

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

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## **Memorandum by the President of the Conference**

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## DOCUMENT A/CONF.62/L.28

## Memorandum by the President of the Conference

*[Original: English]**[10 May 1978]*

1. There will be a meeting at 9.45 a.m. on Thursday, 11 May 1978, when the President will hear the Chairmen of the main committees and the Chairmen of the negotiating groups on the state of work in their negotiating groups. The meeting will take place in my office and will be open to those who have participated in similar meetings before.

2. The plenary meeting will start at 11 a.m. I myself shall summarize the reports of the chairmen of the committees and the chairmen of the negotiating groups in order to avoid different forms of presentation which might result in protracted debate and discussion.

3. The Conference in plenary will immediately thereafter continue its discussion on the preamble and final clauses. As this work must be completed tomorrow, I should like meetings to be arranged in the morning, afternoon and night. Any other groups or committees that wish to meet are free to do so, provided they are satisfied that the conduct of these meetings simultaneously with plenary meetings will not cause any inconvenience to delegates.

4. On 11 and 12 May, and even on Saturday, 13 May, the Chairmen of committees would be free to hold meetings in order to examine the position within each of their committees. It is essential that this be done before the matter is considered in the plenary meetings as hardly any of the hard-core issues relating to the work of each committee can be taken in isolation from the other issues which fall within the committee's purview and the committee must see the interrelationship between the various issues with which it has to deal.

5. There may be some issues which could be treated as an exception to the proposed procedure and which could with advantage be excluded from the general review in the committee so long as there is nothing inconsistent between the results of the negotiations on those issues and the other problems before the committee. This is particularly necessary in order to avoid both the reopening of issues on which there is general agreement and to maintain the delicate balance between the different elements of the package as a whole.

6. The issues dealt with by negotiating group 5 and negotiating group 7 relating to the settlement of disputes would have to be considered in the context of Part XV of the informal composite negotiating text<sup>3</sup> in informal meetings in the plenary Conference, as in the past. The plenary meeting for this purpose would be fulfilling the role of a committee, unless the Conference should decide otherwise.

7. It would be pertinent at this point to draw the attention of the Chairmen of all negotiating groups to recommendations 3 and 4 of document A/CONF.62/62.

8. If each committee examines the position within its own sphere thoroughly, the task of the plenary Conference

will be considerably easier. I refer here to the procedure to be followed in the revision of the negotiating text. The decision of the Conference in regard to the revision of the text is recorded in recommendation 10 of document A/CONF.62/62. According to that decision, any modifications or revisions that are to be made should emerge from the negotiations themselves and should not be introduced on the initiative of any single person, whether it be the President or a Chairman of a committee, unless presented to the plenary Conference and found, from the widespread and substantial support prevailing there, to offer a substantially improved prospect of a consensus.

9. I would foresee that as regards the degree of progress towards a consensus, the hard-core issues could be placed in four categories so far as the results of the negotiations are concerned:

- (i) Issues on which a consensus has been reached;
- (ii) Issues on which the degree of support for a particular formula or provision is so widespread and substantial as to offer a reasonable prospect of a consensus being reached;
- (iii) Issues on which delegations are still fairly evenly divided and on which further efforts should be made in order to raise them either to the first or the second category. In regard to this category there would be little or no justification for substantive modifications or revisions to be effected in the negotiating text;
- (iv) Issues on which no progress has been made and which would require further intensive negotiation. There would be no justification at all for revision of the negotiating text in regard to these issues.

10. On 15 May the plenary Conference should consider the position of the work in all committees and for this purpose we shall have to hear the Chairmen of the three committees.

11. If the examination in the plenary Conference of the status of our work is completed on 15 or 16 May, the next two days could be devoted to the revision of the negotiating text by the President along with the Chairmen of the committees. The Rapporteur General and the Chairman of the Drafting Committee will, as already decided, be associated for the reasons which have been indicated in the relevant decision of the Conference, as recorded in recommendation 11 of document A/CONF.62/62. During all this period negotiations could continue and as far as possible the secretariat will provide the necessary facilities.

12. On or about 18 May the Conference would be in a position to discuss its future work. I propose to hold informal consultations with the Chairmen of the various regional groups on this important question.