOELINA (Madagascar) said he hoped that the oral report which the Chairman had made to the Committee at the previous meeting would be distributed as soon as possible to all participants in the Conference. He noted that there would be no duplication between the work of the plenary Conference and that of the First Committee, and that the list of outstanding issues was not exhaustive. He could not agree, however, that a package deal was preferable to a lack of agreement. In his delegation's view, a package deal which did not resolve the fundamental issues for the developing countries would be valueless, since it would nullify the efforts which had been made over a number of years. In that connexion, his delegation fully shared the Irish delegation's

concern about some aspects of the work of the Second Committee. Furthermore, improvements should be made in the texts under consideration by the First Committee. The report of the General Committee must therefore clearly state that negotiations should be continued during the tenth session.

3. After the negotiating phase, Governments would have to be given sufficient time to study the draft convention before submitting amendments and adopting a final text. His delegation could not agree to any proposal which did not take that requirement into account.

4. Lastly, with regard to the duration of the tenth session, his delegation considered that a long session would be inadvisable for the reasons already stated by the Algerian delegation. If the international community was prepared to demonstrate the necessary political will, four or five weeks would suffice to adopt the convention.

5. Mr. MARSIT (Tunisia) said that he saw no reason to make arrangements for a session of more than six weeks' duration. As