

Third United Nations Conference on the Law of the Sea

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69th Plenary meeting

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possible, to the formulation within an appropriate framework of conventions that would guarantee and consolidate international peace and security in ocean space.

44. Such an approach should make it possible to avoid sterile debate and to preserve the future by laying the corner-stone of an edifice to which mankind attached the

greatest importance. It would also contribute, in the short term, to the formulation of the long-awaited convention on the law of the sea.

45. The PRESIDENT announced that the general debate on the item had been concluded.

The meeting rose at 1.30 p.m.

69th meeting

Friday, 7 May 1976, at 11.35 a.m.

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

Organization of work at the next session of the Conference

1. The PRESIDENT pointed out that he had arranged for the circulation of the text of the statement he had made at the 20th meeting of the General Committee concerning the organization of the next session of the Conference. He hoped that delegations would be able to decide now on the date, the venue and the duration of the next session.

2. Mr. UPADHYAY (Nepal), speaking on behalf of the Group of 77, said that the previous day he had stated the position of the Group of 77 concerning the holding of the next session. He pointed out, however, that participation in the many conferences which were being held during the current year required a considerable effort on the part of delegations which formed part of the Group. For that reason, those delegations could not consider any venue for that session of the Conference other than New York, where the missions of most of them had their headquarters. Taking into account the appeal made by the President, those delegations were therefore prepared to participate in the next session of the Conference if it were held in New York. As for the exact date of the session and the organization of its work, he thought that each delegation should give its views individually.

3. Mr. JACHEK (Czechoslovakia), speaking on behalf of the Group of Eastern European countries, confirmed that the delegations in that Group agreed that the next session of the Conference should be held in August in New York, as the President has proposed, since that solution would enable many countries which would be unable to be represented at Geneva to participate in it.

4. Mr. MANNER (Finland), speaking on behalf of the Western European and other States, said that most of the countries for which he was speaking were in favour of the President's proposal.

5. Mr. LEARSON (United States of America) said that his delegation agreed that the next session should be held in New York on the dates proposed.

6. Mr. BAVAND (Iran) said that the Group of Asian States, which shared the views set forth by the Chairman of the Group of 77, also agreed to that solution. He felt, however, that it would be premature to decide on the organization of work at the current stage and that it would be better to wait until the beginning of the next session to do so.

7. The PRESIDENT said it appeared that most delegations were in favour of holding the next session of the Conference in New York, on the dates he had proposed, namely from 2 August to 17 September 1976.

It was so decided.

8. Mr. TÜNCCEL (Turkey) said that it was difficult for his delegation to state its views on the proposals submitted by the President regarding the organization of the next session since the text of his statement had not yet arrived.

9. Mr. DRISS (Tunisia) said that it appeared in general that there was agreement not to discuss the question of the organization of work until the beginning of the next session. Between the sessions, the various groups could then study the proposals submitted by the President and any other proposals which might be made. As the representative of Egypt had announced the previous day, the Group of Arab States, which would meet shortly in Tunis, intended to return to the next session of the Conference with specific proposals.

10. Mr. KOZYREV (Union of Soviet Socialist Republics) outlined the position of his delegation on the organization of the work of the next session. His delegation agreed with the President that the four parts of the informal single negotiating text should be consolidated in a unified text. It believed, however, that since the consolidation might affect the contents of the texts, it should be carried out by the President of the Conference in collaboration with the Chairman of the Main Committees who were the authors of the various parts. Thus, there should no longer be any question of revising the revised texts. The Rapporteur-General of the Conference and the Chairman of the Drafting Committee might also perhaps participate in that work. It would be better to wait until the Committees had finished discussing outstanding questions before beginning the work of consolidation. It would also be preferable in theory for the Committees to conclude the discussion of the corresponding parts of the draft text.

11. His delegation also believed that the preparation of the preambular and final clauses of the convention should be carried out under the leadership of the President of the Conference, in collaboration with the Chairman of the Drafting Committee, the Chairman of the Main Committees and the Rapporteur-General. Following the same principle, work on the revised text at the level of the Main Committees could be done collectively by the Chairmen of the Committees in collaboration with the other members of the bureaux of the Committees. That would alleviate the burden placed on the President and would contribute to the success of the work since the bureaux were representative of the Committees as a whole.

12. As to the decision-making process, his delegation was of the opinion that the principle of consensus should be fully observed, in other words that only generally accepted decisions should be taken. If that principle was established, the question of voting should not arise, even if it was only a

question of an indicative vote. The vague nature of such a procedure could only lead to excessive complications; it could serve no purpose to know whether a given article of the convention did not have the necessary majority support and would only reopen the discussion and raise other questions. Such a procedure could only discourage the participants in the Conference from seeking generally acceptable solutions. While it was no secret that the Conference had not so far been able to work out an ideal compromise formula, it would be quite wrong to infer that all the possibilities had been exhausted. The next session of the Conference should therefore be devoted to the search for a generally acceptable formula. To allow the possibility of a vote was to deny any possibility of compromise and any hope of consensus. His delegation felt strongly that the Conference should be careful not to take a hasty decision on that question and it formally opposed consideration of any such possibility at the current stage.

13. Mr. TARCICI (Yemen) said that his delegation had been unable to study the President's proposals since the document in which they appeared had not been circulated in Arabic. Moreover, with regard to the revised single negotiating text, he pointed out that the word "informal" no longer appeared in the title of the document and, in his view, that omission should be rectified.

14. He would like to read out a statement explaining the position of his delegation regarding the new revised text, in particular concerning the questions relating to straits States and their territorial sea.

15. The PRESIDENT pointed out to the representative of Yemen that the agenda for the current meeting did not provide for consideration of the revised single negotiating text. It was clear that the revised text had the same informal character as the original text.

16. Mr. ZEGERS (Chile) emphasized the need to decide to some extent at the current stage on the organization of the work of the next session, as the President had rightly said in his statement at the 20th meeting of the General Committee. The Conference should therefore decide on the manner in which the negotiations on the four texts should be conducted during the next session and should draw up a provisional time-table. The question should be settled without further delay so that, in accordance with the rules of procedure of the Conference, at any time during the next session the Conference could proceed to the adoption of decisions. He explained that the adoption of decisions did not necessarily mean a vote; he himself hoped that decisions could be taken by consensus, as they should be. The great majority of delegations had indicated that they had no intention whatsoever of recommencing the same kind of exercise they had just engaged in and proceeding to a further reading of the texts. As one representative had very wisely observed, that was an exercise which could be done at home. If delegations were agreed on the holding of a second session in 1976, it was implicitly accepted that that session would not be devoted entirely to informal negotiations but that the Conference would proceed officially to the adoption of decisions. He felt that the President's proposal that the work of the next session should comprise two stages, the first being devoted to informal negotiations on the text relating to the settlement of disputes during which the four parts of the text which had been submitted would be harmonized in a single text, and the second being devoted to the adoption of decisions on the basis of that unified text, was acceptable on all counts. It was vital that the next session should result in decisions and it was essential that arrangements should be made at that stage to that end. His delegation therefore in general supported the President's suggestions, provided that the four parts of the text submitted were consolidated only at the end of the two or three weeks to be devoted to informal

negotiations, when consideration of the text relating to the settlement of disputes was concluded and the Chairman of the Drafting Committee had submitted a draft text for the preamble and final clauses of the convention.

17. Mr. CASTAÑEDA (Mexico) said that his delegation supported the President's suggestions regarding the organization of the work of the next session of the Conference and agreed that it was absolutely essential to decide on the matter right away. During the current session, the Conference had done useful and necessary work; in his delegation's view, it was essential that at its summer session it should proceed to adopt the draft convention. His delegation deemed the President's suggestions in that connexion to be appropriate; during a first phase, which would last approximately two weeks, the negotiations would continue, after which the Conference would proceed to adopt the draft convention. For that purpose, it could adopt the desirable procedure of consensus but, in the event that no consensus could be reached, it would have to resort to a vote.

18. His delegation, like the Chilean delegation, believed that the consolidation of the various parts of the single negotiating text should be carried out during the session itself, at the close of the negotiating phase, and not between the two sessions.

19. Mr. Cissé (Senegal) said his delegation had endorsed the President's suggestions once the President had given an assurance that only the first three weeks of the next session would be devoted to negotiations as such, and that the Conference would then embark immediately on the consolidation of the various parts of the single negotiating text and would give the new text thus obtained formal status. His delegation urged that that course should be taken and emphasized that every effort would have to be made to abide by the consensus procedure and avoid resorting to a vote.

20. Mr. AL DHAGMA (Qatar) said that his delegation did not want the convention to be elaborated with undue haste; its provisions must be weighed carefully as they would affect the implementation of certain projects, particularly in the developing countries. He therefore believed that the organization of the work of the next session should not be considered or decided on until the start of the session itself.

21. Mr. GALINDO POHL (El Salvador) said that his delegation believed it would be advisable to specify who would be responsible for drafting the preamble and final clauses of the convention, since those provisions were very important. It supported the suggestion made by the President that the task should be entrusted to the Chairman of the Drafting Committee.

22. At its next session, the Conference should proceed to consider part IV of the single negotiating text article by article, as had been done in the case of the three other parts of the text.

23. It would be advisable for the President and the Chairman of the Main Committees to start tackling the key problems at once in preparation for the forthcoming negotiations. Once those problems had been clarified, it would be possible to give the various parts of the single negotiating text formal status and then proceed to the adoption of the draft convention which, it was to be hoped, could be done by consensus.

24. Mr. TREPCZYŃSKI (Poland) said that his delegation subscribed to the view that the decision regarding the organization of the work of the next session should be deferred until that session. The procedure adopted for the current session had proved effective so far, but his delegation would oppose it being followed again at the summer session, since it believed that from now on the President of the Conference, the Chairman of the Main Committees and the other members of the General Committee, as well as the

representatives of the regional groups and of the various interest groups should collectively draft texts which might be acceptable to all delegations; his delegation would support any initiative in that direction.

25. In addition, it would be premature to decide now at what time the Conference should proceed to adopt the draft convention since, in his view, all efforts should be directed towards trying to produce the best possible text.

26. His delegation fully agreed with the Soviet delegation that the Conference should proceed by consensus and not by voting.

27. Mr. SHERMAN (Liberia) said that his delegation supported the President's proposals concerning the order of work of the next session and appealed to delegations to be ready to give the various parts of the single negotiating text formal status as early as possible during that session.

28. Mr. AGUILAR (Venezuela) said that, in the view of his delegation, the organization of the work of the next session—on which the success of the Conference would depend to a large extent—should be determined at once, at least in broad outline. In general, his delegation supported the President's proposals in that connexion. It believed that the procedure which had been followed at the current session should not be used again since the time had come to proceed to the final phase in order to reach agreement. It was absolutely essential to avoid a further reading of the various parts of the single negotiating text, with the exception of part IV, which had been the subject of only limited informal discussions and a very general formal debate. That part should probably be examined article by article in plenary meeting so that it would carry the same weight as the other parts of the single negotiating text.

29. The key problems relating to the first three parts of the text should now be defined. The President of the Conference could, as he himself had suggested, act in consultation with the Chairmen of the Main Committees in that connexion. The time had come to end the "monologues" within the interest groups and to start a real dialogue on those problems.

30. His delegation agreed that it was necessary to consolidate the various parts of the single negotiating text, but that task should be done not, as the President had suggested, between the two sessions but only at the close of the negotiating phase of the next session. It would not concern only questions of form; accordingly, it should be done jointly by the President of the Conference, the Chairmen of the Main Committees, the Rapporteur-General and the Chairman of the Drafting Committee.

31. His delegation had no objection to the Chairman of the Drafting Committee being entrusted with drafting the preambular provisions and the final clauses, in the form of a preliminary draft or working paper. The document would be considered initially by the Drafting Committee itself and subsequently in plenary or in open-ended working groups.

32. His delegation, like several others, believed that the Conference should proceed to adopt the draft convention at some point during its next session. In doing so, it should preferably act by consensus and should resort to a vote only in the event that no consensus could be reached.

33. Finally, he said that his delegation accepted the President's suggestions which seemed to pave the way for an agreement.

34. The PRESIDENT pointed out that there seemed to be general agreement on at least one aspect of the question, namely, that there should be negotiations on part IV of the single negotiating text at the next session so that that part could be on the same footing and be considered as having the same weight as the others.

35. Mr. DRISS (Tunisia), speaking on a point of order, opposed any decision being taken on that particular point since, in his view, the proposals contained in document A/CONF.62/BUR.4 should not be adopted separately but should be studied and discussed and then referred to the General Committee. No decision should be taken in plenary meeting until the General Committee had stated its views.

36. The PRESIDENT said that there was no need to refer the matter to the General Committee at that juncture.

37. Mr. VALENCIA RODRÍGUEZ (Ecuador), referring to document A/CONF.62/BUR.4 containing the President's suggestions on the procedure to be followed during the next session, noted that the documents mentioned therein were unofficial and that some of them were long and technical and would require much time to consider. He supported those delegations which had suggested that a decision should not be taken at present on the consolidation of the texts or on giving them official status and that they should be adopted only after they had been examined in depth. Furthermore, if the revised texts did not take into account the fundamental interests expressed several times by certain delegations, they could not be accepted as a basis for consideration since that would amount to giving them official status. The texts continued to be simply a basis for negotiation. A convention which was adopted when numerous points of disagreement remained outstanding would merely give rise to a great deal of controversy, which was not the desired aim.

38. The general preliminary clauses and the final clauses of the draft convention should be the subject of a debate in plenary in order to elicit general ideas and guidelines. In his view, three or four plenary meetings should be sufficient. His delegation also supported the idea put forward by the representative of El Salvador that part IV of the single negotiating text should be revised article by article and should not be placed on the same footing as the other three parts until it had been debated in plenary meeting. It also supported the proposal that informal negotiations should be undertaken during the first two or three weeks of the next session, after which the procedure to be followed during the following phase would be decided upon.

39. The PRESIDENT pointed out that it was clearly understood that the different parts of the single negotiating text would be consolidated only after negotiations had been completed.

40. Mr. MOLDT (German Democratic Republic) said that the new law of the sea would affect vital rights and interests of all States. Yet experience showed that such questions could not be decided just by voting, since that might give rise to considerable tension and conflict, a situation which must be avoided at all costs. That was why the new law of the sea could be established only on the basis of consensus. Since the possibilities for reaching a consensus had not yet been exhausted, it was important not to block such possibilities by taking formal decisions at the current stage on the procedures to be followed at the next session. His delegation formally opposed any decision that implied the possibility of proceeding by means of voting at that session.

41. Mr. YANKOV (Bulgaria), explaining that he was speaking as the representative of his country and not as a member of the General Committee of the Conference, said that the suggestions put forward by the President regarding the organization of the work of the next session were particularly appropriate. Even if a decision was not taken at the current stage, an exchange of views on the question would be useful. It was important that the next session of the Conference should carry out its work in the best possible conditions, since it would be crucial. Consequently, a clear strategy should be devised in the knowledge that time was now short.

42. His delegation agreed that it was particularly important to negotiate on the key problems, namely, those that had remained outstanding—which were limited in number but of crucial importance—and to reach general agreement on the substance of the matter, namely, the elaboration of a unified text. If negotiations were not concluded, the results of the Conference would merely be counterproductive.

43. With regard to the consolidation of the texts, the President's task would be facilitated if those who had been working for several years on those texts took part in the process. His delegation therefore supported the proposal that a team should be formed for that purpose consisting of the President of the Conference, the Chairmen of the Main Committees, the Chairman of the Drafting Committee and the Rapporteur-General. Furthermore, at the level of the Main Committees, it would be appropriate, as in the case of the Chairman of the Third Committee, for the Chairmen of the other two Committees to be more closely associated with the work than the other members of their bureaux.

44. The following stage would apparently be devoted to negotiation. He emphasized the importance at that stage of seeking a consensus at the level of the Main Committees, which would make it a great deal easier to reach general agreement subsequently in plenary meeting. It was clear, however, that much more time would still be needed for that purpose.

45. He was aware that the rules of procedure provided for voting, but in his view the consensus relating to the "package deal" formula was of primary importance; voting would merely have an indicative value and a convention adopted in that way would be of little use. Consequently, recourse to such a procedure should be envisaged only as a last resort.

46. The PRESIDENT pointed out that, as far as the negotiations were concerned, he had no intention of restricting them to plenary meetings and that he was fully aware of the importance of negotiations in the Committees.

47. Mr. KNOKE (Federal Republic of Germany) said that, after reading document A/CONF.62/BUR.4, he felt that it was premature at the current stage to adopt decisions that were too rigid. In his view, it was necessary to concentrate on the negotiations and to proceed with consideration of part IV of the single negotiating text article by article with the participation of the Chairman of the Drafting Committee. The preamble and the final clauses of the draft convention should be considered first of all by the competent organs

of the Conference; the results of that consideration would then be taken into account when the various texts were being consolidated. The decisions in that respect would not be easy and, like the representative of Bulgaria, he felt that it was necessary first of all to seek a consensus within the Main Committees, which would facilitate the adoption in plenary meeting of generally agreed decisions.

48. Mr. WOLF (Austria) said that the Group of Land-Locked and Geographically Disadvantaged States had requested him, as Chairman of that Group, to outline the views of its members regarding the revised single negotiating text. Since a decision had been taken not to debate the substance of that text at the current meeting, he had arranged for the text of the statement that he had intended to make to be circulated to the members of the Conference.

49. Mr. LOGAN (United Kingdom) said that he was aware of the urgency of the work of the Conference but took the view that it was none the less necessary to retain some flexibility in the organization of work, since that had proved to be extremely useful up to the current stage. It was therefore necessary to avoid taking too many decisions. Certain delegations had expressed the hope that, at the next session, the three Main Committees would not again follow the same procedure, namely, the consideration article by article of the single negotiating text, and that they would proceed with the study of the main questions outstanding. In his view, that was the only decision required at the current stage. The Committees should be free, however, to decide when they would proceed to the following stage, and it was necessary in any event to avoid setting a time-limit.

50. As to the possibility of recourse to voting, he pointed out that the President had said in his statement (A/CONF.62/BUR.4) that, at the appropriate moment the Conference would, in accordance with the rules of procedure, have to take a decision on proceeding to a vote if a vote was unavoidable. He interpreted that to mean that, in the President's view, every effort must be made to reach a consensus. Like the representatives of Bulgaria and the Federal Republic of Germany, he thought that that was an excellent principle which should be applied in the Main Committees as well as in plenary meetings.

51. The PRESIDENT said that the interpretation given by the United Kingdom representative was perfectly correct, as was borne out by the text of his own statement.

The meeting rose at 1.10 p.m.

70th meeting

Friday, 7 May 1976, at 3.30 p.m.

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

Organization of work for the next session of the Conference (concluded)

1. The PRESIDENT said that, in his view, the single negotiating text contained in document A/CONF.62/WP.9 should be negotiated in the same way as Parts I, II and III of document A/CONF.62/WP.8. The preamble and final clauses of the draft convention should, he believed, be drafted by the Chairman of the Drafting Committee in consultation with the Chairmen of the three Main Committees

and the Rapporteur-General, under the general direction of the President and with the assistance of the Secretariat. Thereafter those sections could be discussed in the same way as other parts of the draft convention. The work of consolidating the final texts should be done jointly by the President and the Chairmen of the three Main Committees, and the Drafting Committee and the Rapporteur-General. If all delegations agreed to his proposals on those three points, then problems connected with negotiations on the main issues could be dealt with. Three weeks would seem to be