

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

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Document:-

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## **42<sup>nd</sup> meeting of the General Committee**

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# GENERAL COMMITTEE

## 42nd meeting\*

Monday, 11 September 1978, at 10 a.m.

Chairman: Mr. H. S. AMERASINGHE.

### Organization of work

1. The CHAIRMAN said that the purpose of the meeting was to consider the tentative schedule of the last week of the resumed seventh session of the Conference, determine the nature of the steps to be taken at the conclusion of the session and provide information concerning the next session in order that the regional groups might take decisions and hold consultations to settle any differences before the plenary meetings. He urged representatives to avoid procedural or substantive debates, which were, in any case, beyond the competence of the General Committee, and expressed the view that, if the Conference on the law of the sea was to retain any amount of credibility, it should make it clear that it would not unnecessarily prolong its work and would fix a deadline for completing it.

2. He added that not enough attention had been given to the important question of the settlement of disputes, which had been taken up only in negotiating group 5 in connexion with the exercise of the rights of coastal States in the exclusive economic zone and in negotiating group 7 in connexion with the delimitation of maritime boundaries. While the system of considering the settlement of disputes in plenary meetings should be maintained, it was essential to provide one or two options which would take account, for example, of the participation of all those who had spoken during the consideration of the matter in the First Committee.

3. He believed that at the conclusion of the next session the Conference should have completed the work of revising and giving official form to the informal composite negotiating text,<sup>1</sup> since otherwise it would not be possible to complete its deliberations, and he believed that before plenary meetings were held, the representatives should carefully think over the number of meetings, place and date of that session, taking account of the other activities of the United Nations and of other international bodies, in particular the International Law Commission, as well as the meeting of the summit conference of non-aligned countries.

4. He read out the tentative schedule in detail and said that while it might give cause for some criticism, it must be borne in mind that its preparation was based on consultations with the chairmen of the committees, who could suggest changes. He recognized that the situation was somewhat complicated with respect to the First Committee, in view of its particular characteristics, but added that everything possible had been

done to meet the needs of that Committee while taking account of other requirements.

5. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, recalled that at his last meeting with the President of the Conference he had raised a question that was vital to development of the Conference, namely, that of adherence to the politically desirable custom of holding consultations between the chairmen of the committees and negotiating groups with a view to fixing the schedule of meetings periodically. He expressed regret that the custom had not been properly followed since that time, and he asked the Chairman to use his good offices to prevent any irritants that would divert energy from the main objective of the Conference. A study of the United Nations resolutions concerning the Conference failed to reveal any obligatory guidelines for political representatives participating in the Conference. He also did not feel that such guidelines could be provided indirectly through the international civil servants of the Conference secretariat to facilitate the work of representatives. While he appreciated the valuable cooperation of secretariat members, particularly those who had worked with the First Committee, he said that their contribution should be to give help and not dictation. In the past, the colonialists had devoted their efforts to unilaterally determining the needs of the peoples of the territories they ruled. While the subject of his complaint was by no means so serious a matter as that colonialist policy, the principle was the same. The President of the Conference, the chairmen of the committees and the chairmen of the negotiating groups were the ones who knew the needs of the Conference best, and he therefore insisted that those whose duty was to provide professional services and advice should not dictate to those officers.

6. The CHAIRMAN said that he would give due attention to the comments of the representative of the United Republic of Cameroon and would try to avoid the problems they reflected. He agreed that the General Assembly had not provided any specific obligatory guidelines to representatives but had assigned to the Conference secretariat the duty of assisting them.

7. Mr. KOZYREV (Union of Soviet Socialist Republics) said that the Chairman had alluded to the possibility that the subject of the organization of the next session might be taken up in plenary meeting by the Conference without first holding a new meeting of the General Committee on the subject; he asked who would make the relevant recommendations in such a case.

8. The Chairman had also said that it would be necessary to consider the question of fixing a definitive schedule for the conclusion of the work of the Conference. He did not understand the purpose of the Chairman's statement in that connexion and asked who had given instructions or made suggestions to proceed in that way. If suggestions had been

\*The 34th and 35th meetings, held on 7 April 1978, the 36th and 37th meetings, held on 10 April, the 38th and 39th meetings, held on 11 April, the 40th meeting, held on 25 April, and the 41st meeting, held on 28 August, were closed meetings and the distribution of their summary records was restricted.

<sup>1</sup>*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. VIII (United Nations publication, Sales No. E.78.V.4).

made by specific groups or delegations, it would be desirable for the Chairman to indicate what groups or delegations were involved.

9. The CHAIRMAN, replying to the first question asked by the representative of the Soviet Union, said that if the General Committee did not meet again before the plenary meetings of the Conference, he would hold consultations with the regional groups and make the relevant recommendations. Furthermore, after that evening's meetings of the regional groups, it would become clear whether those groups wanted the General Committee to meet again before the plenary meetings.

10. Replying to the second question asked by the representative of the USSR, he said that no one had given him any instructions concerning the need for adopting a definitive schedule for the conclusion of the Conference's work. In his initial statement at the present meeting he had confined himself to saying that if the Conference was to retain credibility in the international community, it should complete its work during the next session; that was merely a suggestion on his part.

11. Mr. MWANGAGUHUNGA (Uganda) said that he had been pleased to note the Chairman's assurances with regard to the matter brought up by the representative of the United Republic of Cameroon. With regard to the first question asked by the representative of the Soviet Union, he thought it preferable for the General Committee to meet again and submit to the Conference in plenary meeting its recommendations on the organization of work during the next session, after hearing the views of the regional groups on the subject. Accordingly, it was desirable for negotiating group 6 to meet that evening, in order that the regional groups might devote more time to a consideration of the question.

12. The CHAIRMAN said that the Group of 77 would meet that afternoon, and since it included representatives of three of the regional groups, perhaps all that would be needed in addition would be to consider the situation of the group of Western European and other States. If it was desired to postpone the meeting of negotiating group 6 scheduled for that evening, conference services would be available on the evening of Tuesday, 12 September.

13. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee and of negotiating group 6, said that the latter had to hold a meeting, as not all of the speakers on the list had yet spoken. Since it would be extremely difficult to hold that meeting at the same time as the meetings of the regional groups, it would have to be postponed until Tuesday evening if the Third Committee, in turn, could postpone its informal meeting scheduled for that date, or until Wednesday evening if that was impossible.

14. Mr. ZULETA (Special Representative of the Secretary-General) said that the meetings of the four regional groups scheduled for that evening had been arranged at the request of their respective chairmen and with due regard to their needs for interpretation services, the availability of which was limited; however, that schedule was only provisional, and the final decision would have to be made by the General Committee.

15. Mr. YANKOV (Bulgaria), speaking as Chairman of the Third Committee, said that that Committee had to hold the scheduled meetings, since one of them was to be devoted to the subject of marine scientific research, leaving only two meetings to complete the debate and adopt the report. Furthermore, taking account of the limited time remaining for the meeting scheduled to be held immediately after the present meeting of the General Committee, he thought it preferable for negotiating group 6 to try to meet at some time when no meeting of the Third Committee had been scheduled, as, for example, Tuesday evening or Wednesday afternoon.

16. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee and of negotiating group 6, said that it would be preferable to hold the meeting on Wednesday afternoon, although he would, of course, accept whatever decision was taken by the General Committee.

17. The CHAIRMAN said that if there was no objection, he would take it that the General Committee agreed that negotiating group 6 would meet on Wednesday evening, 13 September.

*It was so decided.*

18. Mr. WITEK (Poland) said that the questions raised by the representative of the United Republic of Cameroon should be considered carefully. Even before the beginning of the second part of the seventh session, his delegation, in a letter addressed to the President, had pointed out that only the respective negotiating groups and other representative bodies of the Conference were competent to decide whether a particular group had completed its work. Similarly, at the General Committee's preceding meeting, his delegation had stated that the strict observance of agreed procedures was absolutely essential to ensure continued progress towards a consensus. Now that the Conference was approaching the conclusion of its work, special attention must be paid to the subject of the programme of work and its preparation, and the delicacy of the situation must be borne in mind. There were times when delegations had the feeling that they were the servants of the officers of the Conference.

19. The General Committee should take advantage of the little time remaining by assigning one day for the meetings of the regional or interest groups, two days for the substantive work of the negotiating groups and one day for plenary meetings.

20. The CHAIRMAN recalled that the regional groups could hold a larger number of meetings; all that was needed was for their respective chairmen to request it.

21. Mr. ZEGERS (Chile) said that the General Committee should consider the future work of the Conference and that it would be advisable to do so before the regional groups took up the matter. He proposed that the General Committee should hold a preliminary debate on the subject at the present meeting and that a new meeting for that purpose should be convened on Wednesday morning.

22. He recalled that the Conference had adopted during the first part of the present session some procedural decisions which remained in force. During the present resumed session it had applied the criterion, agreed upon at Geneva, that priority would be given to certain critical subjects and that work would be resumed immediately at the point at which it had been interrupted. During the first week of activity in New York the work had been arranged according to a tentative schedule prepared by the Chairman in consultation with the Conference secretariat, and during the second week it had been governed by a decision of the General Committee; it had developed satisfactorily and in accordance with the agreements adopted by the Conference and by the General Committee.

23. The CHAIRMAN said that, if there were no objections, he would take it that the General Committee wished to hold another meeting the following Wednesday at 9 a.m. in order to consider the future work of the Conference.

*It was so decided.*

24. The CHAIRMAN, confirming a comment made by Mr. NANDAN (Fiji), representing the Group of 77, repeated that the proposed schedule was not final and was subject to changes in the event that the committees or the regional or other groups needed to hold additional meetings.

25. Mr. AL-WITRI (Iraq) said that, in his opinion, the tentative schedule contained some omissions. The most serious one was that provision was made for adequate consideration of only two important items, namely, the sea-bed and the extension of the continental shelf, while other equally important items, such as the definition of disadvantaged States and their participation in the exploitation of the exclusive economic zone, were omitted. Those items came within the competence of negotiating group 4, which had so far held only one short meeting, which had not achieved its objectives. The proposed schedule would give it only one meeting, whereas three meetings were envisaged for negotiating group 6. He believed that negotiating group 4 should hold at least two more meetings.

26. Following the closure of the current session and in the interval between the current session and the following one, delegations and their Governments should stay in contact in order to endeavour to arrive at compromises that would resolve outstanding problems.

27. The CHAIRMAN recalled that the proposed schedule had been prepared by assigning to each of the negotiating groups the number of meetings considered necessary by their respective chairmen. If the Chairman of negotiating group 4 felt that an additional meeting was necessary, it could easily be held on Tuesday night.

28. Mr. DJALAL (Indonesia) said that it was necessary to decide what goal was sought at the current session. The initial objective had been to complete the work of the negotiating groups. In his opinion, the groups could complete their negotiations and their chairmen could submit appropriate proposals or suggestions for arriving at a subsequent consensus. The remainder of the current session should be devoted to that objective.

29. With regard to the proposed schedule, he noted that only one meeting had been scheduled for negotiating group 6, while two informal meetings had been scheduled for the Second Committee, although the latter had, apparently, already concluded its work. He suggested that more time should be assigned to negotiating group 6 in place of the informal meetings of the Second Committee.

30. The CHAIRMAN said that he believed that there was some misunderstanding regarding the proposals relating to the tentative schedule. It was for the Chairman and members of the Second Committee to decide whether they needed to meet unofficially as a committee or as a negotiating group. Accordingly, it was not the wishes of the secretariat or of the President of the Conference which determined the Committee's decisions.

31. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee, agreed with the Chairman's interpretation to the effect that it was for the Second Committee to determine at any given time its programme and methods of work. He explained that the meetings which were to be held the following Wednesday and Thursday would be devoted to receiving reports and summing up the work of the Second Committee and the negotiating groups which were considering matters within the sphere of competence of that Committee.

32. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, maintained that it was the President of the Conference who should propose the tentative schedule and not the secretariat. He regretted that his words had been misinterpreted, and he repeated that, in his view, the appropriate procedures had not been followed in that respect. With regard to the meetings of the regional groups, he recalled that it had been the custom for the chairmen of the groups to meet together with the chairmen of the committees to adjust the programmes and set priorities. Speaking as the representative of the United Republic of Cameroon, he believed that, in order to save time, it would

be advisable for the regional groups to meet before the Group of 77.

33. The CHAIRMAN recalled that it was for the Group of 77 to decide when it should meet.

34. Mr. BENCHEIKH (Algeria) associated himself with the comments made by the representatives of Poland and the United Republic of Cameroon regarding the preparation of the tentative schedule. It emerged from the debate that the chairmen had not always submitted the pertinent drafts to the members of their groups. For example, as the representative of Iraq had pointed out, the importance of the questions with which negotiating group 4 was concerned could not be denied, and that importance was not diminished by the place which they had been assigned in the agenda. Without passing judgement on the decisions taken by that group not to press on with negotiations, he did not consider it particularly appropriate to hold a meeting of negotiating group 4 at the present time, because its tasks would be only half completed, since its meeting would be followed by a meeting of the Second Committee.

35. Like the representative of the United Republic of Cameroon, he considered that the meetings of the regional groups should be held before the meeting of the Group of 77. With regard to the future work of the Conference, he sympathized with the questions put by the representative of the Soviet Union, although he was satisfied with the explanation that the suggestion to conclude the Conference derived from a—perhaps ephemeral—initiative of the President and not from a pressure group. Algeria wished to emphasize the importance of the question of concluding the Conference, and he asked whether it might not be appropriate for the General Assembly to consider what would be the political purpose of setting a time-limit and what influence on the work of the Conference was intended thereby. He asked also what would happen if a time-limit was set and negotiations had not been concluded by the time of its expiry. Would it be necessary to have recourse to a new resolution of the General Assembly or to consult the organs of the Conference and reorganize its work? Owing to the number and complexity of the problems involved, he considered that that question should be considered carefully, in order to avoid upsetting the progress of negotiations.

36. The CHAIRMAN pointed out that the future of the Conference was not yet under discussion and that he had confined himself, firstly, to making a suggestion, and, secondly, to replying to the comments made on the subject by the representative of the Soviet Union. At all events it was clear that, in order for the Conference to be able to continue its work, it was necessary for the General Assembly to make the necessary facilities available to it.

37. It should be borne in mind that neither he nor the secretariat had drawn up the schedule of meetings, but that it had emerged from a meeting held the previous Friday between the President of the Conference, the chairmen of the committees and the chairmen of the negotiating groups. No provision had been made for meetings of the regional groups, as suggested by the representative of Algeria, for that afternoon because those groups had not requested it.

38. Mr. NANDAN (Fiji), speaking as Chairman of negotiating group 4, said, with reference to the statement by the representative of Iraq, that the fact that only one meeting had been scheduled for that group was not due to any desire on the part of its chairman to prevent its meeting, because, before making the relevant recommendation, he had consulted the majority of delegations, including that of Iraq, and the chairmen of the group of land-locked States and geographically disadvantaged States and the group of coastal States, which were the two groups most directly concerned. Moreover, a meeting of negotiating group 4 had been held, at which the different opinions and conclusions had been syn-

thesized, and it had been agreed that that was not the right time to try to make the necessary advances in the group's work. Such an attempt might even be counterproductive, given the progress achieved during the first part of the seventh session. At all events, it would be negotiating group 4 itself which would decide, at the meeting which had been scheduled, whether it needed to hold more meetings.

39. Speaking as Chairman of the Group of 77, he said that that group's schedule of meetings was not necessarily linked up with that of the regional groups, so that the fact that that group was meeting in the afternoon today and the regional groups tonight presented no contradiction.

40. The CHAIRMAN said that, in his opinion, the statement made by the representative of Fiji in his capacity as Chairman of the Group of 77 was satisfactory for all delegations and that that part of the debate could therefore be regarded as concluded.

#### Organization of the future work of the Conference

41. Mr. ZULETA (Special Representative of the Secretary-General) said that the preliminary examination of the possibilities for holding a session of the Conference in 1979 which the secretariat had made showed that the fewest problems in relation to the calendar as a whole would be raised in the event that the Conference decided to meet at Geneva from approximately 23 April to 1 June 1979. If, on the other hand, the Conference wished to meet in New York, the fewest problems would be created if the period July/August was selected. However, between the closure of the regular session of the General Assembly in 1978 and the beginning of the regular session of the Assembly in 1979 the work of enlarging the General Assembly Hall and two of the large conference rooms which the Conference was currently using would be carried out, which meant that, even during the period indicated, only three large conference rooms—which were the only rooms equipped for simultaneous interpretation into six

languages—could be available. Since those conference rooms would be the only ones available in New York for all United Nations meetings using six languages during that period, circumstances might arise in which even the provision of two large conference rooms would be difficult, unless meetings of other bodies were shifted or cancelled. It would therefore be necessary for the decisions adopted by the Conference to be reflected in the positions which the various delegations had to maintain in those other bodies. On the other hand, at Geneva, three large and three medium conference rooms would be available, duly equipped, if the Conference met between 23 April and 1 June; a lesser number, but at all events substantially more than in New York, would be available if another period was selected.

42. The CHAIRMAN asked the members of the General Committee to prepare the questions or consultations called for by the information given by the Special Representative of the Secretary-General, although he suggested that the debate should be postponed until the appropriate time.

43. In reply to questions put by Mr. Wolff (Federal Republic of Germany) and of Mr. Calero Rodrigues (Brazil), he said that a written summary of the statement by the Special Representative of the Secretary-General would be circulated to the chairmen of the negotiating groups before their next meeting and that the list of the other meetings to be held on the dates proposed for the next session was contained in the general calendar of conferences.

44. Mr. LUKABU-K'HABOUJI (Zaire) asked whether he was to understand from the information provided that it would be possible to hold only one session in 1979.

45. The CHAIRMAN explained that the information supplied by the Special Representative of the Secretary-General referred only to the most favourable solutions, both at Geneva and in New York, but that that did not rule out other possibilities, which if suggested by any delegation, would be duly considered.

*The meeting rose at 12 noon.*

### 43rd meeting

Thursday, 14 September 1978, at 9.53 a.m.

*Chairman: Mr. H. S. AMERASINGHE.*

#### Organization of the future work of the Conference (continued)

1. The CHAIRMAN said that the Committee had to consider the question of where and when the Conference should hold the following session—or sessions, should it choose to hold more than one in 1979. The Committee would not have to consider substantive matters and, with regard to the resumed seventh session, it had to bear in mind that the programme in document A/CONF.62/62 was still valid, unless the Conference at a plenary meeting decided otherwise.

2. At the opening of the current session, the negotiating groups had been set up to consider outstanding hard-core issues. After consulting the chairmen of the various regional groups, he wished to suggest that the negotiating groups should try to conclude their work during the current session. Otherwise, only those groups which felt that they could make progress if they had more time would be given a further period in which to continue their work. Each group would have to consider the positions expressed thus far and identify the core aspects of the package deal in respect of which

agreement could not be reached, although the possibilities of negotiation had been exhausted. Since the negotiating groups dealt with the work of the three committees, they must conclude their work in order to provide the Conference in plenary meetings with an overall view of the outstanding issues for the conclusion of the package deal and of the state of the negotiations, which would enable priorities to be established for future negotiations. The various groups should therefore proceed at the same rate. Of course, since one of the committees had an extremely complex task, it naturally had made less progress than the others.

3. As indicated in recommendation 9 of document A/CONF.62/62, the substantive issues as a whole would provide a basis for the revision of the informal composite negotiating text.<sup>1</sup> Once that had been completed, it would be possible to function as a single Conference rather than as a series of parallel conferences. However, the committee

<sup>1</sup>Official Records of the Third United Nations Conference on the Law of the Sea, vol. VIII (United Nations publication, Sales No. E.78.V.4).