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131st Plenary meeting

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131st meeting

Friday, 8 August 1980, at 5.35 p.m.

President: Mr. H. S. AMERASINGHE

Organization of work

1. The PRESIDENT informed the Conference of the recommendations on the organization of work which had just been adopted by the General Committee.

2. The general debate would be postponed until 18 or, at the latest, 19 August. All negotiations on substantive issues should be completed by 15 or, at the latest, 18 August in the committees and at the informal plenary meetings. The general debate would begin on 19 or 20 August, which would leave a day for circulation of the reports of the committees and the plenary Conference. It would end on Saturday, 23 August.

3. The Collegium would meet on 24 and 25 August to prepare the third revision of the informal composite negotiating text. On 26 or 27 August, the Conference would meet again in plenary session to consider the third revision. If it was not possible to reach a conclusion on the functions of the preparatory commission, the protection of investments and participation before the end of the current session, consideration of those questions would have to be resumed at a subsequent session.

4. On 29 August, the Conference would have to decide whether a further session would be necessary and, if so, the dates on which it would be held and its duration. In any case, the Drafting Committee would have to consider the third revision of the informal composite negotiating text and the Conference would have to consider the report of the Drafting Committee.

5. He asked participants to approve the recommendations submitted by the General Committee.

6. Mr. JAGOTA (India) said that, having attended the 55th meeting of the General Committee before the present meeting as an observer, he shared the view firmly expressed by the President that the second part of the ninth session should be the last period devoted to negotiations on substantive issues. His delegation would respect the proposed schedule and would use the time available to the best advantage so that the third revision of the informal composite negotiating text might be communicated to delegations before the end of the current session. Participants in the Conference should do everything possible to ensure the successful outcome of the current negotiations and the completion of the work of the Conference, so that a convention could then be adopted. They had reached a crucial stage in their work and, if they were not successful, they might well become an excuse for the adoption of new unilateral legislation.

7. The negotiations at present in progress would end on 15 or 18 August. The general debate would then begin on the negotiating text and the improvements to that text proposed following the negotiations during the additional week allotted for that purpose. He sincerely hoped that the third revision would be ready in time for consideration at the current session. If it was not, the text would have to be distributed to delegations as soon as it was issued. If the third revision was ready by the date scheduled in the timetable of work, delegations would be able to speak on the document as a whole, without reopening the debate on issues already settled.

8. If the Collegium could not complete the third revision by the scheduled date, there could be no question of holding a further session on substantive issues. However, provision would have to be made for a session of the Drafting Committee, which would consider the text article by article and make recommendations on it. All the participating States should have two or three months to consider the text and the recommendations of the Drafting Committee, and there would then be a final session, of about six to

eight weeks, during which the Conference would consider the third revision of the informal composite negotiating text and questions concerning the preparatory commission, the protection of investments and participation. In any case, the status of the third revision could not be determined until the text became available. At the end of the closing session, the convention would have to be authenticated and opened for signature or accession.

9. The PRESIDENT said that some of the observations made by the representative of India prompted him to remind members that, during the general debate, delegations should limit themselves as far as possible to comments on the second revision of the text and the results of the negotiations which had been held since the beginning of the second part of the ninth session. The other points made by the Indian delegation could be considered at the end of the general debate.

10. Mr. WARIOBA (United Republic of Tanzania) said that he had no objection to the Conference's adopting the schedule proposed by the President. He would, however, welcome an assurance that, unlike what had happened hitherto, that schedule would be scrupulously adhered to and that participants would be able to put to good use the additional week of negotiations which they had been accorded. Since, during the first two weeks of negotiations, the Conference had certainly not made full use of the facilities available to it (there had been only 49 hours of meetings instead of the 144 provided for) and since in certain areas where many issues remained outstanding negotiations had still not started, one might well ask whether it was really worthwhile prolonging the negotiations. The sectors in which it might be possible to arrive at a compromise by continuing the negotiations for a few days should be clearly stated, for negotiations on substantive issues could not go on indefinitely. If the Conference was not to lose its credibility completely, a general debate must be held before the end of the current session, and it must be decided once and for all that there would be no more negotiating sessions on substantive issues and that the next session would be devoted exclusively to consideration of the third revision of the informal composite negotiating text.

11. The PRESIDENT said that he fully agreed with the views expressed by the representatives of India and the United Republic of Tanzania. In accordance with the decision taken during the first part of the current session, the ninth session must be the last devoted to substantive issues. The next session, if it proved necessary, would be devoted to consideration of the third revision of the informal composite negotiating text, in particular its contents and legal status, and possibly of questions concerning the preparatory commission, the protection of investments and participation. The different committees must therefore take all necessary steps to reach, before the end of the current session, agreement on those questions within their competence which had still not been settled.

12. Mr. MAKEKA (Lesotho) requested the President or the Secretariat to explain why there had been only 49 hours of meetings instead of the 144 provided for since the resumption of the ninth session, and to indicate whether there was any hope that matters would be different as from the following week.

13. The PRESIDENT said responsibility for the fact that meetings had not been as numerous as planned rested entirely with delegations and not with the Secretariat.

14. Mr. KRISHNADASAN (Swaziland) agreed with the representatives of India and the United Republic of Tanzania that the current session must be the last devoted to substantive issues. He

would like to know whether the Secretariat would be able to reproduce the third revision of the text quickly enough for the Conference to be able to consider the question of the legal status of that document before the end of the current session. It would be better not to wait until the next session before taking a decision on that question as there was a danger that in the meantime the text might lose some of its importance.

15. The PRESIDENT said that, if the third revision of the text was available in the six working languages before the end of the present session, the question of its legal status would be considered forthwith. If it was not available, attention could be devoted to that question only at the very beginning of the next session. He therefore asked the Special Representative of the Secretary-General to say whether the Secretariat thought it would be able to reproduce the third revised text before the end of the present session.

16. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretariat was prepared to make a very great effort to reproduce the text as quickly as possible and thus enable the Conference to take a decision on its legal status before the end of the current session. However, since a document of 200 pages was involved and its translation required great care, the Secretariat could hardly undertake to reproduce it in the six working languages by a given date without knowing at what precise moment it would be submitted. He accordingly invited delegations scrupulously to respect the work calendar proposed so that the Secretariat might be able to foresee exactly when the text would be submitted and make appropriate arrangements.

17. Mr. HAYES (Ireland) said that he supported the calendar of work recommended by the General Committee. He would like to inform the President and all the participants in the Conference of new developments with regard to the procedure to be followed for considering the question of delimitation. At the talks which had taken place before the start of the present meeting between the spokesmen for the two interest groups primarily concerned with that question, the spokesman for the group to which his country did not belong had submitted a proposal which would be considered at the beginning of the following week by the group of 29. If that proposal was rejected and if the two interest groups did not succeed in reaching rapid agreement on the procedure to be followed in order to complete the negotiations on delimitation, the competent bodies of the Conference would have to take up that question without further delay. The Second Committee, in particular, should not in that event wait until 15 August, namely, the end of the period allotted for negotiations, before devoting attention to the question of delimitation criteria.

18. Mr. IBÁÑEZ Y GARCÍA (Spain) reminded members that the interest group to which his country belonged and the spokesman for that group had spared no effort since the beginning of the resumed ninth session to make contacts with the other interest group and to find a suitable framework for negotiation, so that the substantive discussion of the question of delimitation could be initiated as soon as possible. He hoped that the initial talks to be held between the two groups on Monday, 11 August would be fruitful and would enable an agreement to be reached on the best procedure to be followed for consideration of the question of delimitation.

19. The PRESIDENT said he found it regrettable that, two weeks after the resumption of the ninth session, the parties concerned had still not begun to discuss the procedure to be followed in considering the substantive problems relating to delimitation. He would welcome the views of the Chairman of the Second Committee on that matter.

20. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee, said that he was ready to give any assistance required to the two interest groups with a view to enabling them to reach an agreement that was satisfactory to all concerned.

21. The PRESIDENT said that, if the two interest groups failed to agree on the way in which they wished the negotiations on the question of delimitation to proceed, he would put the matter to

the General Committee and to the plenary Conference and ask them to decide.

22. Mr. IBÁÑEZ Y GARCÍA (Spain) said that the reason for the failure so far to reach agreement on the procedure to be followed in considering the question of delimitation was that the question raised certain delicate problems and that it was difficult to reconcile the interest involved. Blame for the lack of progress made in that connexion should not therefore be laid on the interest groups involved, both of which had displayed abundant goodwill.

23. Referring to more general questions, his delegation considered that, at the present stage of the proceedings, the Conference should simply extend the negotiations by one week and await their outcome before deciding on subsequent action. To agree forthwith on a precise timetable of work which, for one reason or another, it might prove impossible to adhere to would create difficulties.

24. The PRESIDENT said it was impossible to await the outcome of the negotiations before deciding what must be done next. With regard to the question of delimitation, he wondered whether the groups primarily concerned, which had not yet begun joint consideration of the procedure to be followed in examining that question, would be able to come to a speedy agreement.

25. Mr. MUDHO (Kenya) said he agreed entirely with the representative of Swaziland that the question of the legal status of the third revision of the informal composite negotiating text must be settled before the end of the current session and that that session must be the last devoted to substantive issues. His delegation was convinced that if everyone undertook to work harder, the Conference would be able to complete its work before the end of the session. In that connexion, he regretted that the President had not explained, in reply to the representative of Lesotho, exactly why there had been only 49 hours of meetings since the beginning of the second part of the session instead of the 144 hours scheduled. He did not believe that delegations, including his own delegation, were responsible for that waste of time. Nor did he think that the representative of Lesotho, in asking for explanations on that matter, had sought to embarrass the Secretariat.

26. Mr. CHARRY SAMPER (Colombia) said that the question of delimitation criteria and that of the settlement of disputes which might arise in that area formed an integral whole, and that his delegation could not agree to their being discussed separately. In his view, the Second Committee was certainly not the appropriate forum for dealing with delimitation criteria.

27. The PRESIDENT said that since the question of delimitation criteria, which came within the Second Committee's competence, and the question of the settlement of disputes, which fell within the competence of the plenary Conference, were closely linked, he was quite prepared, if the Chairman of the Second Committee agreed, to consider the two questions himself when the negotiations within the plenary Conference were a little more advanced.

28. Mr. HAYES (Ireland) said he would like to know when the next meeting of the General Committee and the next meeting of the plenary Conference would be held. Since the President was proposing to ask the General Committee and the plenary Conference to decide on the procedure to be followed in considering the question of delimitation if the two interest groups failed to reach agreement on that point, the decision should be taken as quickly as possible in order that negotiations on delimitation might at last get under way.

29. The PRESIDENT said that, if they proved necessary, the next meeting of the General Committee and the next meeting of the plenary Conference could be held on the morning of Wednesday, 13 August. He proposed that the plenary Conference should adopt the timetable of work proposed by the General Committee.

It was so decided.

The meeting rose at 6.30 p.m.