

Third United Nations Conference on the Law of the Sea

1973-1982

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A/CONF.62/SR.54

54th Plenary Meeting

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

unification of the peninsula, but had transformed it into a modern country with a high standard of living in which justice prevailed and which had taken its rightful place in the international community. He had always been the champion of right alone.

106. A modest man, given to neither criticism nor futile controversy, he had believed that actions spoke louder than words. He had not been affected by wealth, regarding

himself as a citizen like any other, a servant of all Moslems and a brother to his people.

107. The principles which His Late Majesty King Faisal had devoted his life to defending would live on, and the struggle would continue until right emerged victorious and peace and justice were established throughout the world.

The meeting rose at 2 p.m.

54th meeting

Friday, 18 April 1975, at 10 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Progress of work

1. The PRESIDENT said that he had held the usual consultations with the Chairmen of the three Committees in order to ascertain the status of the work and to determine whether the procedures and methods of work being employed satisfied the needs of the occasion.
2. In the First Committee a text of article 9 of the convention—the key article which covered the questions as to who might exploit the area and what the basic conditions of exploration and exploitation should be—was being worked on and might possibly be available at the end of the week. A unified text covering the entire scope of the First Committee's mandate would probably be ready by the end of the sixth week.
3. In the Second Committee groups with common interests and other groups continued to function, but the very fact that they were limited in size made it imperative to prepare, with the least possible delay, some text that would form the basis for that kind of negotiation, even if it was an informal one. Groups, both formal and informal, were dealing with the most critical issues before that Committee. The small groups with common interests within the Committee were proceeding with their work, and a procedure had been adopted which would minimize duplication of the work being done in other formal and informal groups, for example, with regard to the question of the economic zone.
4. The work of the Third Committee depended very heavily on the resolution of the essentially jurisdictional issues being examined in the Second Committee. With regard to scientific research, for example, the Second Committee had to decide whether the coastal State had an exclusive right; the idea had been put forward that the coastal State should exercise exclusive rights over applied research and that pure research might be undertaken after notification to the coastal State. Similarly, in the area beyond national jurisdiction, the question of pollution and scientific research involved the International Authority and the powers to be granted to it. Hitherto, the Third Committee had been considering the question of monitoring pollution without examining matters of jurisdiction. Scientific research, the régime of artificial islands and installations, and the matter of responsibility and liability for damage resulting from scientific research were questions which appeared to involve more than one Committee. Those examples clearly demonstrated the interdependence of all the issues.
5. Two vital questions had to be settled before the Conference went any further. The first related to the initiation of the process of negotiation involving all participants. He reminded members that, early on in the session, he had said that negotiations involving all the participants should be based on a single text, reflecting all the current positions, to be prepared by the Chairman of each Committee in consultation with his fellow-officers. A text of that kind, which might be informal, seemed to be particularly indispensable in the case of the Second Committee; the First and Third Committees were already drafting unified texts. During the negotiations on the unified text, each delegation would be free to propose amendments, but it would be advisable to avoid the pitfall of protracted monologues and dialogues at cross-purposes. Furthermore, provision had been made for joint meetings of Committees—a procedure that might be useful in the case of the issues for which the Third Committee was awaiting the outcome of the Second Committee's negotiations. In order to ensure proper co-ordination, the negotiations would have to be conducted by the President in association with the Chairmen of the three Committees.
6. The second question was that of the time-schedule for the remainder of the Conference. He suggested that the single texts should be ready by the end of the week so that the sixth and seventh weeks might be devoted to negotiations in plenary meetings of the Committees, which might be informal. The single texts need not initially cover the full range of issues falling within a Committee's purview, but each should include sufficient material on closely related issues for the Committee to consider it in informal plenary meetings. The final week of the session should be devoted to plenary meetings of the Conference and would provide the indispensable link in the co-ordination of the work of the three Committees.
7. At that stage it would be possible for the Conference to decide whether or not another short session should be held during 1975. Whatever the degree of progress achieved, another session of four weeks during the summer might prove extremely valuable. If there was agreement to that effect, the current session would not be closed but would be adjourned. Since there was a very heavy calendar of conferences for the current year, the Secretariat had been asked to be prepared to furnish all the relevant information if it should be necessary.
8. At the beginning of the session he had stated that at the end of the first three weeks he would present to a plenary meeting of the Conference an evaluation of the progress

achieved up to that point. His expectation had turned out to be unduly optimistic. At the end of the fifth week, however, he found that there was sufficient material to justify an evaluation of the progress made. He would deal with each of the Committees in turn.

9. On the opening day of the session, he had appealed to the Committees to start work as soon as possible. The First Committee had accordingly met on the following day. At the first meeting, it had decided to reconvene the 50 member open-ended Working Group established in Caracas in order to facilitate negotiations on articles 1 to 21, on the basic provisions of the régime for the sea-bed beyond the limits of national jurisdiction—and particularly on article 9, entitled “Who may exploit the Area” and other basic conditions of exploration and exploitation of the resources of the area. The Committee had felt that its work could not begin until substantial progress had been made in the negotiations pursued in the Working Group. It had therefore decided not to meet as a whole, but rather to give as much time as possible to the Working Group, which had reconvened on the following day.

10. The Working Group had devoted its first meeting to an appraisal of its progress in Caracas and the tasks ahead of it. As a thorough and fruitful debate on article 9 had taken place during its six meetings in Caracas, the Working Group had decided to begin discussions on the conditions of exploration and exploitation. It had had before it at that time four proposals, which had been incorporated in a comparative table as a way of isolating the various points at issue. The Chairman of the Group had briefly introduced each provision, noted the differences between proposals and assessed possibilities for reconciling the prevailing divergencies. Finally, the Chairman had categorized the provisions according to their relative importance for an agreement on the basic conditions of exploration and exploitation as a whole. The Chairman’s assessment had received support from all sides in the Working Group, and his classification of the provisions into two categories, namely, fundamental items for immediate negotiation and items of a subsidiary character, had served as a guide in arranging the sequence in which subjects were to be discussed at subsequent meetings.

11. Thereafter the Working Group had met on four consecutive working days to discuss in detail the provisions deemed to be of fundamental importance. Those provisions could be characterized as basic matters of principle, as distinct from purely technical matters, which had been deemed to be of subsidiary importance. Specifically, the issues of fundamental importance included those relating to the scope of the Authority’s power, the method of entering into arrangements with entities for the conduct of activities in the area and the basic principles of such arrangements, and the settlement of disputes.

12. The Working Group had begun its work by discussing the detailed provisions concerning the method of entering into arrangements with entities for the conduct of exploration and exploitation activities and the basic principles of such arrangements. In particular, it had discussed such topics as criteria for the selection of contractors and their participation in subsequent stages of operations, and the nature of the financial arrangements; delegations had frequently referred to other related topics in the course of the debate.

13. Those discussions had produced encouraging results. Delegations had agreed that some method of choosing among equally qualified applicants seeking mining rights

was necessary in order to secure maximum benefits for the Authority, although the exact nature of the criteria to govern selection had remained unsettled. There had been some semblance of agreement on the practical need for priority to be accorded to an entity that had been involved in earlier stages of operations when it came to the award of a contract for a subsequent stage of operations. The possibility of contractual relations covering more than one stage had been accepted by all sides.

14. The next subject discussed had been the stages of operation which should be under the Authority’s control. Disagreement had persisted over whether the Authority could control such stages as scientific research, marketing and processing, although, having regard to the fact that the Authority’s contractual relationship might cover more than one stage of the operations, the differences of opinion had been reduced to one issue that related primarily to technical considerations. Those technical issues had in turn raised questions about the types of arrangements into which the Authority might enter. By the beginning of the third week, no opposition had been raised in the Working Group to the decision to discuss the joint venture as a possible arrangement.

15. As divergent positions had manifested themselves at Caracas, agreement to discuss one possible system could be regarded as a significant step towards the solution of what had seemed to be a difficult issue. In view of that important development, the Chairman of the Working Group had cancelled a meeting of the Group for the first time in order to permit informal consultations in smaller groups to be held. Those informal consultations had continued for the rest of the week and had been supplemented by further meetings of the Working Group. Different types of joint venture had been analysed in those forums, the discussions being facilitated by informal technical papers on joint ventures prepared by the Secretariat and by several delegations. The discussions had identified two primary but different types of joint venture, namely, contractual joint ventures, in which all the details of the arrangements would have to be specified in a contract, and equity joint ventures, in which a new legal entity would be formed and the element of control would be established by the Authority through equity participation in the venture. Evaluation of the alternative systems had revealed that the following points were of particular concern: the degree of financial and administrative control to be exercised by the Authority over its partners in joint ventures; direct exploitation of the area by the Authority; the nature of the Authority’s contribution to the venture; incentives for private or State operators; and the legal problems, especially the applicable law, affecting different types of entities in the joint venture. Delegations had exchanged views on all of those complex matters in an endeavour to understand the implications of each possible arrangement and had ultimately concentrated on a system that would satisfy the basic interests of all sides. The discussions held during the third week had been so constructive as to lead to the production of a single text on the basic conditions of exploration and exploitation, which was to serve as the basis for further negotiations.

16. After three days of intensive informal consultations, the Chairman had presented an anonymous paper to the Working Group to serve as a single negotiating text. The paper outlined the basic conditions for a contractual joint venture. It was not in any way a negotiated or “compromise” paper. Since no delegations were committed to any part of the text, it served purely as a basis for negotiation; in other words, the entire paper was nego-

tible. Concentration in the first instance on that aspect of the problem would not prejudice subsequent discussion of any other system of exploitation. Nevertheless, it had been felt that should common agreement on a contractual joint venture system be reached by all sides, negotiations on other types of system would move forward quickly and an over-all agreement on the basic conditions governing exploration and exploitation would be within sight. In that spirit the Working Group had begun its consideration of that single text on Monday, 14 April, and hoped to complete it as soon as possible since negotiations had still to take place on the closely related question of the structure and functions of the international machinery to be established for the exploitation of sea-bed resources.

17. In conclusion, it was hoped that the First Committee would make sufficient headway in its work on the basic conditions of exploration and exploitation and the machinery for the international sea-bed to enable it to produce a single negotiating text covering its entire mandate at the end of the current session.

18. The Second Committee, whose mandate covered almost the entirety of the existing international law of the sea, was the pivot and centre of the Conference.

19. In a general way, and in a real sense, it might be said that no major issue had yet been solved within the Second Committee. As decided at Caracas, the Committee had not heard general statements. It had undertaken a second reading of the "main trends" document (A/CONF.62/C.2/WP.1);¹ issues had been identified once more and well-known positions restated. Delegations had freely commented on the specific formulations in the document and had expressed preferences for one or more of them. Questions of real substance, such as those concerning land-locked countries and straits States, were at the heart of the problem in that Committee. Although it had touched on every issue while making a second reading of document A/CONF.62/C.2/WP.1 at its informal meetings, it had not concentrated on any of the major issues which were considered to be essential elements of a global solution.

20. Those issues had been left to small informal working groups representing mainly special interests. They had examined such items as the territorial sea, baselines, the contiguous zone, transit, and the high seas. The major purpose of the establishment of those small informal working groups was to allow delegations with a special interest in a particular subject to try to reduce the alternatives and, if possible, to produce a single text. Those groups were still carrying out informal consultations and, except in a few cases, their work could not yet be assessed. The informal working group on baselines had produced a revised consolidated text (C.2/Blue Paper No. 4). The informal working group on the high seas was preparing a text which seemed to command wide support among its members. The subject-matter before those two groups was less controversial than other issues, and most of the texts discussed were drawn from the Geneva Convention of 1958, which might explain the progress achieved on those subjects.

21. The informal working group on the territorial sea had not been able to arrive at any result and had decided to suspend its meetings. The informal working group on

historic bays and waters had before it a number of informal blue papers (C.2/Blue Papers Nos. 1/Rev.1, 2, 3 and 3/Rev.1), but so far no consensus had been reached on those texts. The informal working group on the contiguous zone, which had held only one meeting, seemed to have reached some degree of agreement on the content of the contiguous zone jurisdiction. The members of that group seemed also to agree that a State which chose not to extend its territorial sea to a 12-mile limit might have a contiguous zone up to that limit.

22. The main issues in that respect remained the inter-relationship between the contiguous zone and the economic zone, and the plurality of régimes.

23. The informal working group on transit had held only one meeting. The Chairman of the Second Committee, having in mind the complexity of the matter and considering that its resolution would facilitate the task of the Conference, had decided to hold a preliminary meeting first with a small group of delegations from both sides to assess the prospects for initiating negotiations between them and for establishing a working group on the subject. The meeting having definitely revealed the willingness of delegations to engage in such negotiations, the Chairman had established a working group on the subject.

24. Other groups which were already in existence but had not yet met included the informal working groups on archipelagos, the continental shelf, delimitation and innocent passage. Groups on such important matters as straits, islands and the economic zone would probably begin meeting the following week.

25. Another private group was working on the problems of land-locked and geographically disadvantaged States. There had been only slow progress on the question of whether there should be equal rights for exploring and exploiting the living and non-living resources of the zone.

26. The main purpose of the work of the private group on settlement of disputes had been to prepare single texts from the alternatives in document A/CONF.62/L.7.² The issues that had so far proved to be the most controversial were: the establishment of a system of compulsory jurisdiction for all disputes arising out of the convention and the creation of a law of the sea tribunal; the relationship between special procedures and the over-all machinery for the settlement of disputes; plurality of jurisdiction (International Court of Justice, law of the sea tribunal and arbitration tribunals); exclusive national jurisdiction in the economic zone and, in particular, delimitation between national and international jurisdiction; and the establishment of a compulsory conciliation procedure as a preliminary stage.

27. Several draft texts had been produced in an effort to reconcile different views expressed by participants on those issues, and it was hoped that a document could be produced by the middle of the following week.

28. Other questions that had been the subject of informal or private negotiations were: general provisions for the economic zone; artificial islands and installations in the economic zone; living resources of the economic zone; optimum utilization of the resources of the economic zone; conservation and management of such resources; fishing agreements with neighbouring States; geographically disadvantaged States; land-locked States; highly migratory species; anadromous stocks; catadromous species.

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, Vol. III (United Nations publication, Sales No. E.75.V.5), annex II, appendix I.

² *Ibid.*, vol. III.

29. Certain issues had not been considered by the Second Committee as yet in order to enable the informal groups to produce some results which would contribute to constructive negotiation in the Committee as a whole.

30. There was still a marked division regarding the rights of land-locked and other geographically disadvantaged countries in the economic zone. No real agreement seemed near, although much of the controversy centred around other geographically disadvantaged States.

31. The Group of 77 had held several meetings under the chairmanship of Mr. Kedadi, the representative of Tunisia. That Group co-ordinated the work of the three contact groups of the Group of 77. The Chairman of the Contact Group of the Group of 77 on Second Committee matters, Mr. Njenga, the representative of Kenya, was preparing a paper on the economic zone. The results of the discussions in the Group of 77 were not yet known.

32. The Third Committee had held four formal meetings, during which several proposals had been introduced (A/CONF.62/C.3/L.24, 25, 26 and 27). The United Nations Secretariat had submitted to the Committee a study on certain aspects of the transfer of technology (A/CONF.62/C.3/L.22) which the Committee had requested during the Caracas session. The United Nations Environment Programme, in response to a request by the Third Committee during the Caracas session, had submitted a study on the Global Environmental Monitoring System of UNEP (A/CONF.62/C.3/L.23).

33. Most of the work of the Third Committee had been conducted at informal meetings on item 12 (Preservation of the marine environment) and on items 13 and 14 (Scientific research and Development and transfer of technology) held alternately during the mornings, while the afternoons had been put at the disposal of delegations for conducting negotiations. Those arrangements had so far been satisfactory in advancing the work of the Committee, but certain difficulties had recently arisen because meetings of regional groups conflicted with meetings convened by the chairmen of the informal sessions. In that connexion, he appealed to the chairmen and conveners of all groups—regional, formal or informal—to arrange their meetings in consultation with the Chairman of the Committee concerned. The Chairman of the Third Committee, in a statement at the 11th meeting of the General Committee, had proposed that every opportunity should be given to the chairmen of the informal sessions to carry out whatever negotiations they considered necessary to the progress of the work of the Committee.

34. With regard to what had been accomplished at the informal meetings of the Third Committee, the Committee had resumed its informal meetings on item 12 at its 12th meeting, the first of the Geneva session. The Chairman had made a statement summarizing the results achieved at Caracas (A/CONF.62/C.3/L.15).² He had outlined the organization of work for the current session, which was designed to advance the work accomplished at Caracas. The arrangement proposed was that common texts would be prepared for the items listed in document A/CONF.62/C.3/L.14/Add.1,² which set out proposals or amendments which had been introduced but not yet discussed. Accordingly, work had begun with the text relating to monitoring, which was to be followed by texts relating to the question of putting “an end to violations and to the effects thereof” and to standards. As at Caracas, the actual work was being carried out at two levels, the informal meetings on item 12 and the drafting and negotiating

group. At the suggestion of the Chairman of the Committee, most of the current work had been taking place at the level of the drafting and negotiating group, which had clearly been the most efficient medium for the preparation of common texts. To date the group had prepared and approved a common text on monitoring (CRP/MP/16).

35. The group had begun consideration of the crucial question of standards. For that purpose, it was following the method of work approved at Caracas (A/CONF.62/C.3/L.14), which was based on considering various sources of marine pollution in turn. The first question under that method of work, marine pollution from land-based sources, had already been discussed and a text has been approved by the informal meeting on the basis of a draft presented by its Chairman (CRP/MP/17/Add.2).

36. A proposal dealing with the preparation of assessments of the potential effects on the marine environment of planned activities (CRP/MP/18) had been approved at the most recent informal meeting. The subject being discussed by the group was “marine pollution from activities concerning exploration and exploitation of the sea-bed within the areas of national jurisdiction”.

37. The subject “obligation to put an end to violations and to the effects thereof” would be taken up in connexion with the questions of “responsibility and liability”, and the settlement of disputes.

38. During the period 17 March to 12 April 1975, there had been six informal meetings of the Third Committee dealing with items 13 and 14. Smaller drafting and negotiating groups composed of the delegations most closely concerned, under the chairmanship of Mr. Metternich, had held 11 meetings on the same subjects. It had been decided at the informal meetings to start discussion of items which had been left over from Caracas, and therefore the status of scientific equipment in the marine environment had therefore been dealt with first. The debate had been exhaustive, both in informal plenary meetings and in drafting and negotiating groups. A number of delegations had submitted new texts, which were reproduced in document CRP/1. Two further texts which attempted to reach a compromise had been submitted to the chairman of the informal meetings as the result of the intensive negotiations; they were reproduced in document CRP/2. It had not, however, been possible, to reach agreement on any single compromise text, despite the three attempts subsequently made by the Chairman to consolidate in one text all the views expressed in the course of the negotiations. Finally, it had been decided to “freeze” for the time being the two alternative texts contained in document CRP/2.

39. Thereafter the item “responsibility and liability” had been discussed at the informal meetings. That discussion was continuing. A number of delegations had submitted new texts (CRP/3 to 7). An attempt to draft a single compromise text had been made at the level of the drafting and negotiating group. Tentative agreement had been reached on a text of a general nature (CRP/8). Some delegations, however, still seemed to believe that that compromise text was not sufficient and should be supplemented.

40. When the discussion on responsibility and liability had been completed, the informal meetings would presumably turn to the subject of “conduct of marine scientific research”, which constituted the crucial issue within the group’s competence. Two meetings of the delegations most closely concerned had so far taken place on the subject. It

had been suggested that the outline submitted by a group of socialist countries in document A/CONF.62/C.3/L.26 should be taken as a framework for discussion, as the text appeared to be quite comprehensive. At the suggestion of the chairman of the meetings, delegations had already been discussing the question among themselves.

41. The subject of the transfer and development of technology had not yet been dealt with, although some delegations had at the outset expressed the view that the subject should be discussed as soon as possible. An appeal had been made to all delegations to submit draft proposals on the matter, but no new text had yet been submitted, and the only text carried over from Caracas (A/CONF.62/C.3/L.12)² was being discussed by its own sponsors with a view to making a revision.

42. Various comments were relevant with regard to the organization of work and the progress achieved in the Third Committee. The pattern of meetings established at Caracas had proved to be adequate for the negotiating process. The most fruitful negotiations were taking place on the initiative of the Chairman of the Committee, who was bringing together delegations from the various interest groups and trying to present amalgamated compromise texts to them. On the other hand, there seemed to be too little readiness on the part of the individual interest groups to negotiate with one another, while a disproportionate amount of time was probably being spent by some groups in discussing and defining their own position.

43. It appeared that the decision to leave the afternoons free from general meetings, both formal and informal, had not proved as satisfactory an arrangement as had been expected, owing to the fact that the time had been utilized mainly by regional groups, whose discussions sometimes tended to harden the original positions rather than to stimulate negotiation with other groups.

44. The officers of the Third Committee had met on Wednesday, 16 April 1975, and had decided that for the moment the working arrangements of the Committee should be kept intact. The officers had felt that the progress the Committee had so far achieved, although slow, had been comparatively satisfactory.

45. In conclusion, he said that the Chairmen of the Committees would keep in close touch with delegations when considering any future changes.

46. Mr. COSTELLO (Ireland) pointed out that many representatives had expressed the view that it would not be possible to draft a treaty of a universal character on the law of the sea at the current session of the Conference and that it might be necessary to convene a further session. If such turned out to be the case, the session should be held at the earliest possible date, since everyone was well aware of the serious results which might follow a break-down of the Conference or even any delay in its work.

47. His Government hoped that the Conference would result in the creation of a 200-mile economic zone in the waters adjacent to coastal States. Until the rights of fishermen in those zones were clearly established, they would be uncertain as to their future; Governments had a duty to dispel that uncertainty in the minds of those who lived in the most disadvantaged areas. Furthermore, uncertainty regarding the rights of States on the continental shelf, the extent of their jurisdiction both on the shelf and in the economic zone, the delimitation of areas of jurisdiction of individual States and between States and the

International Authority, and the role to be played in those delimitations by rocks and small islands could result in international difficulties as well as hindering the development of natural resources which the world urgently needed.

48. In addition, delays in the work of the Conference might well result in unilateral action being taken by States which would not only adversely affect the interests of other States but would endanger the future of the Conference itself, thereby nullifying some results already achieved. If an early resumption of the Conference was not practicable, his delegation urged that informal negotiations should continue in the intersessional period.

49. With regard to the future work of the current session, he suggested that the Chairmen of the three Committees should each submit single negotiating texts concerning the matters which came within their respective mandates; the texts could be drafted as work proceeded and in the light of the progress made. Secondly, it should be recognized that the Conference could not provide a definitive solution to all the problems raised by its mandate and that an attempt to do so could well frustrate its work. On the other hand, it should prove possible to agree upon machinery for the settlement of disputes and to reach agreement in certain areas on general principles of the future law of the sea. Those principles could evolve in the same way as international law had in other fields, and differences could be settled in the manner provided for by the convention. In addition, the Conference should consider broadening the scope of General Assembly resolution 2574 (XXIV) so as to express the view that participating States should not take unilateral action on the matters included in its mandate pending the outcome of the Conference.

50. Finally, his delegation considered that the Conference was at a critical point; it would work, in conjunction with all other delegations, for the achievement of the goals which had been set.

51. Mr. CASTAÑEDA (Mexico) said that his delegation was concerned by what was happening at the Conference, and found the outlook discouraging. Although the main reason for delays in the work of the Conference was the difficulty of the problems at issue, the fact remained that it was being impeded by problems of organization and method. The main difficulty undoubtedly stemmed from the fact that the Conference had no single text which reflected or summarized the main trends as a basis for its work. It was true that three or four years earlier the Conference would not have been able to agree on a single text and that it had had to discuss the issues so that each delegation could make its position known, but over the years certain trends had emerged and differences had in some cases narrowed, particularly with regard to the idea of the economic zone, which was at the heart of the questions dealt with by the Second Committee. Not all States, of course, had been equally enthusiastic about the texts which had been the outcome of informal negotiations, but those texts could still serve as a basis for negotiation. The Second Committee had made progress in its consideration of substantive issues but had become bogged down in the search for ways of adapting agreement on basic principles to the machinery and organization of the Conference; both the First and Third Committees had developed devices which enabled delegations to negotiate, but that had not been the case in the Second Committee.

52. Governments would not understand why, in the course of five years, participants in the Conference had failed to produce texts which might at least serve as a basis

for an agreement. At the Caracas session the Second Committee had made considerable progress, but such had not been the case at the current session, at which debate had been completely unproductive. During the first three weeks the Conference had considered a document drawn up at Caracas with a view to combining the variants it contained, but it had been unable to take any decision with regard to the 243 provisions in the document. It could only be concluded that the method being used was unsatisfactory.

53. The immediate need was to submit consolidated draft articles to be used as a basis for negotiation; there was, of course, no question of producing definitive legal texts. Certain delegations had opposed that course, contending that such texts could not take account of the interests of all the States. It was true that it was impossible to draft a single text which would reflect all points of view; indeed, if that had been possible, it would have sufficed to establish a drafting committee to put the final touches to the text from the legal point of view, and the Conference would have served no purpose. It was therefore essential, in his view, that the proposals made should be open to amendment and should not necessarily be voted on. It should also be borne in mind that a consolidated text would not emerge from the void, would not reflect the personal opinions of its sponsor and would take into account the conclusions reached after five years' work. The negotiations in the numerous unofficial groups had unquestionably shown the existence of elements which would make it possible to draft texts of that kind. Furthermore, if the Chairman of the Second Committee did take such action, he would do so after consulting the officers of the Committee who formed a representative entity.

54. In fact, if the Conference was to make progress, it was essential that the discussions would centre on a single blueprint for negotiations, because it was not possible for 150 delegations to negotiate an agreement with no basic text before them. A number of delegations had suggested that all participants should continue their consultations and negotiations with a view to drafting single texts, but if the Conference followed that method, it would find itself in a vicious circle, since the self-same delegations would then embark on negotiations on those texts. On the other hand, negotiating without a basic text was tantamount to foredooming the Conference to failure. If the procedure which had been suggested by some speakers, namely, that the Committee Chairmen should each draft single texts by the end of the current session and send them to Governments, was adopted, Governments might well propose variants. In that way, the Conference would find itself in exactly the same position at the beginning of the following session as it had been at the beginning of the Caracas session: it would have before it conflicting variants and would therefore have lost ground instead of making progress.

55. Mr. TRAORE (Ivory Coast), expressing the opinion of the group of African countries on the President's proposal, said that those countries were worried by the direction that the Conference was taking and that they considered that the establishment of a single text by each of the three Committees might be satisfactory provided it really was a single text. It seemed that the production of such a text might be possible in the case of the First and Third Committees, but not in the case of the Second Committee. The work of the Second Committee was not progressing: various interest groups were working on particular subjects and, if the Chairman of the Committee was to be able to prepare a text, the results of those groups' work would have

to be submitted to the Committee as a whole so that all delegations could be informed about them. Regional groups were also meeting, and the Chairman should be able to take their work into account. After all those texts had been submitted to the full Committee, the Chairman could take into consideration the opinions expressed by delegations and start to draw up a single text. Ideally, that text should be available to delegations before they left the Conference so that they could study it and be able to start real negotiations at the following session.

56. Mr. PARSİ (Iran) requested that the President's statement on the work of the Committees should be produced *in extenso* in the summary record of the 54th plenary meeting of the Conference. With regard to the establishment of single negotiating texts, he was concerned about the slow pace of the Conference's work, but he nevertheless found the progress made in the working groups of the First and Third Committees encouraging. It was regrettable that a number of critical questions had not been solved and that the Conference still had a long way to go before it could settle all the issues relating to the law of the sea. His delegation considered that the Conference should be entering a new phase of its work and it therefore supported the President's proposal for the preparation of single negotiating texts. It also supported the idea that those texts should be prepared by the Chairmen of the three Committees in consultation with interested delegations and the Committees' officers. The texts should, however, be based on documents before the Conference and reflect the needs and interests of all countries. They should be informal texts and be used for negotiating purposes only, without committing States or delegations.

57. His delegation was gratified to learn that the Chairmen of the First and Third Committees would be in a position to produce their texts before the end of the session, and it regretted that the Second Committee, the most important organ of the Conference, was not in the same position. The document prepared by the Chairman of the Second Committee at Caracas might be helpful in the preparation of the single text. What the Second Committee really needed was to have delegations demonstrate their goodwill, and it was to be hoped that a spirit of co-operation would prevail in the Committee so that the Chairman could submit the text as soon as possible, preferably before the end of the session.

58. In conclusion, he pointed out that many delegations, in particular those of the developing countries, were anxious to receive the texts before the following session of the Conference.

59. Mr. STAVROPOULOS (Greece) said that the Conference would soon find itself in the same situation as it had been in at the end of the Caracas session, and the question of whether the Conference had failed would then have to be answered. For that reason, if the Conference succeeded in defining the economic zone and the territorial sea it would have made great progress, but he doubted whether it could achieve that. The fact was that the Conference was making slow progress because the problems before it were complex and delegations had completely opposed views. Furthermore, the Conference had before it, not a single text, but 200 separate texts, and, with the exception of the First Committee, it had been unable to agree on any single text. His delegation was therefore glad to note that the idea of single texts was gaining favour. It should be realized, however, that it was impossible to complete such a task in a few weeks. He hoped that the Chairmen of the Committees, in whom all participants had

confidence, could, with the help of the Secretariat, draw up within two or three months texts to which participants could submit amendments and subamendments, without proposing new variants. Finally, he did not think the idea of establishing further contact groups, working groups and negotiating groups was a useful one; it seemed more likely to lead to stalemate.

60. Mr. MALDONADO-AGUIRRE (Guatemala) said that it had been predictable that the Conference would not succeed in producing a final document at the third session, given the many factors complicating the negotiation process. First, the interests of the great Powers were preponderant because for them the sea was a means of expansion and hegemony, and their pursuit of expansion clashed with the aspirations for national liberation of the peoples of the third world. Secondly, the countries represented at the Conference were increasingly determined to secure the indispensable conditions for their political and economic development and, aware that the Conference would be unable to reach any conclusion without their consent, to have a share in any agreements reached. His delegation accordingly considered that machinery would have to be devised to guarantee the legal equality of States and protect them against any underhand compromises; for that reason it welcomed the method of establishing interest groups within which agreements of limited scope could be reached. In that connexion, his delegation understood negotiations to mean not only reciprocal concessions, but primarily exchanges which were likely to give rise to rules of law.

61. With regard to the prospect of a further session or of extending the current session, his delegation supported the President's proposal. Moreover, in its view, it should be realized that the Conference could make no progress until an effort was made to establish a set of rules recognizing the right of States to economic development; consequently, the continuing denial of the right of peoples to extend the zone which provided their essential food proteins and especially the persistent rejection of the legitimate rights of land-locked States would have to cease. Finally, the prerequisite for the convening of a further session was that every effort should be made to strengthen the will to negotiate.

62. Prolonging the Conference would adversely affect the least developed States, since their exclusive economic zone remained vulnerable to plundering by foreign enterprises which were threatening their living resources, and the absence of an up-to-date law of the sea was delaying organized exploitation of nutritional, mineral and other resources by States.

63. His delegation hoped that the Conference would reach general basic agreement on the major issues of the law of the sea, because otherwise the peoples of disadvantaged countries, afflicted by economic backwardness and the abuses of foreign exploitation, would have to revise their domestic legislation and prepare themselves to take unilateral measures in defence of their sovereignty, independence and right to meet the requirements of social well-being.

64. Mr. AGUILAR (Venezuela) supported the proposal by the representative of Iran that the President's report should be reproduced *in extenso* in the summary record of the meeting or distributed as a separate document. With regard to the slow progress in the work of the Conference, he endorsed the view of the representatives of Ireland and Mexico that time was not on the side of the Conference.

There had even been talk of the possibility that certain States might take unilateral measures and exploit the sea-bed beyond the limits of their national jurisdiction or extend their national jurisdiction. While there was no question of yielding to the pressure represented by such threats, the Conference should at least declare that it was categorically opposed to the implementation of such unilateral measures while negotiations were in progress. The *status quo* must not be changed.

65. The method proposed by the President for dealing with the situation, namely, the preparation of a single negotiating text by each of the three Committees, was the only course which was possible and logical. His delegation had some views on the characteristics and objectives of such a text and when it should be available. With regard to its characteristics, the document should contain just one text on each issue, with no variants, and it should be comprehensive, covering all the issues within the terms of reference of the Committee in question. It would serve solely as a basis for negotiation and subject to all possible kinds of amendment or might even be changed completely, but it would not be a text on which delegations would vote. The Chairmen of the Committees would be given the task of compiling the text and would use such means as they considered appropriate: they might utilize the services of the United Nations Secretariat and of the officers of the Committees and consult interested delegations; they would have at their disposal the documents prepared during the preparatory sessions and at Caracas and could draw on the results of the discussions in Geneva at the current session. Finally, each text should be completed as early as possible—in other words, before the end of the session. In that way, States could consider the texts at leisure and even consult one another—at the regional level, for example. The texts should be discussed at plenary meetings of the Committees so as to enable all delegations to participate in the negotiations, on the understanding that a drafting committee might later put all the proposals made into written form. The essential thing was that there should be a single text which would serve as a basis for negotiation.

66. Mr. MOORE (Ghana) said that the difficulties the Conference was experiencing were due largely to the multitude of texts before the Committees. He therefore supported the preparation of single negotiating texts. Moreover, it was his view that the following session of the Conference should be held in 1976. During the intersessional period all groups could have informal consultations so that the Conference could adopt the convention at the following session.

67. Mr. WARIOBA (United Republic of Tanzania) said that at Caracas the First Committee had made tremendous progress in its work because it had concentrated on certain basic issues. It had, for example, come near reaching agreement on a definition of the common heritage. The hope had been that it would continue to make progress at Geneva and reach agreement on the structure, functions and powers of the proposed international machinery. However, the First Committee was not following the same method of work as at Caracas, and the results it had achieved to date were disappointing. Instead of concentrating on settling basic issues, such as who might exploit the sea-bed, it appeared to be floundering in unimportant detail and purely theoretical discussions. Some delegations were maintaining the positions they had adopted in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, and the progress made on article 9 at Caracas appeared to be in danger. Such a trend was discouraging, and the First Committee appeared to be back where it had started from.

68. The Second Committee was deadlocked, because the time had come when it had to adopt a decision based on compromise. Some means would have to be found of helping it to break the deadlock. The solution proposed by the President might be useful, as matters stood, and he was not opposed to the preparation of single negotiating texts. The President had, however, mentioned progress with regard to some issues on which unified texts already existed. The deadlock in the Second Committee was not, therefore, due solely to the lack of a single text. Furthermore, working groups of that Committee were still negotiating on single texts, even if they were not making progress in their work. The lack of a single text was therefore not the only reason for the stalemate. The Conference was deadlocked because it was not yet ready to make fundamental decisions on matters of principle. Delegations were confining themselves to reiterating the positions they had held for years and were not yet prepared to accept a compromise. In such circumstances, the task of the Committee Chairmen would be extremely difficult because, in the single text which each of them would be asked to prepare, they would have to adopt a position which was equitable and acceptable to all delegations. They would find it very difficult to assess the positions of all members of the Conference, since many delegations did not attend Committee meetings, which often took the form of discussion groups rather than negotiating bodies. Accordingly, despite their good faith and their efforts, the Committee Chairmen might well be accused of lacking objectivity. It would therefore be very hard for them to compile single texts as a basis for negotiation. The preparation of such texts would require a certain amount of co-ordination among all the negotiating bodies of the Conference. Co-ordination was particularly lacking in the Second Committee, and, until that Committee reached a decision on the key issues before it, the other two Committees could not progress in their work.

69. He considered that it was too early to decide on the date for the following session of the Conference, since that date would depend on the progress achieved at the current session. In any case, the Conference should not let the urgency of the situation govern its decision, since to submit to such pressures would hinder, not accelerate its work. When adopting its rules of procedure and method of work, the Conference had been aware that it was embarking on a long and difficult undertaking, and it was too late to turn back.

70. Mr. KOZYREV (Union of Soviet Socialist Republics) said that the Conference had certainly not produced the results anticipated, but that should not give rise to undue pessimism. If the political will to reach agreement were present, it should be possible to devise formulae that would provide a basis for negotiation, particularly if the working method of certain informal groups was employed.

71. For example, the question of the rights of States to establish an economic zone extending over a distance of 200 nautical miles was primarily of interest to developing countries. The Soviet Union had been one of the first to take account of their aspirations and noted with satisfaction that the idea of a zone had come to be generally accepted. However, so far there was no article on the subject that was acceptable to all participants in the Conference.

72. With regard to the questions of the breadth of the territorial sea and freedom of passage for ships in straits used for international navigation, his delegation considered that agreement could be reached on a text providing for a

maximum 12-mile limit for the territorial sea, because most States appeared to favour that limit. If the States concerned showed goodwill, progress could likewise be made in the negotiations on straits. Most participants at the Conference probably favoured decisions, whether in the matter of straits or any other involving the law of the sea, of the kind desired by all peoples of the world—decisions that would promote peace and decisions which did not damage any one State or group of States. In the view of his delegation, if all States attending the Conference wished it to contribute to the strengthening of peace and co-operation among States, there should be no insurmountable difficulty in reaching a concerted decision on the freedom of navigation in international straits or on other questions. He pointed out that the General Assembly and the Conference on the Law of the Sea had both recognized that questions connected with the law of the sea were interrelated and should be settled by consensus.

73. He endorsed the President's views on the organization of work and believed that steps should be taken to speed up the work and to draw up single texts. They would have to be prepared by the Committee Chairmen working with the Committee officers and in consultation with interested delegations. Draft texts on questions of principle or substance on which there were divergent views might include a few variants; otherwise, it was difficult to see how the Committee Chairmen could prepare a single text. Whatever the method adopted, they would have the status of consolidated compromise texts.

74. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that the Committee had met at Caracas to consider organizational questions but had not met at all during the current session, although that had not prevented it from following closely the proceedings of the Committees and their working groups. In order to help the Conference to break the deadlock, the Drafting Committee might follow the suggestion of some delegations and hold informal meetings, as other bodies of the Conference were doing. The matter might be considered at the following meeting of the General Committee.

75. Speaking as the representative of Canada, he said that the Conference had reached a turning-point in the negotiating process. It was not surprising that it should have run into difficulties since it was engaged in an intricate, complex and time-consuming undertaking and Governments were growing increasingly impatient. The general debate had been concluded and the Conference had started negotiations proper and had already tackled some key issues. In undertaking a radical restructuring of the law of the sea, it had embarked upon an enormous task and one which was difficult to accomplish with 150 States participating. On the other hand, there were difficulties about delegating negotiating power to smaller groups, inasmuch as countries which had not been as directly involved in the negotiations might not accept the results. His delegation was deeply committed to a negotiated solution and an agreement accepted by all States, because it could accept neither the tyranny of the majority nor the veto of the minority. As the Canadian Minister for the Environment had stated at the 21st meeting of the Third Committee, the progress made in drafting treaty articles was encouraging, but much remained to be done. She had added that the Canadian Government, like all those represented at the Conference, was counting on a negotiated solution and, like them, was expecting tangible results from the discussions at Geneva. For that reason his delegation believed that the Conference should continue its efforts to reach consensus. If, after so many months, it failed to agree on a single negotiating text,

the position would be truly desperate. His delegation was convinced that the preparation of such a text was feasible. The First Committee was well advanced in detailed negotiations on certain specific problems and was very near agreement on some issues. In the Second Committee most of the fundamental questions were being dealt with in informal negotiating groups, and there was ground for hope that those negotiations would lead to compromise solutions before the end of the session. Admittedly, the Committee had not yet disposed of some questions, such as that of straits, but lack of progress on specific points should not hold up its general progress. In any event, he was in favour of entrusting the Chairman of the Second Committee with the task of drawing up a single text.

76. The Third Committee was continuing to make progress with draft articles on the prevention and reduction of marine pollution with the help of informal working groups and would probably be able to complete the draft articles at the current session. A proposal concerning the transfer of technology had already been submitted to it by the Group of 77 and it would soon receive another proposal.

77. In conclusion, he expressed the view that the procedure suggested by the President was very unusual, even unorthodox, and that the Canadian delegation held serious reservations about adopting such a working method. Nevertheless, because he saw no other way of breaking the current deadlock or of achieving tangible results before the end of the session, he would support the President's solution.

78. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said that the Conference had reached a stage when all suggestions would be welcome. The President had proposed that the chairman of each committee should draw up a single text. The representative of the United Republic of Tanzania had pointed out that the mere production of a text was not a solution in itself.

79. As Chairman of the First Committee, he supported the President's suggestion and wished to make some comments on it. First, the task to be entrusted to committee chairmen was a heavy burden, because they would not be able to work behind closed doors but under the eyes of all. Secondly, in the texts all the outstanding issues would have to be put into a suitable form for negotiation purposes. To that end, a number of conditions would have to be met: the text would not be discussed in a preliminary way by delegations with a view to establishing whether or not it was balanced, and it could not be a mere compilation of irreconcilable provisions drawn from existing texts. The third requirement was that the text should not be treated by the interest groups as an "interloper" that replaced their earlier texts. Finally, the single text must be regarded as reflecting the general view of a Chairman whose main concern was to initiate genuine negotiations.

80. In conclusion, he urged the Conference not to give way to despair.

The meeting rose at 1.15 p.m.

55th meeting

Friday, 18 April 1975, at 3.35 p.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Additions to the list of non-governmental organizations (A/CONF.62/L.2/Add.1)

1. The PRESIDENT announced that, in addition to the non-governmental organizations earlier invited to send observers to the Conference in pursuance of General Assembly resolutions 3029 A (XXVII) and 3067 (XXVIII), the International Council of Voluntary Agencies, the International Commission of Jurists and the International Movement for Fraternal Union among Races and Peoples had asked to be included on the list approved by the Conference. If he heard no objection he would take it that the Conference approved their requests.

It was so decided.

Progress of work

2. Mr. ANDERSEN (Iceland) said that the slow progress made by the Conference so far was a matter of grave concern to many delegations. At the beginning of the session it had been hoped that a consensus would have been achieved by the current stage or that voting would have started. The proposal made by the President, at the previous meeting, that single negotiating texts should be drafted, was the only realistic solution; his delegation supported it and was confident that the outlines of an agreed text would emerge.

3. It should be realized that if neither consensus nor majority decisions were possible, unilateral action would soon be forthcoming from various quarters.

4. The work of the negotiating groups relating to the single texts should be given high priority, and reasonable time-limits should be allowed for suggestions. Priority should also be given to the clarification of texts concerning the crucial issues of the territorial sea, straits, the limits of the continental shelf, the economic zone and the exploitation of the international sea-bed area. The sense of urgency generated at the current meeting must not be allowed to falter or fail.

5. Mr. MANGAL (Afghanistan) said it was normal to make an evaluation of progress when the half-way stage of the session had been passed. The President's statement at the previous meeting had revealed the disturbing fact that no substantial progress in negotiations had been achieved. That failure should be taken into account and a decision taken to use the remaining time for substantive negotiations.

6. Much time had already been spent on procedural matters and the complexity of the subject before the Conference had been used as a pretext and justification for failure to produce results. It was essential at the existing stage to make a further determined effort to produce a comprehensive convention, for which there was an urgent