

# **Third United Nations Conference on the Law of the Sea**

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Document:-

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## **20<sup>th</sup> meeting of the General Committee**

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## 20th meeting

Thursday, 6 May 1976, at 3.45 p.m.

*Chairman:* Mr. H. S. AMERASINGHE (Sri Lanka).

### Organization of work

1. The CHAIRMAN said that a decision would obviously have to be taken at the current session as to the timing, duration and venue of the fifth session of the Conference. He had asked the regional groups to consider those matters and to submit to the Committee, through their Chairmen, the results of their consultations.
2. Many delegations had expressed the view that before deciding on the arrangements for the following session they would have to see the revised single negotiating text, which would be available on the following day. He was not himself convinced that the two matters were connected, since the decisive factor in considering a further session was not so much the content of the revised single negotiating text as the degree of progress which the Conference had made after eight weeks of informal negotiations on it. Since the Conference was apparently still far from reaching final agreement, it had, in his view, a duty to make arrangements for the following session. Accordingly, those regional groups which were still not ready to state their position on the subject should have further consultations after the meeting with a view to having a decision taken in the plenary the following day.
3. One of the considerations to be taken into account was that the working paper on the settlement of disputes (A/CONF.62/WP.9) which had been prepared by the President of the Conference, although not having the same status and character as document A/CONF.62/WP.8, had been the basis for consideration and discussion in a general debate at the current session and a new draft of it had been prepared which took into account all the earlier proposals, those made in the general debate and in informal discussions, and comments and suggestions made by groups and delegations. He suggested, therefore, that the revised text of that working paper should be accorded the same status as the three parts of document A/CONF.62/WP.8 and likewise serve as a basis for negotiations. That would not, of course, affect the status of proposals already before the Conference or the right of delegations to submit amendments or new proposals.
4. The procedures which had been envisaged at the beginning of the current session had unfortunately not been followed, and it was his impression that many delegations were disappointed with the lack of interest group negotiations on the crucial issues before the Conference. That disappointment was, understandably, affecting their attitude towards the timing of the following session.
5. The procedures to be followed at that session should be aimed at reconciling differences on the crucial issues—the so-called package deal which was a prerequisite if the convention was to be effective. The informal negotiating texts could be consolidated, possibly during the intersessional period, so as to provide the Conference with the comprehensive picture of the proposed new law of the sea which was necessary if the problems of ocean space were to be considered as a whole.
6. Negotiations at the following session should take place primarily between groups, as the experience of the fourth session had indicated that negotiations conducted exclusively within geographic or interest groups had not produced the desired results. Negotiations were needed between those interest groups whose positions were still at variance; they might involve the entire group, or a few members of each group might be designated to conduct the negotiations on its behalf, in which case the prospects for rapid progress would be better. The groups would have to be regularly briefed on the progress of other negotiations and would decide on any changes which might be needed in procedure, representation or approach. The programme of work for the negotiations should be decided by the President after consultation with the Chairmen of the three Main Committees. The results of the negotiations should also be reported to the President of the Conference and the three Chairmen, who would transmit the information to their respective Committees. To allow two or three weeks at the beginning of the session for negotiations of the kind he had described seemed to satisfy the requirement of the rules of procedure that all efforts at reaching general agreement should be exhausted, so far as the committee stage was concerned. Thereafter the rule of procedure would be set in motion and voting could be conducted at the committee level. The purpose of such voting would not be to take final decisions but rather to provide an indication of the prospects for agreement and of the areas in which further negotiations were required. The Conference would then proceed to the plenary stage for further negotiations and would at an appropriate moment decide whether a vote at that level was unavoidable. Obviously, before reaching the plenary stage, the Conference would have to have a consolidated text enjoying formal status. When votes were taken on individual articles, the acceptance by a State of any individual article would be regarded as conditional and subject to the other articles satisfying its requirements: in other words, votes cast on individual articles would not be binding prior to the final stage. The Chairman of the Drafting Committee should be asked to prepare a text of a preamble and final clauses for negotiation and discussion.
7. He hoped that the procedures he had outlined would be accepted as a means of enabling the Conference to complete its task without undue haste and in conformity with the letter and the spirit of the "gentlemen's agreement" which governed its proceedings.
8. He had invited the Chairmen of the regional groups and the representative of the United States, as a country not belonging to any regional group, to express their views with regard to the venue of the fifth session. He wished first, however, to point out that many delegations which had no permanent missions in Geneva would undoubtedly find it more difficult to obtain instructions from their Governments at the decision-making stage if the session were held there, rather than in New York, and the expense involved might place a heavy burden on their countries. He therefore believed that the fifth session should be held in New York, and he understood from his consultations with the regional groups that all were willing to accept New York as a venue if Geneva created serious difficulties for some delegations. As many developing countries had stressed the expense of maintaining delegations at the Conference, the best course might be to have the session begin on 2 August—and not 19 or 26 July, as previously suggested—and end on 17 September, an arrangement that would spare States the added expense of having to send new delegations to New York for the General Assembly.

9. Mr. TÜNCEL (Turkey) suggested that the Chairman might make copies of his statement available to interested delegations so that they could have a clear idea of the issues on which decisions were to be taken.

10. The CHAIRMAN said that he would try to comply with the suggestion of the representative of Turkey.

11. Mr. UPADHYAY (Nepal), speaking on a point of order, said that there was an interregional group, the Group of 77, which should also be allowed to express its views on the matters under consideration.

12. After a brief procedural discussion, in which Mr. NJENGA (Kenya) and Mr. MESLOUB (Algeria) participated, the CHAIRMAN ruled that the Chairmen of the regional groups, whom he had consulted on the matter, should speak first and thereafter the Chairman of the Group of 77.

13. Mr. NJENGA (Kenya), speaking on behalf of the Group of African States, said that a majority of the Group was opposed to the holding of a summer session, largely because a number of international and regional meetings would be taking place during the summer months, including meetings of the Organization of African Unity and the non-aligned countries at which issues relating to the law of the sea would be discussed. It would therefore be difficult for the members of the Group to participate fully in a summer session of the Conference.

14. It had been argued that the Conference should seek to maintain the momentum it had gained, but many delegations in the Group were of the view that such momentum as existed was in the direction of division. Before a further session was convened, therefore, efforts should be made to reconcile existing differences. Moreover, the timing of the fifth session was directly contingent upon the content of the revised single negotiating text. Although that text was not yet available, delegations had some idea of its content and members of the Group were not fully satisfied with parts of it.

15. The programme of work for the fifth session outlined by the Chairman seemed to be overly optimistic: it was unrealistic to expect, for example, that after two weeks of negotiations the Conference would have reached the decision-making phase. What was more likely was that the experience of the fourth session would be repeated, with a new single negotiating text being presented at the end of the session. The poor countries could not afford to continue that pattern indefinitely and therefore believed that more time should be devoted to preparation.

16. As to the venue of the fifth session, the Chairman had ably summarized the objections of some delegations to Geneva. While some members of the Group were willing to go to Geneva, only 17 of them had permanent missions there. Delegations without permanent missions in Geneva had found themselves at a disadvantage at the third session, and consequently the majority of African States felt that any future session should be held at a place where all delegations were on an equal footing. New York, despite its drawbacks, met that requirement.

17. In short, the majority of the Group was opposed to a summer session in 1976 and the Group was almost unanimous in its opposition to the holding of a future session at Geneva.

18. Mr. KAZEMI (Iran), speaking on behalf of the Group of Asian States, said that few members of the Group had as yet expressed a hard and fast position. The holding of a summer session would cause material hardships to some delegations, and many would be attending other international meetings during the summer. The majority therefore

held that sufficient time should elapse before the fifth session to allow delegations to report to their Governments and obtain instructions. Some delegations were of the view that, subject to suitable amendments to the single negotiating text, a session of four or five weeks would be sufficient to resolve outstanding issues. Otherwise, a much longer session would be needed, a prospect few could accept because of the lack of time before the forthcoming General Assembly. Should a brief summer session be convened, members of the Group were flexible as to its timing and venue, although those without permanent missions in Geneva had expressed a preference for New York. In any event, a short session in August could be followed by a longer one. The Philippines Government was giving serious consideration to inviting the Conference to Manila in the spring of 1977, a possibility that had been favourably received by the Group.

19. Mr. JACHEK (Czechoslovakia), speaking on behalf of the Group of Eastern European States, said that the members of the Group were prepared to lend their constructive co-operation so that the work of codifying the new law of the sea could be completed at the earliest possible date. They were accordingly willing to support a brief summer session to deal with the major outstanding issues, preferably to be held in Geneva. If that venue was going to create difficulties for other countries, however, the Group was prepared to reconsider its position.

20. Mr. ZEA (Colombia), speaking on behalf of the Group of Latin American States, said that a majority of the Group were in favour of holding a summer session in 1976, preferably in Geneva. However, the Group's position was flexible and it was prepared to take into account the views of other regional groups.

21. Mr. MANNER (Finland), Chairman of the Group of West European and Other States, said that a majority of the Group favoured holding the fifth session of the Conference in the summer of 1976. With regard to the site, it was prepared to meet in either New York or Geneva, but a majority of the Group had a preference for Geneva. The Group had not, of course, had an opportunity to discuss the programme of work outlined by the Chairman, but his own delegation could support it in principle.

22. Mr. LEARSON (United States of America) said that his delegation was in favour of holding the fifth session of the Conference in the summer of 1976. Progress had been made in negotiations at the current session and the Conference should not lose the chance to achieve an acceptable convention. He agreed with the view that the procedures followed at the current session should not be repeated; the new procedures outlined by the Chairman should make it possible to concentrate on particular aspects of the work and speed up the negotiating process. His delegation would be agreeable to holding the session in New York.

23. Mr. UPADHYAY (Nepal), speaking as Chairman of the Group of 77, said that the Group believed that the fifth session should be convened at the earliest convenient time; at the same time there was a general feeling among the members that delegations needed time to study the texts which had emerged from the current session, and many delegations in the Group were at a disadvantage because the experts involved with the Conference on the Law of the Sea were also required to attend other meetings. Delegations therefore needed time to study the new texts, receive instructions and form positions from which they could meaningfully negotiate, so that the work of the Conference could make progress. For all those reasons, there had been general agreement that it would be best to convene the fifth session in early 1977. It had also been felt that the venue should be New York because of the facilities and advantages mentioned by other delegations.

24. The Group would reconsider the question in view of the new proposal for the date and venue of the Conference made by the Chairman at the beginning of the meeting. Since the Group had likewise had no opportunity to discuss the proposed programme of work, he could not comment on it.

25. Mr. SHEHAB (Egypt) speaking as Chairman of the Arab Group, pointed out that some members of the Group were also members of the African or Asian Groups. The Arab Group believed that, despite the material and financial difficulties of some delegations, any action necessary to bring the work to a successful conclusion should be supported. There was an overriding need to end the chaos and administration by *diktat*, prevailing in law of the sea affairs, by devising a new law of the sea to be respected by all States. The Group had decided by an overwhelming majority that it had no objection in principle to a session from 26 July to 9 September in Geneva. Furthermore, in order to ensure the success of that session, it was proposing that negotiations should be carried out before the session opened on the basis of the amended single negotiating text so as to co-ordinate the positions of delegations. The Group had further decided that if there was to be a summer session of the Conference, it would itself meet in special session at Tunis in June. It was clear from consultations with other regional groups that not all delegations were agreeable to those proposals and the Arab Group had intimated to the Group of 77 that it was prepared to change its decision in order to accommodate the interests of other groups.

26. Mr. EVENSEN (Norway) said that he appreciated the difficulties described by the Chairmen of the Group of African States and of the Group of 77. However, he considered that a summer session was essential and therefore supported the proposal made by the Chairman. The Conference had reached a crucial stage in its work and its future progress would depend largely on the decision taken about the following session. If the Conference decided to postpone the session until 1977, there was a real danger that it might be overtaken by events and lose much of its relevance; there could well be crucial new developments during 1976 and the ability of the Conference to influence events would be greatly diminished. The Chairman's proposal was a good compromise, since delegations would have about three months to consider the revised texts. With regard to the procedural arrangements for the following session, although there were certain outstanding problems that would have to be solved before moving from the negotiating to the decision-making stage, that stage should be reached as soon as possible. The Conference should not repeat the article-by-article approach followed at the current session but should single out groups of problems or articles and try to produce a complete, consolidated text, with a preamble and final clauses, as soon as possible.

27. Mr. BAILEY (Australia) said that during the current session almost all delegations had shown greater willingness to accommodate the views of others for the sake of adopting a convention in the near future. Nevertheless, there was still a danger of unilateral action and for that reason it would be best to continue the current discussions with as little interruption as possible so that the Conference did not lose impetus. He therefore felt that there should be a fairly short session in the summer of 1976, possibly in early August. He appreciated the difficulties which some States might experience, but the outcome of a summer session might make those burdens worth while. His delegation's position on the venue of the session was flexible and if many States would find it difficult to attend a Geneva session, the first choice of his delegation, it would agree to a session in New York.

28. His delegation agreed in principle with the procedures proposed by the Chairman. The Conference should not

make a further article-by-article or issue-by-issue reading of the single negotiating text at the following session, although that method had proved very useful at the current session inasmuch as the revised text reflected to some extent the main lines of convergence towards agreement on a considerable number of issues. The Conference should establish procedures which allowed the final negotiations to get under way as soon after the start of the session as possible. He suggested that at the beginning of the session the Chairman of each Committee should identify the issues which remained to be negotiated and invite the heads of delegations whose interests were affected by a particular issue to participate in the negotiations. In order to arrive at an acceptable convention, it was essential that the interests of all delegations should be represented either by the delegations themselves or by interest groups chosen expressly by them. The Conference might have to wait for adjustments on some aspects, but it could deal with others in formal meetings. The texts might need to be formalized at an appropriate stage, but he hoped that decision-making on most issues would begin well before the end of the fifth session.

29. Mr. LAI Ya-li (China) said that it was unfortunate that the revised single negotiating texts were not before the Committee for the purpose of its discussion of the following session of the Conference. The Conference had reached an important stage: at the current session many small and medium-sized countries, especially third-world States, had presented important proposals on the informal single negotiating text. Each delegation would have to report to its Government and seek new instructions on such matters as how to conduct future work and to negotiate at the following session in the light of the new texts. If the fifth session was held in the summer of 1976, there would be an interval of only two months, and it would be impossible for most countries to make full preparations for the session.

30. Differences of principle remained on certain important questions and time was needed for consultations and the co-ordination of positions, a process which would be essential to the success of the following session. His delegation therefore agreed with the Group of 77 and the Group of African States that the fifth session should be held in 1977, on dates to be set by consultation.

31. Mr. ANDERSEN (Iceland) said that his delegation felt strongly that the Conference should avoid repeating at the following session any of the work done at the current session. The first part of the fifth session should be devoted to concentrating on the main issues and the rest to the decision-making process, which should be initiated as soon as possible. Some of the basic problems had been discussed for a decade, so that most Governments well knew how far they were prepared to go. His delegation supported all the proposals made by the Chairman.

32. Mr. RABETAFIKA (Madagascar) said that his delegation was in favour of holding the fifth session of the Conference in New York in 1977. His delegation would still have adopted that position even if it had known in advance of the Chairman's new proposal for a session in August 1976. Many delegations felt that the final decision on the date of the fifth session could not be taken until the Conference had received the revised single negotiating texts, and it would therefore be difficult to take any final decision before the current session ended. His delegation was aware of the urgency of adopting a convention, but did not want it to be adopted by means of forced negotiations. It also felt that the informal negotiating text prepared by the President should be given the same status as the revised single negotiating texts.

33. He pointed out that the Chairman's proposal on the date of the fifth session did not respect the normal practice of

not holding any major international conference in the month immediately preceding the General Assembly. If the Conference really needed to hold a session in August in order to maintain its momentum and harmonize the negotiating texts, he would be agreeable to such a session, subject to its being devoted to those aspects which the Conference had not yet discussed fully, namely, the settlement of disputes, peaceful use of ocean space, and the final clauses and preamble. Those subjects might be discussed before they were referred to the drafting group so that the texts produced would have the same status as the other texts.

34. Mr. ZEGERS (Chile) said that the Conference should move on to the decision-making phase; although the current session had been useful, there should be no repetition of its working procedures. The Chairman had proposed that the texts should be consolidated during the intersessional period, but his delegation felt that that task could best be accomplished after the two or three weeks of negotiations, when the preamble and the final clauses and the text on the settlement of disputes had been discussed. The key issues comprising the "package deal" could be negotiated between interest groups, but since there was a great variety of divergent interests, a method of negotiating the totality of the texts was also needed.

35. It would probably be necessary to hold two more sessions in order to complete the remaining work and the fifth session would therefore have to be held during the current year. The compromise solution suggested by the Chairman—to hold the session in New York in August-September—would enable delegations to attend most of the other important international meetings during the summer and maintain the momentum of the Conference. If another year was allowed to go by, the work would not be completed until 1978 and, with the passage of time, solutions might be demanded which would make agreement even more difficult. His delegation therefore felt that the Chairman's proposal would be approved by consensus in the plenary.

36. Mr. ENGO (United Republic of Cameroon) said that, while the date proposed by the Chairman for the following session of the Conference suited his delegation, he felt that the regional groups should not be asked to comment on the proposed programme of work until they had had time to consider it carefully. He asked whether it was possible for the Secretariat to release the revised texts as they became available, without waiting for all the language versions to be prepared and, if so, when the texts would be ready.

37. Mr. HALL (Executive Secretary of the Conference) said that the Secretariat would make a number of documents available in some of the working languages by 10.30 a.m. on the following day, and the remainder thereafter.

38. Mr. DRISS (Tunisia) said that as the representative of Norway had stated, there were two or three problems which were blocking the progress of the Conference and which should be identified. One of the difficulties was that almost all of the Conference's meetings had been informal, whereas official texts were needed. A decision was required on a procedure for achieving that end, and the texts available could not be the basis for that decision, since—although they were still secret—he was certain that no one would find them satisfactory. It was essential that delegations should have the will to solve the problems which were preventing progress, namely, the question of the authority and the settlement of disputes. Issues which had not yet been discussed had little bearing on the decision: in his view, the work of the Conference would be held up indefinitely by discussing the peaceful uses of the ocean space, as suggested by the representative of Madagascar, since none of the big Powers would agree to include articles on disarmament. There should be no more unofficial meetings: all future discussions

should be official. He therefore proposed that the General Committee should meet in August to pinpoint issues and to decide what the work of the Conference should be at its session early in 1977.

39. Mr. NANDAN (Fiji) said that he welcomed the Chairman's suggestion that the following session should be held in August-September 1976, but suggested that it might be shortened so as to begin on 9 August. Such a time-table would give most delegations the time they needed to study the texts to be discussed. The procedures proposed by the Chairman for the session were also satisfactory and should be discussed further. As a preliminary step, his delegation was prepared to support the Chairman's proposals.

40. Mr. TÜNCEL (Turkey) said that his delegation would wait until the text of the Chairman's statement was available before expressing its views on the proposals in the plenary. However, he had doubts about the voting procedure suggested by the Chairman for the committees at the following session. He agreed with the representative of the United Republic of Cameroon that the revised negotiating texts should be distributed as they became available.

41. Mr. KNOKE (Federal Republic of Germany) asked whether the Chairman would be present during the proposed two or three weeks of negotiations at the beginning of the following session, if it was held in August and September.

42. The CHAIRMAN said that if the session began on 2 August, he would be present for two days, which should be sufficient. If he heard no objection, he would take it that the General Committee agreed that the documents containing the revised negotiating texts should be made available as and when each language version was ready.

*It was so decided.*

43. Mr. BAROODY (Saudi Arabia), speaking at the invitation of the Chairman, said that the important question was not the place or time of the following session, but the achievement of consensus. In his view, the solution was to form an *ad hoc* committee made up of representatives of the States which wielded world power and those which had done so in the past, such as the United Kingdom and France, and representatives from the different regions. Ideally, the committee should have 18 to 20 members, and certainly not more than 24. Each region should try to resolve its difficulties before appointing its representatives to the *ad hoc* committee, which should then be able to produce a satisfactory text for the following session of the Conference. From his experience in the Sixth Committee of the General Assembly, he felt that it would be well-nigh impossible to draw up a comprehensive law for the sea which would be universally acceptable. He suggested that it would be preferable to draft guidelines on the basis of the Charter of the United Nations, since that would be more likely to meet with success.

44. The CHAIRMAN assured the representative of Saudi Arabia that his proposal would be taken into account by those to whom it was addressed.

45. Mr. CISSÉ (Senegal), speaking at the invitation of the Chairman, welcomed the proposal to convene the fifth session in New York rather than Geneva, an arrangement which was much more convenient for the African delegations, of which only 17 out of 47 had missions in Geneva. He endorsed the Chairman's proposal that the first three weeks should be set aside for consultations, on the understanding that a date would be set for the formalization of the texts. He suggested that after that date two weeks should be devoted to discussing matters allocated to the First Committee, because the smaller delegations—like his own—had been forced to concentrate largely on the work of the Second and Third Committees owing to lack of personnel. He endorsed the Chairman's proposal to entrust the Chairman of the

Drafting Committee with the preparation of a draft text of the preamble and the final clauses. In conclusion, he said that the Chairman of the Group of 77 would report on the Group's decision regarding the Chairman's proposal during

the morning of 7 May 1976, following consultations with the various groups concerned.

*The meeting rose at 6.05 p.m.*

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