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55th meeting of the Second Committee

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was out of the Committee's hands. It was also for the Conference in plenary to decide on the composition and chairmanship of the groups. However, that did not mean that those items no longer came within the competence of the Second Committee; recommendation 4 clearly showed that they were still before the Second Committee.

44. The Peruvian proposal for examining the negotiating text deserved to be taken into consideration. In that connexion, he urged all members of the Committee to refrain from impugning the intentions of others.

The meeting rose at 6.30 p.m.

55th meeting

Wednesday, 19 April 1978, at 4.20 p.m.

Chairman: Mr. A. AGUILAR (Venezuela).

Organization of work

1. The CHAIRMAN read out the programme of work for the negotiating groups and the Committee up to 25 April. If there was no objection, he would take it that the Committee approved the programme of work.

It was so decided.

2. Mr. ZULETA (Special Representative of the Secretary-General), introducing the secretariat's preliminary study illustrating various formulae for the definition of the continental shelf (A/CONF.62/C.2/L.98 and Add.1), said that the overall figures for the various formulae would be made available shortly to delegations. The secretariat was, of course, at the disposal of delegations to give them all the necessary explanations; but it asked that questions should be presented in writing, in view of the complex nature of the subject.

3. Mr. TUERK (Austria) said he was convinced that the study undertaken by the secretariat would greatly simplify the Committee's work on item (6) of recommendation 5 in document A/CONF.62/62 and would shed light on the implications, hitherto unknown, of some of the formulae which had been proposed for the definition of the continental shelf. He hoped that delegations which, in 1977, had questioned the need for the study would now be convinced of it. His delegation reserved the right to revert in due course to the substance of the question after it had studied the document before the Committee and the attached maps.

4. Mr. MORALES-SUÁREZ (Colombia) associated himself with the Austrian representative's observations concerning the secretariat study. His delegation reserved the right to speak at a later stage after it had examined the documents thoroughly.

5. The CHAIRMAN said that according to recommendations 2 and 7 of the Conference in plenary, it was for the Committee to decide how it wished to consider the question of the definition of the continental shelf, and it was for the Committee to determine whether the issue had received sufficient consideration or whether a negotiating group should be appointed. Since the secretariat study provided new data, he thought it would be appropriate to discuss the substance of the document after delegations had had time to study it.

6. Mr. NAKAGAWA (Japan) said that he would be in favour of the appointment of an *ad hoc* negotiating group on the issue, which had not received sufficient consideration at the previous session. His delegation would participate actively in the discussions.

7. Mr. MWANGAGUHUNGA (Uganda) recalled that his delegation was one of those which had in 1977 requested that the secretariat should carry out the preliminary study. However, it would prefer to have before it all the necessary data, including the figures, before suggesting how the Committee should consider the issue.

8. Mr. SADI (Jordan) thought that it would be pointless to spend time in discussing the composition of a negotiating group, since all delegations would wish to participate in the work. It would therefore be preferable to establish an open-ended group.

9. Mr. CHAO (Singapore) recalled that his delegation was among those which had at the previous session requested that the secretariat should prepare the preliminary study. He would like to know when the figures supplementing the study would be available.

10. With regard to the organization of the Committee's work on that issue, it might perhaps be preferable to defer any decision until a later stage, since all delegations needed first to study the document and the maps very carefully. The possibility of appointing a negotiating group or a working party might well be considered, provided that the group was open-ended, as requested by the representative of Jordan. Experience showed that negotiating groups such as the groups on items (1) and (4) of recommendation 5, which were of limited membership, operated in practice as if they were open-ended.

11. Mr. KRAVETS (Ukrainian Soviet Socialist Republic) said that the secretariat's preliminary study would help the Committee in its consideration of the question of the definition of the continental shelf, and in its search for a solution acceptable to all.

12. His delegation had no firm views on the working method to be adopted to examine the issue, which could well be studied either by the Committee, if the majority of delegations so wished, or by an open-ended negotiating group. In the latter case, it would be advisable for the Chairman of the Committee to preside over the work of the group.

13. Mr. ROSENNE (Israel) endorsed the Jordanian representative's observations on the organization of the Committee's work on item (6). The Israeli delegation hoped that additional copies of the maps accompanying the study would be circulated shortly.

14. Mr. MORALES-SUÁREZ (Colombia) agreed with the representative of Singapore that it would be preferable for the Committee to defer any decision concerning the appointment of a negotiating group. If a group was set up, it should be constituted in the simplest manner possible, as the Jordanian representative had said, and it should be presided over by the Chairman of the Committee, as the representative of the Ukraine had requested.

15. Mr. HAYES (Ireland) said that, to judge from the information given in the preliminary study by the secretariat, the definition of the continental shelf required careful consideration. The question should therefore be studied by a negotiating group, which should be set up as soon as possible, without waiting for the publication of the figures accompanying the study.

16. Mr. OUZOUNOV (Bulgaria) thought it would be better not to lose time in discussing the composition of a negotiating group on item (6); such a group should be open-ended, like the negotiating group on item (7). His delegation also believed that the group should be presided over by the Chairman of the Committee.

17. Mr. DARWIN (United Kingdom) said that the substantive work on item (6) should be started as soon as possible. A negotiating group should be established if necessary, but it would be wrong to spend time in trying to establish a nucleus of interested countries, since all delegations wished to participate in the work. Since Mr. Njenga would be unable to preside over the group, as he had presided over the informal interessional meeting held in New York, it seemed appropriate that the Chairman of the Committee should preside in his stead.

18. Mr. BARABOLYA (Union of Soviet Socialist Republics) agreed with the representatives of Bulgaria, the Ukrainian SSR and the United Kingdom that the question of the organization of work on item (6) should be resolved immediately, without dwelling on questions such as whether or not the maps should be studied first. An open-ended negotiating group, like the negotiating group on item (7), should be established without delay; and its work should be presided over by the Chairman of the Committee.

19. Mr. KUMI (Ghana) also agreed that it was unnecessary, in the case of item (6), to constitute a nucleus of countries directly concerned.

20. Mr. BRENNAN (Australia) said that participants seemed to be generally agreed on the procedure to be followed. The document which the secretariat had submitted should be studied by a plenary group; and there was hardly any difference between such a group and the Committee as such. In any event, the deliberations should be presided over by the Chairman of the Committee.

21. Mr. ZEGERS (Chile) said that he supported the establishment of a working group, which should be open-ended. There was no need to establish, first, a nucleus of the countries directly concerned.

22. Mr. SYMONIDES (Poland) said that he, too, was in favour of establishing a working group.

23. Mr. MORENO (Italy) thought that it was essential for the Chairman of the Committee to preside over the working group.

24. Mr. MANANSALA (Philippines) thought that the document should rather be examined in the Committee; it was pointless to set up a negotiating group that would be open to all.

25. The CHAIRMAN suggested that the Committee should take a decision without further delay. He asked members of the Committee whether they were prepared to set up an open-ended negotiating group without first constituting a nucleus of the countries directly concerned; the group to be established would be similar to the group dealing with item (7), and he would be prepared to preside over its work, at least provisionally.

It was so decided.

26. The CHAIRMAN drew the attention of members of the Committee to recommendation 6. The opinions expressed on that subject at previous meetings of the Committee had differed greatly, both as regards the issues to be examined and as regards the working methods to be employed. He wished to elicit the Committee's opinion on the question whether it should set up negotiating groups at the present session and, if so, for which issues. In his opinion, there were three possible methods. The first was to adopt the rule of silence; the Chairman would give the floor to delegations which wished to raise questions, and the delegations which were in favour

of having those issues examined would be the only ones to speak. Delegations which remained silent would be regarded as holding the opposite view. The second method would be to take a vote separately on each of the proposals made during the previous meetings in connexion with the consideration of recommendation 6. The third method would be to accept the fact that the various issues that had been mentioned had different degrees of importance and interest for different delegations; and it was that which prevented the Committee from determining an order of priority. In that case, delegations which were particularly interested in any given issue should get in contact with one another with a view to discussing it jointly.

27. In reply to a question by Mr. STRÖMHOLM (Sweden), the CHAIRMAN stated that, under the tentative time-table adopted by the Conference in plenary, the Second Committee was to devote one meeting to consideration of "other issues".

28. Mr. MWANGAGUHUNGA (Uganda) said that he thought that the work might perhaps be simplified if the Committee could be provided with the report of the interessional negotiating group which had met in New York under the chairmanship of Mr. Njenga.

29. Mr. HAMOUD (Iraq) said that in his opinion any question that was of interest to a limited number of States should be discussed by those States outside the Committee; the results of such discussions would subsequently be communicated to the Chairman of the Committee. That solution would avoid giving the Committee too much work and would call only for some technical assistance from the secretariat. He suggested that the Committee should set up several groups, including one on semi-enclosed seas.

30. Mr. LOVO-CASTELAR (El Salvador) thought that the third method proposed by the Chairman was the best. He hoped that the Committee would take a decision on the matter without delay and that informal negotiations in groups would begin immediately.

31. Mr. DJALAL (Indonesia) said he also thought that the Committee should settle the procedural question immediately, and that the best solution would be for countries interested in a specific question to embark forthwith on negotiations which would not interfere with the consideration of the hard-core issues.

32. Mr. AL-MOR (United Arab Emirates) said that he fully supported the proposal by the representative of Iraq.

33. Mr. VALENCIA-RODRÍGUEZ (Ecuador) said that he was in favour of the third method suggested by the Chairman, and he also supported the proposal by the representative of Iraq. The informal groups thus set up could inform the Committee, through the Chairman, of the results of their negotiations.

34. Mr. IBÁÑEZ (Spain) said that, after reflection, he preferred the third of the Chairman's suggestions. There was no doubt that "other issues" should be considered. They could be considered in small groups at the same time as the hard-core issues were being considered by the Committee and by the negotiating groups already appointed. Such small groups could be established in full knowledge of the facts if delegations which had new formulas or suggestions to offer were to explain them briefly to the plenary Committee, which would then decide whether the suggestions were of sufficient interest to justify the establishment of a group to consider them. The groups to be set up would report back to the Committee after their discussions. The Committee would then be able to evaluate the progress achieved and determine the direction in which the negotiations were moving.

35. Mr. PERIŠIĆ (Yugoslavia) said that he supported the Iraqi representative's proposal for the establishment of negotiating groups in which all delegations would be able to take

part, and which would receive technical assistance from the secretariat.

36. Mr. KIBRIA (Bangladesh) said he did not think that the Committee could solve its problems by applying the rule of silence, or that it would be desirable to resort to a vote. Accordingly, he preferred the third method proposed, which would make it possible to consider, *inter alia*, the issue of baselines. He would, however, like to have some information on the arrangements for meetings of delegations interested in a given issue; and he thought that the issues to be considered should be decided upon now, so that the groups could start work immediately. The groups should be open to all delegations, since their work might perhaps result in the elaboration of new rules of international law.

37. The CHAIRMAN pointed out that the secretariat could not provide services for an unlimited number of meetings, and that it already had difficulty in providing rooms and interpretation services for the negotiating groups of the First and Second Committees. In his view, it was for the delegations concerned to take the initiative in arranging a meeting to consider a particular issue, though they should at the same time inform the Chairman who would then consult the secretariat regarding the services that could be provided. The Committee should not take formal decisions on the constitution of such groups. The groups could continue their work until they were able to submit to the Committee solutions that were likely to lead to a consensus, on the understanding of course that they must in no way distract the attention of delegations from the priority issues.

38. Mr. UNIS (Libyan Arab Jamahiriya) said that he supported the Iraqi proposal which, he considered, would move the work forward without interfering with the Second Committee's programme. The groups, whose meetings would be open to all delegations, could meet even without secretariat services. When their work was finished, they would inform the Committee of the results achieved.

39. The issue of baselines should be discussed, as had been proposed by the representative of Bangladesh.

40. Mr. DABB (Papua New Guinea) said that the only difficulty involved in the third solution suggested by the Chairman was that the issues to be discussed by the informal groups might, contrary to the Chairman's intentions, be considered as the outstanding core issues referred to in recommendation 1 of document A/CONF.62/62. An effort should be made to keep to a minimum the number of issues to be considered in groups. In that connexion, he wished to make a suggestion which might not be followed immediately but could nevertheless be useful at a later stage. Without prejudice to the position of delegations regarding the substance of any issue, the Committee could select by secret ballot the issues on which it considered that consultations should be held. Each delegation would hand the Chairman a list of issues—three or four at the most—in respect of which it considered that the informal composite negotiating text¹ should be amended, or else would inform him that it had no issue to propose. Account should be taken only of those questions on which, as stated in recommendation 10, consultations could lead to a modification or revision that had widespread and substantial support and was considered to offer a substantially improved prospect of a consensus.

41. It was necessary to be realistic. It was pointless to say that a consensus had almost been reached on 90 per cent of the issues, when one delegation or another wished to reopen discussion on issues which, if added together, would represent nearly 60 per cent of the entire informal composite negotiating text. The establishment of groups should not be left

solely to delegations which were not satisfied with the informal composite negotiating text, when the great majority of delegations were perhaps in favour of leaving the text as it stood. Accordingly, once the Chairman had received the lists of the issues which might be the subject of consultations, he would have to decide which issues called for the establishment of consultation groups in the light of the number of delegations interested in them.

42. Mr. YOLGA (Turkey) said that the first method suggested by the Chairman was not suitable, since silence was rather a sign of indifference. As for the second method, it would be premature to take a vote even on procedural matters, because any vote would inevitably be interpreted as relating also to the substance; he therefore agreed with the representative of Iraq. He also supported the idea of discussing the issue of baselines.

43. Mr. TOULoupAS (Greece) said that the proliferation of working groups might be an obstacle to the solution of problems. He could understand that a small number of delegations might wish to hold consultations on a given problem, but thought that the establishment of negotiating groups was to be avoided. It would be better for the Committee to devote a few meetings to the consideration of issues raised by delegations, as it had done in the past. In that way the Chairman would obtain a better idea of the problems that arose, and of the various possible solutions, than he would by studying the reports of negotiating groups.

44. Mr. RUIVO (Portugal) said that the Committee should follow the time-table and the methods of work proposed by the Chairman. However, if the Committee wished, interested delegations could set up informal open-ended consultation groups which, when they had finished their work, would report to the Chairman. The Chairman could then judge whether the progress achieved was such as to justify bringing the matter before the Committee.

45. Mr. SAULESCU (Romania) said that he supported the proposals of the representatives of Iraq and of Bangladesh.

46. Mr. SHARMA (India) said that in his opinion the Committee should adopt the third solution suggested by the Chairman.

47. Mr. BARABOLYA (Union of Soviet Socialist Republics) said that his delegation was ready to accept the Iraqi proposal to set up a small informal group on enclosed or semi-enclosed seas, which was one of the issues mentioned in recommendation 6. At the same time, he considered that the warning given by the representative of Papua New Guinea against a proliferation of groups was entirely justified. He wondered how such groups would operate. What was to be understood by the term "interested States"? What criteria would be adopted for selecting the delegations that would participate in the work of any given group? Would the groups meet simultaneously? The Committee should not appoint any group other than the group on enclosed and semi-enclosed seas since delegations—whether or not they were in favour of the informal composite negotiating text—should have no difficulty in arranging informal consultations on particular problems arising from the text. The establishment of informal groups requiring secretariat services would only complicate the consideration of other issues, particularly for small delegations. In his opinion, it was not for the Committee to take a decision concerning the establishment of such groups.

48. His delegation had no objection to the proposal by the representative of Bangladesh for an examination of the issue of baselines.

49. Mr. CLINGAN (United States of America) said that the third of the Chairman's proposals raised a certain number of problems. First, how would the groups be constituted and what would happen to the original "small" group if the

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).

groups were open to all delegations? Secondly, how could they be prevented from interfering with the discussions on hard-core issues? Thirdly, what would be the position of delegations which did not have enough representatives to attend all the meetings? They could not be considered to be bound by the results of discussions in which they had not taken part. For all those reasons, the United States delegation thought that the method suggested by the representative of Papua New Guinea was very interesting, but it did not believe that the Committee should take any decision on the matter for the time being.

50. Mr. BRENNAN (Australia) said he thought that the best way of giving effect to the third of the Chairman's proposals would be to follow the suggestion by the representative of Papua New Guinea, which would mean that only a small number of consultation groups would be set up.

51. Mr. KOROMA (Sierra Leone) said that he agreed with the representative of Portugal that delegations which were interested in a particular question should themselves take the initiative of organizing consultations, and should then report to the Chairman on any agreement they might succeed in reaching.

52. The CHAIRMAN said that, as none of the methods which he had proposed had met with the general approval of the Committee, it would be better to take some time for reflection before coming to a decision. In the meantime, delegations could inform him which issues they would like to have discussed during the present session and by what procedure.

The meeting rose at 6.25 p.m.

56th meeting

Friday, 21 April 1978, at 3.35 p.m.

Chairman: Mr. A. AGUILAR (Venezuela).

Organization of work

1. Mr. DROUSSIOTIS (Cyprus) said that he was opposed to the proliferation of interest groups and therefore shared the opinion expressed at the preceding meeting by the representative of Spain that delegations interested in a particular issue should so inform the Committee and should express their views on the subject. The Committee would then decide whether the interest displayed in the issue was sufficient to justify setting up a working group which would report to the Committee.

2. The CHAIRMAN said that the third solution he had proposed at the 55th meeting for the consideration of issues other than hard-core issues was intended precisely to encourage delegations that were interested in an issue to hold consultations without the Committee having to take a formal decision to set up a consultation group. Such consultations must not interfere with the work on the hard-core issues. Delegations wishing to hold consultations could indicate to the Chairman the number of meetings they expected to hold and the languages in which they proposed to work. The Chairman would then ask the secretariat what services could be provided for such meetings. In the case of issues which were of interest only to a small number of delegations, the latter could state their views on the informal composite negotiating text¹ and propose solutions at formal or informal meetings of the Committee, but without reopening the general debate. He would like delegations to inform him in writing of the issues they wished to raise and of the procedure they proposed for considering them. That method of work might not be the ideal solution, but should provide all the delegations with an opportunity to state their positions.

3. Mr. HAMOUD (Iraq) supported the method of work proposed by the Chairman, but wished to point out that it was easy to establish consultation groups on an issue of regional interest, for example, but, in the case of a controversial problem of a more general nature, it might happen that only delegations sharing the same views would wish to set up a group. In that case, what would be the use of their work? Could a text prepared by those delegations serve as a basis

for the Committee's discussions? Would it not be better for the issue to be discussed in the Committee?

4. The CHAIRMAN said he recognized that only delegations wishing to do so would set up discussion groups and that as such groups would be informal, they would not receive any particular instructions from the Committee. Consequently, if a consultation group did not contain delegations holding different opinions, its work would obviously be sterile. But it was for delegations themselves to make sure that all points of view were represented in the group. Then, the agreement, the formulation or the proposal emerging from the consultations should be submitted to the Committee.

5. Mr. ZHIGALOV (Union of Soviet Socialist Republics) recalled that the Chairman had asked delegations to inform him which articles of the informal composite negotiating text they wished to have discussed and what amendments should, in their view, be made to those articles. Would delegations be able to place their proposals before the Committee at the meetings scheduled for the examination of such matters during the following week?

6. The CHAIRMAN drew the attention of members of the Committee to the distinction that should be made between issues of general interest, which would be considered by the consultation groups, and more specific issues such as the territorial sea, in connexion with which delegations might express their objections and make proposals in the Committee.

7. Mr. VALENCIA-RODRIGUEZ (Ecuador) said that he supported the procedure proposed by the Chairman. The consultation groups would be set up by delegations themselves. The place and time of meetings would be announced on the notice boards. The meetings would be open to all delegations and secretariat services would be provided as far as possible. The Chairman would be informed of the results of the consultations.

8. Mr. TUERK (Austria) requested that the programme of meetings of negotiating groups on 24 and 25 April should be adjusted so that, in view of the importance of item (6) of recommendation 5 in document A/CONF.62/62, the negotiating groups concerned would not be meeting at the same time as the groups on items (4) and (5).

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).