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29th meeting of the General Committee

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GENERAL COMMITTEE

29th meeting

Monday, 23 May 1977, at 11.25 a.m.

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

Organization of work (A/CONF.62/BUR/5)

1. The CHAIRMAN drew attention to his proposals concerning the organization of the work of the session (A/CONF.62/BUR/5), which followed closely the recommendations of the General Committee submitted at the close of the fifth session at the 76th plenary meeting¹ concerning the organization of the sixth session. There were two matters which might require further clarification and on which he hoped the Committee could agree. First, whereas recommendation (iv) had stated that the first two or three weeks of the sixth session should be devoted to First Committee matters, he was proposing that three whole weeks should be devoted to that discussion on the understanding that, if the First Committee found itself able to reach agreement earlier, the remaining time would be made available for meetings of the other Committees. Second, while recommendation (ii) had specified that the sixth session should be of seven weeks' duration with the possibility of an eighth week, he was proposing that the Committee should decide that the full eight weeks would be required.

2. Moreover, in his proposals concerning the organization of the work of the session, he had suggested that he should be authorized to prepare, in consultation with the Chairmen of the three Committees, the Chairman of the Drafting Committee and the Rapporteur-General, a single informal composite negotiating text, which would provide a basis for negotiation. He hoped that the Committee could agree in principle on the preparation of such a text, without a prolonged discussion of the details of his proposal.

3. He noted that the priority to be given to First Committee issues during the first three weeks of the session did not exclude the possibility of informal negotiations on important issues being dealt with in the other Committees.

4. Mr. AL-WITRI (Iraq) said that his delegation generally supported the President's proposals concerning the organization of the work of the session. It felt, however, that the Second Committee should begin work on some of the outstanding controversial subjects—particularly the rights of the land-locked and geographically disadvantaged States, a group which represented one third of the membership of the Conference. The new text, in order to represent an improvement over previous ones must take into account the interests of all members and it was not

fair to concentrate on one aspect, namely First Committee issues, to the detriment of others.

5. His delegation opposed the unilateral decisions taken recently by some countries. Such unilateral decisions would not help the Conference to reach agreement.

6. Mr. ZEA (Colombia) said that document A/CONF.62/BUR/5 reflected the concern of his delegation, as expressed at the 76th plenary meeting of the Conference, that it would be unwise to postpone negotiations on the work of the Second and Third Committees, because no great progress had been made in those bodies. Similar concern had been expressed by the land-locked countries.

7. Fortunately, the proposals in document A/CONF.62/BUR/5 would make it possible for negotiations to begin immediately on Second and Third Committee matters. It was necessary, however, to clarify how those consultations would take place, bearing in mind that the agreements reached by groups of countries frequently failed to secure endorsement in Committee meetings. He suggested that negotiations should be co-ordinated by the Chairmen or Vice-Chairmen of the Second and Third Committees and should not simply be left to the initiative of interested delegations. If that was agreed, regular and orderly work could begin without interfering with the priority which the Conference rightly wished to give to the work of the First Committee. He would merely add that, on four of the five issues studied by the Second Committee during 1976, no agreement whatever had been reached; there would clearly be too little time for delegations to express any changes of position unless intensive negotiations began forthwith.

8. Mr. KOH (Singapore) said that, as he understood them, the President's proposals for the organization of the work of the session included six different procedural proposals. First, there was a proposal that the first three weeks of the session should be devoted to First Committee matters. That proposal seemed to be based on recommendation (iv) submitted by the General Committee at the close of the fifth session. However, that recommendation also stated that other meetings during the period would not be precluded, as long as they did not conflict with the work of the First Committee. His delegation felt, in particular, that the issues being considered by the Second Committee were extremely important.

9. Secondly, the President had proposed that informal meetings could be held for the purpose of conducting negotiations on issues before the Second and Third Com-

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. VI (United Nations publication, Sales No. E.77.V.2), 76th plenary meeting, para. 33.

mittees. His delegation felt that some of the issues before the Second Committee could be resolved, if a serious negotiating effort were attempted at the sixth session. He therefore appealed to the officers of the Conference and the Committees to organize negotiations, in particular through a resumption of the activities of the group of 21.

10. Thirdly, the President had proposed that the decision on how to conduct the informal negotiations in the First Committee as a whole should rest with the Chairman and members of that Committee. His delegation agreed with that proposal.

11. Fourthly, the President had proposed that, after the first three weeks, all Committees would be expected to meet simultaneously. His delegation also supported that proposal.

12. Fifthly, the President had proposed a consolidation of the four parts of the revised single negotiating text into a single informal composite negotiating text. His delegation felt that on some key issues, especially those before the Second Committee, the legitimate interests of approximately 50 delegations had not been adequately taken into account. His delegation was, therefore, reluctant to support efforts to consolidate the text unless significant changes were made. He realized, however, that the President had not requested a decision at the present time on the procedure to be followed; his delegation would make its views known at the appropriate time.

13. Sixthly, the President had proposed that the Conference should decide to utilize all eight weeks for the session. His delegation supported that proposal.

14. Mr. WITEK (Poland) said that his delegation supported the recommendations of the General Committee submitted to the 76th plenary meeting on 17 September 1976. It had been agreed that, during the first two weeks of the present session, emphasis should be placed on the work of the First Committee and on the problems concerning the peaceful settlement of disputes. His delegation understood that that decision did not preclude the holding of negotiations on unresolved issues before other Committees. He delegation was especially concerned with some of the very important Second Committee issues connected with the legal régime of the economic zone. In that connexion, the revised single negotiating text did not accommodate all the interests of the international community and the group of land-locked and geographically disadvantaged States; in fact, the term "geographically disadvantaged State" did not even appear in part II of the revised text. His delegation therefore felt that the Second Committee should meet in parallel with the First Committee, although it would not insist that the Second Committee should hold regular official meetings immediately. The group of 21 should, however, start work immediately. If, after two weeks of negotiation, the group was not able to produce constructive proposals and compromises, the Second Committee should be convened without delay.

15. With regard to the President's proposal concerning the preparation of a single informal composite negotiating text, his delegation felt strongly that the approach suggested in recommendation (ix), submitted by the General Committee at the end of the fifth session, was preferable.

16. The CHAIRMAN said that he had requested only that the Committee should agree in principle to the preparation of the new text. He would obviously have to rely

entirely on the reports submitted by the Chairmen of the three Committees in preparing the new text.

17. With regard to meetings of the group of 21, the officers of that group would decide when they wished to begin work.

18. Mr. ZEGERS (Chile) said that, since the recommendations submitted by the General Committee and endorsed by the Conference had been designed to preclude the need for a procedural discussion at the beginning of the current session, it was disappointing to observe that such a discussion was taking place. The purpose of the recommendations, which all related to the organization of work, was to ensure that the current session would be more fruitful than the fifth session and that it would produce a convention. Since, because of a lack of political agreement, the work of the First Committee was lagging behind that of the Second and Third Committees, it had been decided that members of the First Committee should hold informal consultations on certain issues during the intersessional period, consultations which would be open to all delegations participating in the Conference. The results of those informal consultations, which had been held at the initiative of the representative of Norway, Mr. Evensen, should now be considered and analysed by the Chairman of the First Committee, who should propose the procedures to be followed at the current session. It had further been agreed that priority should be given to First Committee matters for the first two or three weeks of the current session and that meetings of the Second and Third Committees should not be held during that period, so that heads of delegations might direct their attention to First Committee matters. That was not to say that there should not be formal consultations on Second and Third Committee matters and, indeed, such consultations were necessary. They could be conducted in informal groups which were not formally linked to the Second and Third Committees.

19. It had also been agreed at the preceding session that, at the end of the sixth week, the President with the Chairmen of the Committees, adopting the collegiate method, would prepare an informal single composite text. That question should be considered during the fifth week in the light of the progress achieved.

20. The recommendations endorsed by the Conference on 17 September 1976 remained in effect and must provide the basis for the organization of work at the current session. The note of 27 April 1977 addressed by the President to heads of delegations shed light on certain of those recommendations but should not be treated as a pretext for re-opening procedural discussions.

21. The Committee should address itself to two matters which required a decision at the current stage. The first was whether the period during which priority should be given to First Committee matters would extend for two or for three weeks. His delegation favoured three weeks, as had been suggested by the Chairman. The second matter was whether the duration of the Conference should be seven weeks or eight weeks. In the light of the comments made at the current meeting, his delegation favoured eight weeks.

22. The CHAIRMAN appealed to members to avoid a protracted discussion on the work of the Committees. The General Committee's task was to define the main elements of the organization of the work of the Conference. The agreement reached at the 76th plenary meet-

ing of the Conference did not preclude the scheduling of meetings on Second and Third Committee matters during the first three weeks of the session so long as there was no conflict with the work of the First Committee, particularly with the participation of heads of delegations in the work of the First Committee.

23. In connexion with his note of 27 April 1977, he wished to point out that the decision to avoid scheduling any meetings of the Second and Third Committees during the first two or three weeks had been reached in consultation with the Chairmen of the Committees, the purpose being to save delegations unnecessary expense and inconvenience.

24. Mr. CALERO RODRIGUES (Brazil) said that he had no objection in principle to the President's proposals, which were in accordance with the agreement reached at the fifth session.

25. None the less, certain points should be clarified. If only the First Committee was to meet during the first three weeks of the session, there should be some agreed procedure for facilitating work on Second Committee and Third Committee matters. It would be a serious mistake to assume that two weeks (i.e. the fourth and fifth weeks of the session) would be sufficient to enable the Second and Third Committees to tackle many outstanding issues to which solutions must be found before work could begin on the single composite negotiating text. It was essential to make some progress during the first three weeks by holding informal meetings on Second Committee and Third Committee matters.

26. His delegation firmly believed that the single composite negotiating text should be prepared jointly by the President and the Chairmen of the three Committees rather than by the President in consultation with the Chairmen of those Committees. It therefore preferred the language of the General Committee's recommendation (ix), which had referred to "the collegiate method", to that in document A/CONF.62/BUR/5.

27. There appeared to be a contradiction between the idea that informal consultations on Second and Third Committee matters should take place during the first three weeks and the note of 27 April 1977 addressed by the President to heads of delegations; the latter suggested that there was no need for the representatives to the Second and Third Committees to be in New York during the first two or three weeks of the session.

28. The CHAIRMAN said that the contradiction was not a real one, since no one could either prevent members of delegations from being present or compel them to attend. Since the heads of all delegations were in New York, it would not be a difficult matter for the officers of the Second and Third Committees to meet in order to determine the organization of their work.

29. Mr. KOZYREV (Union of Soviet Socialist Republics) agreed that the work of the current session should be organized in a business-like manner so as to ensure substantial progress in preparing a convention. In that connexion, the strict schedule for the work of the Committees and of the plenary was quite appropriate.

30. For three weeks, the entire attention of delegations could be focused on the First Committee. His delegation felt that the work in that Committee, together with informal talks, could produce useful results. The positive experience of the Second Committee at the 1975 Geneva

session offered a useful model for approaching the problem of the sea-bed. What mattered was to avoid duplicating the unproductive experience of the fifth session, when much time had been lost in procedural discussions. Compromise decisions could not be reached simply by preparing relevant texts within one particular group, but rather by organizing an exchange of views between groups in the light of what had already been accomplished at the meetings in Geneva during the current year. Of course, the First Committee as a whole had to be kept informed of such exchanges of views, and his delegation therefore felt that it should meet formally from time to time and pursue the necessary work.

31. The priority given to the First Committee did not imply that the unresolved questions still before the other Committees, especially the Second Committee, were less important, but only that they obviously required less time, provided that the informal talks and meetings on those questions were directed at seeking mutually acceptable solutions to questions still in dispute.

32. His delegation agreed that, after the fifth week of the session, further steps would be required to prepare a single or composite negotiating text in order to facilitate a compromise formula for the solution of outstanding problems. The President already had a mandate to that effect: it had already been decided that the President of the Conference and the Chairmen of the Committees would prepare such a text, adopting the collegiate method. That decision did not exclude consultations between the President and the Chairman of the Drafting Committee and the Rapporteur-General. There was no immediate need to suggest any other arrangement for preparing a composite text. It was essential to maintain the collegiate method, because it provided the best guarantee for working out balanced formulas on disputed issues. That method must not be confined to consultations with the Chairmen of the Committees, the authors of the three basic elements of the text. Moreover, it would hardly be right to change anything in the understanding reached with the Chairmen, when two of them were absent. The decision taken at the 76th plenary meeting, held on 17 September 1976, was very clear and required no discussion. The composite negotiating text must be a prototype of a draft convention, designed to facilitate consensus.

33. Mr. BAKULA (Peru) said that his delegation supported the basic aim of document A/CONF.62/BUR/5, which was to ensure that the efforts of delegations were channelled towards achieving a positive solution at the current session. At the same time, it was necessary to state that the pessimistic note on which the fifth session had ended would not be dispelled until it was clear that the obstacles to the harmonizing of opinions had been removed.

34. His delegation had planned its participation in the Conference on the basis of the information in the President's note of 27 April 1977. Accordingly, although it had no objection to working simultaneously on all outstanding issues, it was limited physically by the fact that it did not have a full delegation in New York.

35. It was important that the Chairmen of the three Committees should participate in the preparation of the single composite negotiating text, and that the knowledge which they had acquired during the five years of the Conference and the five preceding years of prior negotiations should not be wasted. It was to be hoped that, at the conclusion of the current session, the par-

ticipants would be able to decide whether a convention was a realistic goal or whether efforts would have to be abandoned.

36. His delegation supported the idea of making the duration of the Conference eight weeks. Agreement on that point should be reached as soon as possible, so that the work could be organized more satisfactorily.

37. The CHAIRMAN said that it would be regrettable if the Committee were to embark on a long procedural debate because of a restrictive interpretation of his note of 27 April 1977. In his view, it would be preferable to avoid scheduling any meetings of the Second and Third Committees during the first three weeks; however, if it appeared imperative to hold meetings of those Committees, they would be held. He added that the absence of some members of delegations should not be allowed to hold up informal negotiations.

38. Mr. TURKMEN (Turkey) said that he strongly welcomed the emphasis on the interrelationship and interdependence of issues being dealt with by the three Committees. No general progress could be made without parallel progress in the Committees and he therefore agreed that the Second and Third Committees should organize consultations. A revised single negotiating text would be possible only after the initial five-week period.

39. Mr. JEANNEL (France) said that it was important not to delay the work by a long procedural debate. To that end, it was preferable to abide by the decisions taken

at the end of the fifth session. He therefore endorsed the observations relating to the retention of the collegiate method. As for the concern expressed regarding the continuation of some of the work relating to the Second and Third Committees, a one-week delay might be considered for the sake of delegations which, on the strength of the latest information available before the opening of the session, had not brought their qualified experts.

40. Mr. MARSIT (Tunisia) agreed with the views expressed by the representatives of Peru and France. Tunisia had acted on the assumption that the Conference would be dealing with First Committee matters and settlement of disputes, and had prepared accordingly. It therefore felt that the French proposal to allow one week to enable delegations to send their experts on Second and Third Committee matters to New York was reasonable.

41. Mr. MWANGAGUHUNGA (Uganda) supported the President's proposals but wished to stress that the questions before the Second and Third Committees were extremely important to land-locked and disadvantaged countries such as Uganda. The Second Committee, in particular, should meet as soon as possible and intensify its efforts to resolve outstanding issues prior to producing a composite text. Allowing one week to enable Second and Third Committee experts to reach New York was a good idea, and he favoured any method which might further expedite matters.

The meeting rose at 12.45 p.m.

30th meeting

Monday, 13 June 1977, at 10.45 a.m.

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

Organization of work

1. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said that the decision to devote the first three weeks to First Committee matters had been a very wise one indeed: the discussions had been extremely fruitful and there were indications that a compromise was likely to be reached at some stage in the near future. The final, negotiating stage had now been reached.

2. A negotiating group known as "the Chairman's working group", with Mr. Evensen, Chairman of the delegation of Norway as its special co-ordinator, had now concluded work on the system of exploitation, the first and most delicate item assigned to it. Later that day he would be receiving a full report from Mr. Evensen concerning the work accomplished. He would report to the Committee on the basis of that report, and delegations would then be given a day in which to focus on the outstanding problems. The negotiating group would now be able to proceed to the next item, namely institutional questions.

3. Subsequently, he would consult as widely as possible to ensure that the composite text to be prepared reflected what he believed to be a very valid basis for a consensus.

4. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee, said that an informal meeting of the Second Committee would be held that afternoon to consider the organization of its work for the session. During the past few days he had conducted a round of consultations on methods of work with a number of delegations and with the officers of the Second Committee. In the light of those consultations it was agreed that work should be resumed from the point reached at the end of the previous session.

5. With regard to methods of work, it would be useful to continue consideration of the remaining items in informal meetings of the Committee, passing immediately to examination of the items by negotiating groups which should be sufficiently representative of all interests but at the same time small enough to enable them to function efficiently.

6. It had also been agreed in the consultations that work should be confined to the submission of concrete alternative formulas amending the revised single negotiating text. The time for long policy statements had passed; strict methods of work were now called for so that negotiations could produce the desired results.

7. Mr. AL-IMAM (Kuwait) said that he broadly agreed with the statement by the Chairman of the Second Com-