

Third United Nations Conference on the Law of the Sea

1973-1982

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43rd meeting of the General Committee

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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 9.55 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.¹ 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

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

structure should be retained for consideration of matters which did not form part of the package deal.

4. The desire to arrive at a consensus should provide an incentive to reach compromises, not an excuse to prolong the discussions indefinitely. A target date should therefore be set for the conclusion of the discussions. That would require two sessions, with a minimum of four months' interval between them. At the end of the first session the target date would be set and, in the light of the progress achieved, it would be decided whether a second session should be held in 1979.

5. With regard to the length of the sessions, he suggested that each should last for six weeks.

6. The Conference would have to consider the possibility of drawing up a treaty by the following year at the latest, but that would not be possible if the first of the sessions ended without the informal composite negotiating text having been revised. If possible the revised text should be formalized in order to enable delegations wishing to submit formal amendments to do so, and not to provide a means of forcing or hastening a vote, since the "gentleman's agreement" should as far as possible be complied with.

7. The dates indicated by the Special Representative of the Secretary-General were the best periods for holding the Conference in 1979, but the secretariat would amplify the information. He noted that the secretariat confined itself to describing the services available without forming an opinion as to where the best services would be available. According to the information received thus far from the various delegations through the chairmen of the regional groups, there appeared to be consensus with regard to holding two sessions in 1979, one in the spring and the other in the summer, it being understood that at the end of the first session the conference would determine whether the second would be needed.

8. Mr. RUTLEDGE (Secretariat) said that in 1979 the provision of conference services in New York would be the same as in the current year. The General Assembly Hall and Conference Rooms 2 and 4 would be under reconstruction, so that there would be available only three large conference rooms able to accommodate all members of the Conference and equipped for simultaneous interpretation in six languages. The list of meetings scheduled thus far for the following year was contained in the draft revised calendar of conferences and meetings of the United Nations for 1979 prepared for the Committee on Conferences and was of course subject to change. Nevertheless, he wished to draw attention to some of the main elements of the calendar, including the first regular session, 1979, of the Economic and Social Council, to be held in New York from 10 April to 11 May, which would absorb a substantial portion of the conference services available. Various other bodies were also scheduled to meet in New York, as indicated in that document. In addition, a number of bodies that were in continuous session would meet from time to time, as required, in which States were in large part represented by members of their permanent missions. Consequently, the smaller conference rooms would also be utilized to the full.

9. At Geneva there were seven large conference rooms with a capacity to accommodate the membership of the Conference and equipped for simultaneous interpretation in six languages. In the past few days the Department of Conference Services had been in frequent touch with the United Nations Office at Geneva in order to be able to provide the General Committee with up-to-date information on the conference services available and on possible changes in the calendar of meetings. That calendar included a session of the Trade and Development Board and other bodies of the United Nations Conference on Trade and Development (UNCTAD), which had to begin preparatory work for its fifth session, to be held at Manila in 1979. Conference services

would also be needed for the Economic Commission for Europe and for the United Nations bodies concerned with disarmament which met at Geneva, as well as the various bodies which met from time to time, as required.

10. The requirements of the United Nations Conference on the Law of the Sea were so important that, if in 1979 it met earlier than had been indicated in the document circulated, adjustments would have to be made in the schedule. Of course, a decision on that matter rested with the Conference itself and ultimately with the General Assembly, which also had the task of making the requisite budgetary appropriations, the total of which could not yet be estimated, since certain bodies might change their venue. If the Conference decided to meet at an earlier date than indicated, the activities most affected would be those of UNCTAD.

11. The CHAIRMAN suggested that the Committee should hear the chairmen of the various regional groups. Since some of them—such as the representative of Swaziland, Chairman of the group of African States—were not members of the Committee, he suggested that it should invite them to participate in the debate.

It was so decided.

12. Mr. DLAMINI (Swaziland), speaking as Chairman of the group of African States, said that, at the meeting held on Monday, 11 September, the group had not reached definite conclusions with regard to the date and the procedure for the following session of the Conference. As to the venue, some delegations had indicated that the session should be held in New York, where adequate services were available, but there appeared to be a preference for Geneva, solely because that city would have better conference services during the period in question.

13. Mr. LOHANI (Nepal), speaking as Chairman of the group of Asian States, said that the group had met on Monday, 11 September, and had agreed to propose that two sessions should be held in 1979, although at first several members had had reservations on that matter. The first of the sessions, which would be held at Geneva, would be devoted to the conclusion of the negotiations, and the second, to be held in New York, to preparing a text. Between the two sessions there should be sufficient time to assess the conclusions of the negotiations. While it rested with the General Assembly at its thirty-third session to decide whether to approve the financial estimates for the second session, the decision to hold it would rest with the Conference itself, after the first session had ended.

14. Mr. YANKOV (Bulgaria), speaking as Chairman of the group of Eastern European States, said that the group—in addition to considering other aspects of the future procedure and organization of the Conference, in respect of which he reserved the right to speak on another occasion—had agreed that it would be preferable to hold only one session in 1979. However, if the majority opted for two sessions, the members of the group would fall in line, provided the decision to hold the second session was adopted in the light of the progress achieved at the first session.

15. In view of the information provided by the secretariat, the group had unanimously considered that it would be better for the Conference to meet at Geneva. If two sessions were held, the second could be held in New York, but in any case the overall picture of the conference services available should be borne in mind.

16. The group would prefer the session to last the usual eight weeks but, were two sessions to be held, it would agree to each of them lasting six weeks.

17. The group's position as to the date of the session was very flexible, although it would prefer the months of March and April. If there was to be a second session, it should be

held in the summer and, in that case, particular care should be taken not to clash with the sessions of other organs, in particular the International Law Commission and the Conference of Heads of State or Government of Non-Aligned Countries.

18. Mr. CAMEJO-ARGUDÍN (Cuba), speaking as Chairman of the group of Latin American States, said that at his group's meeting there had been a consensus that the eighth session of the Conference should complete the stage of informal negotiations and last for six weeks, of which the first three weeks would be devoted to the work of the First Committee. There had also been a consensus that that session should begin around March 1979. Most of the members of the group believed that a second 1979 session should be scheduled for the formal adoption of decisions, but would be in favour of convening a second session only if the Conference fixed a time-limit for completing the stage of informal negotiations. As to where the next session should be held, most of the group preferred Geneva.

19. Mr. RICHARDSON (United States of America) said that, in the view of his delegation, the Conference should hold its next session in March and April 1979 in Geneva and another session between July and September in New York. He thought that final decisions should be reserved for the second 1979 session, when there had been a chance to evaluate the progress made at the first session. Each session could last six weeks.

20. Mr. PETERS (Luxembourg), speaking as Chairman of the group of Western European and other States, said that the Conference should hold a six-week session at Geneva in the spring of 1979. If the results then achieved justified continuing the Conference during the same year, a further four-week session could be convened for July and August in New York, although the decision to convene such a session should be taken only in the light of the results of the first session.

21. Mr. ABOUL KHEIR (Egypt), speaking as Chairman of the group of Arab States, stressed the importance for all countries of a convention on the law of the sea, the conclusion of which required a consensus which could be reached only by compromise. The Arab countries therefore believed that, before deciding whether to hold one or two sessions in 1979, a programme and a time-table must be established for completing pending work. Provided that such a programme of work was established, the group of Arab States would have no objection if the Conference held two sessions in 1979, the first to take place in the spring at Geneva.

22. Mr. ENGO (United Republic of Cameroon) asked whether the calendar of meetings outlined by the representative of Conference Services was provisional and whether it was subject to approval by the General Assembly at its next session.

23. Mr. ZULETA (Special Representative of the Secretary-General) said that the calendar of meetings included some meetings which the General Assembly had already approved and others which still required final approval.

24. Mr. RUTLEDGE (Secretariat) recalled that the Committee on Conferences drew up the calendar of meetings for a two-year period on the understanding that the calendar for the second year was, of necessity, subject to any changes which might be made by the General Assembly at its next session or by other organs and agencies, such as the Economic and Social Council or the Trade and Development Board, which had certain powers with regard to the programmes of their subsidiary organs. In the final analysis, the calendar was subject to the General Assembly's approval, and any resolution which the Conference might adopt concerning its future work would be submitted to the Assembly at its thirty-third session.

25. The CHAIRMAN pointed out that, although the Economic and Social Council had a recognized priority and the Trade and Development Board enjoyed a kind of political precedence, the General Assembly had granted the Conference priority over other groups and he had no doubt that the Assembly would try to meet the Conference's needs.

26. Mr. DE SOTO (Peru) said that past experience of holding two sessions a year was somewhat discouraging. It was clear from the positions of the regional groups that the possibility of holding a second session in 1979 should be left open only if the first achieved specific objectives. The group of Latin American States believed that a second session should be scheduled for 1979 only if the Conference first decided that informal negotiations would be concluded by the end of the first session. The second session would be held only if that objective was fixed for the first session and actually achieved. In his view, if the Committee did not decide to conclude the informal negotiations by the end of the next session, it should not recommend that a second session should be held in 1979. He requested that the Committee should take a decision on his proposal.

27. Mr. LUKABU-K'HABOUJI (Zaire) recalled that, when two sessions were held in the same year, there was a tendency to put off until the second session any problems which arose at the first. He stressed that the following session should have precisely defined objectives and procedures which would, in turn, make it possible to determine how long the session should last.

28. The CHAIRMAN explained that the second 1979 session would have to take place in July and August if it was not to coincide with other meetings already mentioned and also with the Conference of Heads of State or Government of Non-Aligned Countries, which was to begin in mid-August. It would, moreover, be impossible to hold a four-week session any later than that, given the imminence of the session of the General Assembly.

29. Mr. ZULETA (Special Representative of the Secretary-General) said that July and August would be the best months for holding the Headquarters session of the Conference, since it would not, at that time, coincide with meetings of other organs.

30. Mr. ZEGERS (Chile) said that the group of Latin American States had agreed by consensus that a second session should be held in 1979 only on condition that the stage of informal negotiations was concluded at the first session. Although the principal of consensus must govern the work of the Conference, indefinite prolongation of the informal negotiations lent itself to abuse and, instead of contributing to a global solution, merely undermined the achievements already reached. He pointed out that, while no agreement was required to proceed to the stage of formal negotiations, agreement was needed in order to continue with the informal negotiations. The rules of procedure were based on the assumption that the work of the Conference would be official. Moreover, the time-table agreed upon by the Conference at its 90th meeting (A/CONF.62/62) had not been followed. According to that time-table, the informal composite negotiating text would have been revised between 8 and 12 May 1978 and formalized between 15 and 19 May 1978. His delegation and others believed that the time had come to proceed to the decision-making stage.

31. Mr. RICHARDSON (United States of America) said that, while he shared the concern of the representatives of Zaire and Chile that the Conference should do all it could to conclude the informal negotiations as soon as possible, he believed that the categorical and inflexible approach to that issue adopted by the representative of Peru was dangerous. The Conference should leave open the possibility of deciding whether the informal negotiations should continue during the second session in 1979. If the Conference decided prema-

turely to move on from the informal to the formal stage, there was a danger that in the end no consensus would be reached on the convention. Such a decision would also affect the fulfilment of the "gentlemen's agreement". Only when the Conference came to the end of the first session, to be held at Geneva, should it decide whether to hold a second session in 1979.

32. Mr. ENGO (United Republic of Cameroon) said that his delegation was opposed to holding a second session in 1979 in order to continue the informal negotiations and, moreover, believed that, if the possibility was left open of deciding at the end of the first session, in the light of the progress achieved, whether a second session should be held in 1979, nothing would be achieved at the first session. It was difficult to define what was meant by "progress" and he therefore believed that the Committee should recommend to the plenary Conference that it should fix a concrete objective for the following session, namely the formalization of the informal composite negotiating text. That would enable the Conference to devote itself at the second session to trying to conclude the work needed to reach agreement on a treaty. According to the Chairman, the objective for the first session would be to formalize the text. He for his part did not understand whether that meant that the informal composite text had to be revised. Nor was it clear what would be done during the second session.

33. The CHAIRMAN said that, if possible, the informal composite text should be revised and formalized during the following session; if there was not enough time during that session the text should be formalized during a further one, either during the second session in 1979 or during another.

34. With regard to the proposal made by the representative of Peru, he wished to know what delegations felt that the Conference should do if, by the end of the first session in 1979, the discussions on key issues had still not been completed.

35. Mr. ENGO (United Republic of Cameroon) said experience had shown that a text could be revised without informal negotiations having been completed. On the other hand, the question of formalizing the text should be examined carefully.

36. Mr. AL-WITRI (Iraq) said that his delegation would prefer one long, productive session to be held in 1979 so that a decision might be reached on the key issues arising from the informal composite negotiating text, since the questions of detail contained in the annexes were currently holding up the work of the Conference. During the current session, it was necessary to deal with the basic aspects and leave the details aside. Very important compromise solutions had been reached that must be consolidated. He also felt there should be a sufficient interval between the current session and the following one to enable contacts to be established with the various Governments and to hold discussions with them in order to reach a compromise solution. It would thus be possible to devote the following session to revising and formalizing the informal composite negotiating text. Only if definitive measures regarding substantive issues were adopted at that session would it be possible to consider holding a second session in 1979.

37. Mr. WITEK (Poland) said that it would be extremely difficult to decide by consensus that the following session should be the last one devoted to informal negotiations. It would, on the other hand, be simpler to decide that the purpose of the following session, to be held at Geneva, should be to complete the negotiation process.

38. He agreed with the representative of Bulgaria that comments on the Chairman's statement with regard to the programme of work of the following session should be left until a later date, since the statement should, if possible, be distributed to the members of the Conference.

39. Mr. WOLFF (Federal Republic of Germany) said that the decision with regard to holding a second session should be taken in the light of the progress achieved during the first session, as the representative of Luxembourg had observed. His delegation did not support the idea of setting a time-limit, but rather was ready to continue the informal negotiations until a consensus was reached; to that end, it would spare no efforts that might be necessary to resolve the outstanding issues.

40. Mr. DE SOTO (Peru) said that the proposal he had made could not be considered inflexible, as the representative of the United States had described it. It was true that some interests could be favoured by the indefinite prolongation of the work, but his delegation's proposal was prompted by the aim that the Conference should observe a measure of discipline precisely in order not to fall into the hands of those interests. If the Conference decided to conclude the informal negotiations during its first session of 1979, his delegation would not maintain its proposal; but there would have to be a decision in that respect, and not simply a statement of a goal or an objective. Otherwise it would maintain its proposal that the possibility of holding a second session in 1979 should be excluded.

41. Mr. NANDAN (Fiji) said that there was not great disagreement amongst the various delegations, since they were all anxious to find methods of applying self-discipline in order to prevent the negotiations from continuing without a set date for their conclusion. The debate indicated that delegations agreed that two sessions should be held in 1979, provided that substantial progress was made during the first of those sessions, thus making it possible to conclude certain phases of the work. At its preceding session, the Conference had already recognized the need, as emphasized by the representative of Peru, to conclude the informal negotiation phase. If that aim had not been achieved by the end of the first session in 1979, it would be necessary to reconsider the question of holding a second session. The following phase must be based on an official document, but the existence of that document would not imply that negotiations had been concluded. In accordance with its rules of procedure, the Conference should do everything in its power to reach a consensus. Instead of wasting time on procedural questions, the Conference should draw up a programme for the various phases of its work with a view to bringing the work to a conclusion, since Governments were not inclined to attend the Conference indefinitely.

42. The CHAIRMAN said that, under the rules of procedure, the obligation to make every effort to reach a consensus was not restricted to the informal negotiations.

The meeting rose at 11:35 a.m.