

Third United Nations Conference on the Law of the Sea

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79th Plenary meeting

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position of maritime hegemonism of their own accord. He expressed confidence, however, that the developing countries would achieve their goals since there was no force

that could stem the march of history.

The meeting rose at 1.10 p.m.

79th meeting

Tuesday, 28 June 1977, at 3.25 p.m.

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

Organization of work (A/CONF.62/L.20)

1. Mr. IGUCHI (Japan) said that his delegation had already commented on the President's proposals (A/CONF.62/L.20) at the 32nd meeting of the General Committee, but in view of the precedent set by other regional groups, it would now like to speak in its capacity as Chairman of the group of Asian States. There had been a remarkable degree of unanimity among members of that group and a consensus in favour of supporting the preparation of the informal composite negotiating text. Full confidence had been expressed in the President's ability to draw up the text in co-operation with the Chairmen of the three Committees. It would be the President's role to reconcile any divergencies of views and to ensure that the text reflected the interests of the various groups.

2. Mr. STAVROPOULOS (Greece) said he endorsed the President's proposals and considered the choice of the word "team" most apt, since by definition, members of a team were people who worked harmoniously together. The three Committee Chairmen had already demonstrated how effective they could be in furthering the work of the Conference, and he was confident that they would continue to do so.

3. Because of the lack of a composite text, almost a year had been lost. What was needed was a document agreed upon by the team and eventually by the whole Conference. He appealed to the team not to produce another text with a plethora of square brackets; experience had proved how hard it was to remove them at a later stage.

4. Mr. LUPINACCI (Uruguay) endorsed the President's proposals, which he believed constituted an important step toward agreement. His delegation had every confidence that the President, together with his accompanying team, would successfully accomplish the task of drafting an informal composite negotiating text. He welcomed the President's proposal that there should be no interruption in the negotiating process. It was very important that in remaining weeks of the Conference a special effort should be made to negotiate and reach agreement on those points and issues on which there were still differences of opinion, some of which were extremely serious. The results of such negotiations should be communicated to the team preparing the informal composite negotiating text.

5. The document stated that as soon as the composite text was ready plenary meetings would be held. He took that to mean that the plenary meetings would consider the procedure to be followed, including submission of the composite text to the Committees for discussion of the parts relating to the matters within their terms of reference, in order to conclude that stage of the negotiations.

6. Mr. BAKULA (Peru) observed that the Conference had been going through a very difficult stage. Many problems had been overcome, thanks to the constructive proposals made by delegations, individually and through the various groups. The President's proposals were equitable and realistic and should enable the Conference to make progress. His delegation was confident that the joint efforts of the President and the Chairmen of the three Committees would reflect the increasing harmony which had been apparent in the work of the Conference and make it possible to reach a solution that would be fair to all concerned, thereby contributing to the establishment of a new international economic order.

7. Important points had been raised in the General Committee, one of which had just been mentioned by the representative of Uruguay. His delegation attached particular importance to the procedural aspect of the plenary meetings. The President's proposals, together with the clarifications he had given at the 32nd meeting of the General Committee, had clearly been welcomed. Thanks to the President's leadership, the Conference could hope to make progress towards the next stage of the negotiations.

8. The PRESIDENT, in reply to the comments made by the representative of Peru, reiterated his assurances that any consideration of the informal composite negotiating text would be without prejudice to the responsibilities and roles of the Committees.

9. Mr. ATIGA (Libyan Arab Jamahiriya) stated that although his delegation did not believe that a great amount of progress had been made it nevertheless supported the proposals contained in the President's document, for it was convinced that the drafting of an informal composite negotiating text was important if legal contradictions were to be avoided and harmony established. The fact that the President had stressed that the composite negotiating text would be an informal one with the same status as the revised single negotiating text, namely that of a basis for negotiation, in no way jeopardizing the right to negotiate, should allay any fears that groups might have had about taking courageous initiatives. It would be opportune at that juncture for the Secretariat to prepare a list of the various proposals made so that the President's team could take them into consideration.

10. Mr. AL-WITRI (Iraq) reiterated his delegation's endorsement, expressed at the General Committee meeting, of the proposals for the preparation of the informal composite negotiating text and said he agreed with the view of the representative of Singapore on the President's role in the team. The discussion in the General Committee had clearly shown that the revised single negotiating text was still far from reflecting the interests of all delegations and it was to be hoped that the informal

composite negotiating text would help to remedy its deficiencies. His delegation had every confidence in the President's abilities.

11. Mr. FUENTES IBAÑEZ (Bolivia) said his delegation associated itself with those which had expressed support for the procedure proposed by the President for the preparation of the informal composite negotiating text. The President had rightly indicated that it should be a summary of all the proposals put forward by delegations and should reflect currents of opinion which the Conference could not ignore. Despite their failure to win majority support, some of those views had been shown to be highly valid, and they should appear somewhere in the informal composite negotiating text. The Chairmen of the three Committees should deal with those issues and, since there were still problems to be solved, his delegation supported the view of the representative of Singapore that the President, as *primus inter pares*, should be in a position to suggest compromise formulas acceptable to all.

12. Mr. OXMAN (United States of America) said his delegation regretted the diversion from procedural matters which had occurred at that morning's meeting. The dedication of the United States during the past decade to the achievement of a generally acceptable treaty was a matter of record, and he would let that record speak for itself.

13. Mr. TOLENTINO (Philippines) agreed with the procedure outlined by the President for the preparation of the informal composite negotiating text and the composition of the team under the President's leadership. He associated himself especially with the views expressed by the representative of Singapore.

14. Mr. UPADHYAY (Nepal) said that, while his delegation had endorsed the proposals, it was disturbed at the way in which some delegations were interpreting them. The President had asked the Conference to be guided by the spirit rather than the letter of the proposals. In the opinion of his delegation, that spirit was summed up in the President's statement that he would rely very heavily on the experience, judgement and assessment of the Chairmen of the three Committees. It was hoped that there would be no disagreement among the members of the team, but the President must be free to negotiate should any such situation arise. To express full trust in the President's leadership and democratic conduct of affairs, and then deny him the right of negotiation, would be a contradiction. The Chairmen of the three Committees had performed their duties satisfactorily and they again had an important role to play. But there was the procedural question of deciding who should take final responsibility. In his view, that responsibility rested with the President. It had been stated that since the Conference had been trying to work on the basis of consensus, the team should do likewise. It would be ideal if that proved possible, but the Conference could not adopt a procedure whereby the Chairmen of the three Committees would retain the initiative and the President would have none. The representative of Japan had given the view of the group of Asian States as a whole and other groups had also made their positions clear. The composite text ought to provide a formula for a draft treaty and he accordingly felt that plenary meetings should play an increasing role henceforth: if the informal composite negotiating text was not discussed in plenary meetings, it would be very difficult to accept it ultimately as a draft treaty. He reiterated full support for the President's proposals and felt that the Conference should accept them.

15. Mr. VELLA (Malta) supported the views expressed by the representative of Singapore. The President should consult as necessary with the Chairmen of the three Committees but it was essential to avoid a situation in which the informal composite negotiating text would prove to be simply a conglomerate of existing texts. In view of the President's long association with the Conference, there was no reason to believe that he would seek to undermine its work at the present stage and his delegation had full confidence in the President's ability.

16. Mr. WOLF (Austria) said that the Conference had now reached a crucial stage in its work. The President's proposals concerning the informal composite negotiating text met with his delegation's approval and would move the Conference's work towards a conclusion. His delegation agreed with the views expressed by the representative of Singapore that morning in the General Committee and in the plenary meeting, which were shared by other members of the group of land-locked and geographically disadvantaged States, now numbering 53 members.

17. As he interpreted the procedure outlined for the drafting of the composite text, if differences remained outstanding among the members of the drafting team, the President would be in a position to make a final decision. The text would be informal and would have the same status as the informal single negotiating text and the revised single negotiating text and would thus serve as a procedural device, so that important changes could be made if necessary in order to reach agreement on a convention on the law of the sea.

18. The group of land-locked and geographically disadvantaged States had elaborated a set of proposals which he would transmit to the President with the request that account should be taken of them in the drafting of the composite text. He looked forward to negotiations on the composite text during the last two weeks of the Conference. Such negotiations could take place either in plenary meetings or in the Committees. It might be appropriate to discuss them in both. He supported the Turkish proposal made at the plenary meeting that morning that the Secretariat should prepare a document on the amendments submitted at the current session.

19. He hoped that the President and the officers of the Conference would be able to submit a composite text which would mark real progress over the informal single negotiating text.

20. Mr. IBAÑEZ (Spain) said that his delegation agreed with the President's proposals concerning the preparation of a composite text. The composite text, like the revised single negotiating text, would be informal and would commit only its authors. The revised single negotiating text contained three types of regulations. First, there were norms of international law currently in force, which had been embodied in conventions or approved through diplomatic channels. Secondly, there were new norms of international law in the process of elaboration which had received broad support and which might be termed norms of an emerging international law. Thirdly, there were other provisions which were broadly criticized and did not reflect the consensus of the international community. The latter should be amended if it was desired to arrive at a generally acceptable text. He hoped that his observations would be taken into account by the President and the Chairmen of the Committees.

21. Mr. SAULESCU (Romania) said that he agreed with the procedure proposed by the President. Concomitantly with its work on the drafting of the composite

text, the Conference should negotiate a text concerning those provisions which had not been sufficiently debated and concerning which serious difficulties arose. The team working on the composite text should take into account all the amendments put forward, because the composite text must be an improvement over the revised single negotiating text. It would be advisable to have a preliminary exchange of views on the preamble and the final clauses.

22. Mr. HELLNERS (Sweden) said he felt that all were agreed on the necessity of preparing a new text. It was necessary to give positive impetus to the work of the Conference, for it was clear from the long discussions at recent sessions that important changes were necessary if the Conference was to move out of the present impasse. He agreed with the President's proposals regarding the method to be followed in the preparation of the composite text, that is, that the President and the three Chairmen should try to work out a new text, incorporating changes where necessary. However, he stressed that if the four-man team did not reach consensus on any specific point, the final responsibility should lie with the President. It was obvious that the President was in the best position to have a well-balanced over-all picture of the situation.

23. With regard to the question how the composite text should be dealt with in the final days of the sixth session, the President's proposal to hold plenary meetings was probably wise. Alternatively the matter might be considered both in plenary meetings and in the Committees, as had been suggested. However, the committee stage of the Conference's work was now more or less over.

24. Mr. RUIVO (Portugal) stressed his delegation's appreciation of the President's objectivity in the guidance of the Conference's work. His proposals concerning the establishment of an informal team to prepare a composite text showed great sensitivity and constituted an appropriate solution to the problem.

25. While a list of outstanding questions for negotiation might be useful, it would probably be better to hold a debate to evaluate such issues. That would pave the way for the preparation of the composite text and reduce differences of opinion. Rather than a list of questions, notes might be prepared highlighting the points on which further work was required.

26. Mr. JAGOTA (India) paid a tribute to the President's skill in producing a well-balanced proposal for the procedure to be followed by the Conference. Although one sometimes received the false impression that the Conference was going round in circles and that positions were being polarized instead of progress being made,

many issues had been resolved or almost resolved during the past three years. After a period of intensive work, the Conference had reached a stage where it had an over-all perspective of the issues involved and his delegation welcomed the President's proposals for the preparation of a composite text. Such a text would be a useful product of the session, and all the interdependent issues would be reflected in one document. The new text would still be an informal negotiating text, but it would be a step forward in the consolidation of the work done by the Conference and would highlight the outstanding issues. When the text of a convention was being prepared at a later session, the Conference could consider the question of the preamble and the final clauses.

27. The method proposed by the President for the preparation of the composite text should produce useful and beneficial teamwork. It was right that the President should be the leader of the drafting team, because he did, in a sense, bear collective responsibility for the progress of the Conference.

28. Mr. LOGAN (United Kingdom), speaking on behalf of the nine States members of the European Economic Community, supported the President's proposals. He had every confidence that the President would lead the drafting team effectively and make a significant and vital contribution to negotiations, thus paving the way for the success of the Conference.

29. Mr. LOVO-CASTELAR (El Salvador) supported the President's procedural proposals. The preparation of a composite text to serve as a basis for negotiations constituted an important step forward in the work of the Conference.

30. The PRESIDENT said that, if he heard no objections, he would take it that the Conference agreed to adopt his proposals.

It was so decided.

31. The PRESIDENT thanked the delegations for their co-operation.

32. Mr. MHLANGA (Zambia) said that he fully agreed with the President's proposals and was especially gratified to know that the composite text would not have the status of the International Law Commission text submitted to the Geneva Conference of 1958. Despite the informal nature of the informal single negotiating text, some coastal States had taken unilateral action with regard to the extent of their territorial sea. His delegation continued to protest against such acts, which served to undermine the negotiations of the Conference.

The meeting rose at 4.40 p.m.

80th meeting

Friday, 15 July 1977, at 12.30 p.m.

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

Organization of work (A/CONF.62/L.21)

1. The PRESIDENT informed the Conference that the General Committee at its 33rd meeting had discussed the

possible need to extend the current session by one day in order to make up for the time lost on the previous day—when the Headquarters building had been closed because of the power failure—and had recommended that