

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/SR.89

89th Plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume IX (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Seventh and Resumed Seventh Session)*

89th meeting

Wednesday, 12 April 1978, at 10.45 a.m.

President: Mr. H. S. AMERASINGHE.

Adoption of the agenda for the session

1. The PRESIDENT drew attention to the provisional agenda (A/CONF.62/60).

The agenda was adopted.

Organization of work

2. The PRESIDENT drew the Conference's attention to the report of the General Committee on the organization of work of the seventh session (A/CONF.62/61).

3. With regard to section II of the report, he said that in the General Committee it had been proposed that item (4) of recommendation 5—'Right of access of land-locked and geographically disadvantaged States to the living resources of the exclusive economic zone'—should be amended to read: 'Status of the exclusive economic zone and right of access of land-locked and geographically disadvantaged States to the living resources of the exclusive economic zone', since the status of the exclusive economic zone was a separate issue from the right of access to its living resources. Delegations which had wished to include the question of the status of the exclusive economic zone did not object to that question being treated as a separate hard-core issue instead of being discussed in conjunction with the right of access to the living resources of the zone. In the discussion in the General Committee the proposal had been lost sight of; but he wished to point out that the point could still be raised by any delegation wishing to do so.

4. With respect to item (6) in recommendation 5, his understanding was that the question of revenue sharing was the question referred to in article 82 of the informal composite negotiating text,¹ which dealt with the exploitation of the continental shelf beyond 200 miles. It might be that some delegations had a different understanding of the issue. In any event, the issue must be the subject of negotiation.

5. With respect to recommendation 14, the representative of Fiji had said that it might be impossible for the chairmen of the three committees to be associated with the President on the podium in all cases. That was true, but the intention was that, if possible, the President should have the chairmen of the three committees with him on the podium when negotiations were being held in the plenary meetings of the Conference. Every effort would be made to avoid any conflict between plenary meetings and meetings of the committees that would prevent the chairmen of those committees from attending the plenary meetings of the Conference when negotiations were being held there.

6. With respect to section IV he said, in connexion with recommendation 13, that the plenary sessions of the Conference would function in the first stage as a committee in respect of the two issues of the settlement of disputes and the preamble and final clauses; in other words, for those two questions the working procedure in the plenary meetings would be the same as in the committees.

7. He invited the Conference to discuss the report of the General Committee paragraph by paragraph.

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).

Section I

8. The PRESIDENT invited the Conference to adopt section I, which was purely factual.

Section I was adopted.

Section II

Recommendations 1 to 4

Recommendations 1 to 4 were adopted.

Recommendation 5

9. The PRESIDENT said that in the General Committee the representative of Indonesia had suggested that there was an inconsistency between recommendations 5 and 6. It was not stated when the negotiating groups concerned would be formed. Where the items concerned required further consideration by committees or by the plenary, then the negotiating group concerned would be established after the discussion in those bodies and in accordance with the decisions taken there.

10. Mr. IBÁÑEZ (Spain), referring to item (5) in recommendation 5, said he noted the absence of any reference to certain important or difficult issues that still remained to be considered; in particular, there was no reference to one whole part of the informal composite negotiating text, namely Part III, on straits used for international navigation. He had referred to that issue at the discussions in New York in December 1977, in the Second Committee at the sixth session, and at the meeting held on 13 June, and he wished to repeat that the subject had been neglected in the negotiations.

11. At the fifth session, a special negotiating group of the type as suggested in recommendation 5 had considered the question. However, it had held only three meetings, at the end of the session, and, as noted in the report by the Chairman of the Second Committee,² the statements made had all been very general and there had been no real negotiation. The Chairman of the Second Committee had expressed the hope in that report that the work could be concluded at the sixth session. But at the sixth session there had been no negotiating group dealing with the issue, which had been dropped from the negotiations altogether. The consultations that had taken place had lasted only one hour and twenty minutes and had taken the form merely of statements of the views of some representatives of States bordering straits, and no results had been achieved. It was clear that the issue was very important; it was expressly mentioned in the list of subjects referred to in General Assembly resolution 3067 (XXVIII) convening the Conference on the Law of the Sea, and had indeed been one of the issues forming part of the original package deal.

12. Spain had not taken part in the drafting of the report now before the Conference, and had had no opportunity to discuss or amend it. Since there had not been sufficient nego-

²*Ibid.*, vol. VI (United Nations publication, Sales No. E.77.V.2), document A/CONF.62/L.17.

tiation on the issue of straits, no position had been reached with which Spain could agree and see included in any official text. It might be claimed that the issue was one affecting only a few States, but in fact the resulting régime would affect all States. States bordering straits used for international navigation must not be saddled with decisions that had not been fully negotiated. He therefore proposed that, as soon as the time-table permitted, there should be a detailed discussion on the issue, so that due attention could be given to a question that was the subject of one whole part of the proposed international convention.

13. The PRESIDENT pointed out that the list in recommendation 5 was not exhaustive. Not all the questions relating to the settlement of the disputes referred to in item (5) had been resolved. There would be an opportunity for the question raised by Spain to be discussed.

14. Mr. ARIAS SCHREIBER (Peru) said that it had been proposed in the General Committee that the wording of item (4) should be brought into line with the wording in the informal composite negotiating text; but the version in the report of the General Committee was different. He therefore objected to the present text which, he considered, might prejudge an issue which was not yet the subject of any agreement in the Conference. The report should be consistent, and he therefore proposed that the wording of item (4) be amended to bring it into line with the wording in the informal composite negotiating text.

15. The PRESIDENT said that two points must be made clear. The first was that the Conference was not now considering new proposals. The report conveyed the decisions of the General Committee. Each item in recommendation 5 had been approved in the General Committee and could not be further revised, except for editorial changes. Secondly, the aim was to identify issues that remained unresolved and not to determine the manner of their negotiation. The problems that remained to be resolved could be described by the formulations used in the informal composite negotiating text where those formulations did not distort the issue; but where the headings of articles in the informal composite negotiating text might be regarded as disguising or obscuring the issue, they could not be used. In either case the wording used would not prejudice the position of any delegation. The sole aim was the clear formulation of the outstanding issues, and from that standpoint there was no difference between the formulation of item (4) and the other items in recommendation 5. The present text reflected the General Committee's decision to adopt the text without any amendment. Some delegations might consider that a formulation in the heading of an informal composite negotiating text article also prejudged an issue. That was an equally valid viewpoint.

16. Mr. VALENCIA-RODRÍGUEZ (Ecuador) said that he wished to reiterate the position that Ecuador had taken at the fifth and sixth sessions concerning the appointment to the presidency. That position was based solely on legal principles. He also wished to express his delegation's wish to continue to co-operate in the work of the Conference and, in a spirit of understanding, to find a basis for the conclusion of a treaty on the law of the sea.

17. In the original proposal by the President (A/CONF.62/BUR.6), reference was made to a suggestion regarding compulsory resort to conciliation. In his view, that suggestion was an essential element which should be included in recommendation 5.

18. The PRESIDENT said the point had been discussed in the General Committee, and while it had been agreed to leave recommendation 5 in its present version, the issue of compulsory resort to conciliation would come under the issue of the settlement of disputes relating to the exercise of the sovereign rights of coastal States in the exclusive economic zone,

which appeared as item (5). He hoped that the representative of Ecuador would not press his point and reopen the debate. 19. Mr. VALENCIA-RODRÍGUEZ (Ecuador) said he would not press his suggestion.

20. Mr. KOH (Singapore) appealed to the representative of Peru not to press his proposal regarding item (4) and to agree to the retention of the present wording. Like the President, he (Mr. Koh) believed that the heading of an article of the informal composite negotiating text could be used where it did not distort the issue concerned, but that where the heading itself was controversial in the view of one of the parties, or where it distorted or obscured the issue, it should be suitably adapted. He hoped that the representative of Peru would agree that the wording should be left as it stood on the understanding that the formulation would not prejudice the positions of the two major groups in the negotiation or prejudice the outcome of those negotiations. He thought that the present formulation was acceptable to both sides and that, in the light of the discussion in the General Committee, it could be accepted by all delegations.

21. The PRESIDENT said he preferred a neutral formula that would not prejudice the position of any of the parties.

22. Mr. ARIAS SCHREIBER (Peru) said that the present wording of item (4) prejudged an issue that still remained unsettled in the negotiations. Article 70 of the informal composite negotiating text did not refer to geographically disadvantaged States but to certain developing coastal States, so in his view the General Committee had replaced the neutral text of the informal composite negotiating text by a prejudicial text favouring the position of certain States. Perhaps the formulation "land-locked and other States" could be used.

23. The PRESIDENT said that the wording now before the Conference was that adopted by the General Committee, and could no longer be attributed to the President. Perhaps the Conference could agree to the suggestions made by Peru that the term "other States", should be used, so that item (4) would read: "Right of access of land-locked and other States to the living resources of the exclusive economic zone".

24. Mr. LUKABU-K'HABOUJI (Zaire) said that it was well known that the headings of some articles in the informal composite negotiating text reflected only the views of the chairman of the committee concerned. The representative of Peru claimed that the present wording of item (4) prejudged an issue that still remained unsettled, but it could equally well be said that the wording in the informal composite negotiating text prejudged decisions that should not be taken until the conclusion of the negotiations. He therefore hoped that the General Committee's wording would be retained as it stood.

25. Mr. CASTAÑEDA (Mexico) said that he appreciated the President's view that the informal composite negotiating text wording should not be used where it prejudged an issue in a particular way; but it was equally true that the same objection might be made, namely, that it also prejudged the present wording because of the reference to "geographically disadvantaged States". The coastal States objected to that wording because it raised substantive difficulties, and they would accordingly prefer another definition. It would be better to use some neutral wording that would not prejudice the substance of the issue. He suggested that item (4) might read: "Right of access of the States, referred to in articles 69 and 70, to the living resources . . .".

26. The President had also said that some States wished the issue of the right of access to be combined with the issue of the status of the exclusive economic zone; but, in the General Committee, the representative of Chile had objected to that proposal on the grounds that the two issues were distinct and should be dealt with separately. The Mexican delegation agreed with that view; the status of the zone involved legal

questions regarding the high seas and the territorial sea, and the question was to determine the *sui generis* nature of the exclusive economic zone. The question of access to the living resources of the zone should be considered separately.

27. In any case, Mexico was opposed to the inclusion, in the list of hard-core issues, of the question of the status of the exclusive economic zone. That was indeed a question that had not been definitely resolved, to the degree that the Conference had not declared itself officially, but a distinction should be made between the deeply divisive issues and other less controversial issues such as the question of the status of the exclusive economic zone. It could be stated that the informal composite negotiating text provision on that issue had wide support. It would be unwise to reopen the issue; if the Conference kept on reverting to all issues, including those on which general agreement had been reached, it would never finish its work. It should concentrate on the divisive issues, as the President had suggested. The matter had been discussed at length in New York, and the inter-sessional meeting had eventually agreed not to include the question of the status of the exclusive economic zone among the hard-core issues. The Conference was free to change that decision, but it would be both improper and unwise to do so.

28. The PRESIDENT said that the aim of the recommendations in the General Committee's report had been to identify the issues at the heart of the package deal; and, if other issues were included, it could only hold up progress.

29. Mr. MWANGAGUHUNGA (Uganda) said that his delegation was happy to work with the President and pledged its full co-operation in achieving the success of the Conference.

30. Item (4) in recommendation 5 had been discussed at length in the General Committee, and he hoped that the plenary would accept it as it stood. To reopen the question would only lead to an endless debate on matters which had been the subject of lengthy discussions in the General Committee, in which all views had been represented. Both the General Committee and its Chairman had spent much time in seeking a formulation that would be acceptable to all, and he therefore hoped that the representative of Peru would refrain from pressing his proposal.

31. The PRESIDENT suggested that the Conference might agree to accept the words "other States" instead of "geographically disadvantaged States".

32. Mr. UPADHYAY (Nepal) said he agreed that the seven items listed in recommendation 5 were hard-core issues, and he believed that the great majority of the participants were interested in the successful negotiations of those items. However, there were other issues that were very important to several delegations. Recommendation 6 should have included a reference to the right of access of land-locked States to and from the sea and freedom of transit. That was a very important issue that still had to be resolved and on which negotiations must take place. That question should be added to the list of issues in recommendation 6.

33. Mr. FOMBONA (Venezuela) said that his delegation wished to explain its position on the presidency of the Conference. As he had stated in the plenary meetings on 5 and 6 April, Venezuela considered that only a person duly authorized to represent his Government was entitled to take part in the Conference and even more, to preside over its proceedings. Venezuela was nevertheless prepared to co-operate in ensuring the success of the Conference.

34. In general Venezuela could accept the report of the General Committee, but he had a suggestion to make about item (2) in recommendation 5. He believed that the problem of financial arrangements was very important and needed discussion, but it would not be practical to deal with it in a negotiating group. He would therefore suggest that the ques-

tion be dealt with by an expert committee that could seek an appropriate formula.

35. The PRESIDENT said a similar suggestion had been made by the Chairman of the First Committee in the General Committee, and was covered by recommendation 7, which provided that items (2) and (3) in recommendation 5 should go to the First Committee for appropriate action. He hoped that solution would meet the point raised by Venezuela.

36. Mr. MAHMOOD (Pakistan) felt that there was general agreement that the references in recommendation 5 to the issues which were to be discussed by the negotiating groups should be so worded as to avoid prejudicing either the outcome of the negotiations or the position of any delegation. The current wording of item (4) did not meet that criterion, since it referred to a matter which, as was well known, was still the subject of considerable controversy. A suitably neutral formulation for the item, and one which no delegation should have any difficulty in accepting, was that which the President had just proposed.

37. Mr. DE LA GUARDIA (Argentina) reiterated his delegation's formal reservations concerning the manner in which the question of the presidency of the Conference had been settled. While his delegation did not dispute the right of delegations to request a vote on an issue, it considered that the procedure followed in the case in question represented not only a departure from the normal practice of the Conference, but also a dangerous precedent. The issue underlying the question of the presidency had been a legal issue, and the Conference's rules of procedure had been violated by the decision which had been taken. While continuing to participate in the work of the Conference, his delegation maintained that reservation.

38. His delegation viewed the proposals of the General Committee as representing a compromise; and, as such, it found them generally acceptable, although it would prefer discussion of outstanding issues to take place in the committees, as the rules of procedure provided. The present wording of item (4) of recommendation 5 undoubtedly prejudged the outcome of the negotiations in question and should therefore be amended in line with the wording used in the informal composite negotiating text. In that connexion, his delegation's preferred wording for the beginning of the title of item (4) would be "Right of access of land-locked and certain developing coastal States to . . .". It should be noted that his delegation's support for the use of the phrase "Right of access of . . . States" was based on the fact that that wording appeared in the composite text, and did not necessarily imply acceptance of the concept of such a right.

39. Mr. RICHARDSON (United States of America) remarked that delegations might wish to reflect on the question whether the formulation of what was described in recommendation 5 as an "issue" was in fact likely to prejudice the issue. It was hardly likely that a serious negotiating group would accept the limitation imposed by a particular formulation; in its efforts to reach a solution, it would wish to cover all aspects of the issue before it.

40. Mr. LUPINACCI (Uruguay) reaffirmed his delegation's reservations and objections concerning the solution of the question of the presidency of the Conference. Such reservations and objections were not personal in character but referred to important legal aspects of form and substance.

41. The legal reservations and objections of substance related to the general principle in international negotiation by which the chairmanship and any governing function in an intergovernmental conference could only be discharged by a person who had a governmental mandate and not by a person in a private capacity, that is, not a member of a delegation of a State participating in the conference.

42. The legal reservations and objections of form were based on the fact that the situation referred to was the result

of a resolution that involved an amendment of the rules of procedure of the Conference, said resolution having been adopted without the procedure envisaged for the amendment of the rules having been followed.

43. Without prejudice to the case, he stated that his delegation remained ready to collaborate in the work of the Conference in a constructive spirit so as to ensure its success.

44. He agreed with the representative of Mexico that the most neutral wording which could be found for item (4) in recommendation 5 was: "Right of access of the States referred to in articles 69 and 70 of the informal composite negotiating text to . . .", since article 70 of the informal composite negotiating text did not specifically identify, through the use of any such phrase as "geographically disadvantaged States", the countries to which it applied. The substantive portion of item (6) in the same recommendation should also be amended in line with the relevant article of the negotiating text, namely article 82, and should therefore read: "Definition of outer limits of the continental shelf and payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles".

45. Mr. ROBLEH (Somalia) expressed his delegation's full confidence in the President of the Conference.

46. His delegation objected to the present wording of item (4) in recommendation 5, since it agreed with others that the present wording was clearly prejudicial to the outcome of an important part of the negotiations which the Conference still had to undertake. Moreover, the definition of the term "geographically disadvantaged State" was still the subject of discussion, and the number of States which claimed to come within the scope of the term was continually increasing. There was therefore a need for a neutral formulation, which could be achieved only by aligning the text with the headings of articles 69 and 70 of the informal composite negotiating text.

47. Mr. KOH (Singapore) said that, if some delegations were opposed to the present wording of item (4), he was willing to accommodate them to the extent of proposing the insertion, at the beginning of the item, of the words "The question of the . . .". Those words would show that the whole of the matter to which the item referred was one of contention. While he agreed with certain other delegations that the scope of the phrase "geographically disadvantaged States" remained to be defined, he did not follow their logic when they argued that the use of the phrase in item (4) would prejudice the outcome of the negotiations on that item, since the main issue in the negotiations would not be the label which certain States should bear, but the rights they might enjoy. If, however, the present wording of the item was to be judged by the criterion its opponents were suggesting, he might equally well argue that the phrase "exclusive economic zone" was prejudicial to the outcome of the negotiations. He was in fact willing to let that phrase stand, and he hoped that all delegations would adopt a similar attitude with regard to the expression "geographically disadvantaged States", particularly as it appeared in several articles of the negotiating text other than those which had been mentioned.

48. Mr. ARIAS SCHREIBER (Peru) said that he believed delegations should show mutual respect for each other's opinions. It was in that spirit, and because the phrase "Right of access" appeared in the informal composite negotiating text, that Peru had accepted the presence of that phrase in item (4), despite the fact that it did not accept the concept of such a right. Now, however, the delegations which had asked the Peruvian delegation to accept that phrase were asking it to accept further wording which was clearly prejudicial to Peru and favourable to them. What had become of the idea of mutual respect. The matter at stake was one of principle: the Conference must not adopt wording which favoured one group of States over another. For that reason, his delegation

endorsed the Mexican proposal, which was the only one it could support.

49. Mr. AL-WITRI (Iraq) supported the retention of item (4) as adopted by the General Committee. With reference to the suggestions by certain delegations that the item should refer to articles of the informal composite negotiating text which came within the purview of the Second Committee, he said that his delegation wished to place on record its objection to certain terminology in the text drafted by the Chairman of that Committee, which overlooked the interests of the many States participating in the Conference which were geographically disadvantaged. Such States would suffer more than others from the creation of the exclusive economic zone, which would cover regions which should remain areas of the high seas and in which they had established valid rights and interests.

50. Mr. KUMI (Ghana) said that his delegation was pleased to see Mr. Amerasinghe in the Chair, since the Conference had need of his experience at the current crucial stage in its deliberations.

51. His delegation agreed that the phrase "geographically disadvantaged States" required further discussion and therefore believed that, in item (4) of recommendation 5, it should be replaced by the phrase "other States". The item should be further amended by the insertion after that phrase of the words "in particular, developing ones,". That amendment was essential since there were some developing countries which, while they did not necessarily see themselves as geographically disadvantaged, should have access to the living resources of coastal waters since their economies were heavily dependent on fishing. The precise conditions of such access would naturally have to be the subject of negotiations between the States concerned.

52. Mr. TUERK (Austria) said that his delegation appreciated that the General Committee's report was a compromise document and had expected that the plenary would be able to adopt it without difficulty. He was astonished at the discussion which had arisen concerning the report and felt that he spoke for many other delegations in expressing the view that, rather than engaging in a new and fruitless debate, the Conference should now take up its substantive work.

53. His delegation regarded item (4) of recommendation 5 as acceptable in its present form; but, in order to meet the objections which had been raised, it was willing to accept the amendment proposed by the representative of Singapore. All participants in the Conference knew that there were States which considered themselves geographically disadvantaged and which had problems that must be settled; and the Conference could not close its eyes to their existence. On the other hand, there were many delegations which did not yet consider the establishment of an "exclusive economic zone" as a foregone conclusion: if there was insistence on the deletion of the phrase "geographically disadvantaged States" from item (4) he would have to call for the deletion of the word "exclusive" also.

54. Mr. WITEK (Poland) said that there had been a very long discussion in the General Committee, and his delegation had never given the impression that it was happy with the proposed programme of work, though, in the prevailing spirit of compromise, it had not objected to the programme being recommended by the General Committee to the Conference plenary. His delegation's main reason for concern was the belief that the whole set of recommendations was weighted in favour of one group, namely the coastal States. He was particularly surprised at the vehemence of the opposition by some delegations to the very brief reference in the document to the geographically disadvantaged States. There must be a very serious reason for that opposition.

55. He reminded representatives that the group of land-locked and geographically disadvantaged States as a whole had never accepted the articles referred to in the proposal by the Mexican representative; that had been made clear by the Chairman of the Second Committee. In a spirit of mutual respect and compromise, the group had not opposed the inclusion of the word "exclusive" in item (4)—although he did not believe that the zone was exclusive. The term "geographically disadvantaged States" was used in a number of articles in the informal composite negotiating text and it was clear that the group existed and had real problems which the convention could solve.
56. His delegation supported the existing wording of item (4). The pressure to amend it could have serious consequences for an important group in the Conference: it seemed to be an attempt to deprive that group of its identity—which the Conference had already recognized—and to create a division between the land-locked and the geographically disadvantaged States.
57. If the compromise previously reached on the matter were not respected, his delegation would insist that the entire time-table of the Conference be changed and that, until the problem of the land-locked and geographically disadvantaged States was solved, there should be no further step towards formalizing texts.
58. Mr. CASTAÑEDA (Mexico), speaking on a point of order, said that the present debate might go on indefinitely. As a way out of the deadlock, he suggested that the meeting should go on to consider the remaining paragraphs of the General Committee's report, leaving item (4) of recommendation 5 in abeyance, and that meanwhile the delegations concerned should meet informally and try to agree on a new text.
59. Mr. SADI (Jordan) opposed the Mexican representative's suggestion. Jordan was one of the many States which attached great importance to the definition of geographically disadvantaged States. The term was used in many international bodies, and some of the delegations now objecting to it had supported it elsewhere—for example, in the United Nations Conference on Trade and Development, the Economic and Social Council and the United Nations Development Programme. The term had in fact existed before the present Conference. He urged that the problem be dealt with in the plenary meeting. To leave it to a small group would prevent some delegations from expressing their views.
60. Mr. AL-WITRI (Iraq) also opposed the Mexican proposal. The issue was possibly the most important before the Conference. It should be dealt with in the plenary, and before any further work was tackled.
61. The PRESIDENT explained that the Mexican proposal did not involve shelving the problem, which would be considered outside the plenary by the delegations particularly concerned.
62. Mr. UPADHYAY (Nepal) said that the Mexican proposal would help rather than hinder the Conference's work; and it would not prevent any delegation from expressing an opinion if it did not accept the compromise. He urged that the plenary meeting discussion on the issue be suspended and that a group of interested delegations should meet with a view to producing a new text which should be submitted to the plenary Conference as soon as it was ready. It seemed unlikely that any progress could be made in the plenary meeting at the present juncture.
63. The PRESIDENT urged participants not to embark on a long debate on the Mexican proposal, but to decide whether they accepted it or not. He himself would make a compromise suggestion which might meet the wishes of both sides. He suggested that in recommendation 5 each of the issues should be stated first in the terms, and with a reference to the number, of the relevant article in the informal composite negotiating text, and then in the terms of the existing text in document A/CONF.62/61. Item (4), for example, would read:
- "Right of land-locked States (article 69) and right of certain developing coastal States in a subregion or region (article 70) to the living resources of the exclusive economic zone.
- "Right of access of land-locked and geographically disadvantaged States to the living resources of the exclusive economic zone."
64. Mr. GOERNER (German Democratic Republic) opposed the suggestion on the grounds that it would only cause confusion.
65. Mr. ARIAS SCHREIBER (Peru) said he could accept the President's suggestion if the second part were placed in brackets, or if the word "or" were inserted between the two parts to avoid creating the impression that two different issues were being referred to.
66. Mr. TUERK (Austria) said that he would prefer a stroke to be inserted between the two parts to indicate that they had equal status. He felt, however, that some delegations would prefer to postpone the decision until later in the day.
67. The PRESIDENT suggested that the meeting should consider the remaining items and should leave item (4) aside for the time being, so that the delegations who were particularly concerned could hold informal consultations.
68. Mr. ARCULUS (United Kingdom) said in relation to item (4) that it might help the delegations in their informal consultations to come together in a compromise formula if the following were added at the end of the list of seven issues in recommendation 5: "the wording of the list of issues given above does not prejudice the position of any delegation concerning the substance of these issues".
69. Mr. PRANDLER (Hungary), speaking as representative of a delegation which was not a member of the General Committee, said he had hoped that the plenary Conference could accept the recommendations resulting from the long discussions in the General Committee. He wished to place on record his indignation at the attempts by some delegations to deny even the inclusion of an item on the right of access of land-locked and geographically disadvantaged countries, and at the arguments put forward against the wording of item (4). At its seventh session, after four years' discussion, the Conference was now facing new evidence of inflexibility and a complete lack of understanding on the part of some delegations who continued to express extremist views.
70. The PRESIDENT appealed to participants to keep to the issue before them, namely, whether to leave item (4) in abeyance for the time being and proceed with the rest of the General Committee's report. The object of the Mexican proposal was simply to give the delegations particularly concerned an opportunity to discuss the issue.
71. Mr. PRANDLER (Hungary) supported the United Kingdom representative's proposal.
72. Mr. WITEK (Poland) said that the recommendations before the meeting were the result of a compromise. He saw no advantage in one of the items being discussed by a small group of delegations, particularly since that might prejudice their participation in discussions on other items. The United Kingdom representative's suggestion merited consideration.
73. Mr. KOH (Singapore), speaking on a point of order, said that although his position on the Mexican proposal was very similar to that of the representative of Nepal, it was clear that many of the land-locked and geographically disadvantaged countries opposed it. He wondered if the President could ask the Chairman of the group of coastal States

whether the United Kingdom proposal was acceptable to that group. If it was, the problem might be solved.

74. Mr. CASTAÑEDA (Mexico) said that the United Kingdom proposal was very constructive and his delegation could accept it provided that item (4) contained the words "The right of access of certain developing coastal States in a sub-region or region".

75. The PRESIDENT observed that, in accordance with the United Kingdom proposal, the existing text of item (4) would be retained as it stood.

76. Mr. ARIAS SCHREIBER (Peru) thought that one way out of the difficulty would be to adopt the following text for item (4):

"Question of the right of access of land-locked States and certain developing coastal States (or: Question of the right of access of land-locked and geographically disadvantaged States) to the living resources of the exclusive economic zone."

A foot-note should be added, to the effect that both formula-

tions had been used in order not to prejudice the substantive positions of the delegations concerned.

77. Mr. GOERNER (German Democratic Republic) said that his delegation could support the United Kingdom proposal but not the Peruvian proposal, which gave the impression that the geographically disadvantaged States were the same as "certain developing coastal States". If the Peruvian proposal were accepted, it would also be necessary to delete the word "exclusive".

78. The PRESIDENT pointed out that the term "geographically disadvantaged States" did not differentiate between developed and developing countries.

79. Mr. ENGO (Cameroon) suggested that participants be given time to reflect on the various proposals that had been made.

80. The PRESIDENT said that he would suspend the discussion on item (4). He hoped that the delegations concerned would meet without delay for informal discussions.

The meeting rose at 12.50 p.m.

90th meeting

Wednesday, 12 April 1978, at 3.50 p.m.

President: Mr. H. S. AMERASINGHE.

Organization of work

Recommendation 5 (concluded)

1. The PRESIDENT urged all the delegations to try to agree on a compromise with regard to recommendation 5 in the Report of the General Committee on the organization of work for the seventh session (A/CONF.62/61), so as to extricate the Conference from the current impasse. Contrary to what the attitude of some delegations might suggest, the document in question was not the draft convention, but simply a series of proposals for the organization of negotiations.

2. He therefore suggested that the Conference should adopt wording which made it clear that the informal composite negotiating text¹ remained the sole basis of negotiations, but also alluded to the difficulties which the wording of certain provisions of that text caused delegations. Item (4) of recommendation 5 would then read:

"Right of land-locked States and certain developing coastal States in a subregion or region to the living resources of the exclusive economic zone.

"Right of land-locked and geographically disadvantaged States to the living resources of the zone."

3. The first part of the suggested text was based on the titles of articles 69 and 70 of the negotiating text. Similarly, item (6) of the recommendation would read:

"Definition of the outer limits of the continental shelf and the question of payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles.

"Definition of the outer limits of the continental shelf and the question of revenue sharing.

"(The Secretariat's report on the definition of the outer

limits of the continental shelf, prepared at the request of the Second Committee, is to be produced as document A/CONF.62/C.2/L.98 and Add.1.)"

4. Following the suggestion by the United Kingdom delegation, the introductory portion of recommendation 5 might read:

"Negotiating groups of limited size—but open-ended—should be established to deal with the following hard-core issues, provided that the wording of the issues does not prejudice the position of any delegation concerning their substance:"

5. He hoped that all delegations would react reasonably to the proposed formulations, which in no way affected their freedom of manoeuvre.

6. Mr. WITEK (Poland) said his delegation would prefer that the Conference respect the decision of the General Committee and maintain for item (4) the wording contained in document A/CONF.62/61, subject to the addition of the sentence proposed by a number of delegations at the previous meeting. When used alone, the term "zone" was not sufficiently precise, and it would therefore be preferable to speak of the "economic zone". In any event, his delegation was greatly surprised that the Conference should seek to amend the compromise solution adopted by the General Committee.

7. The PRESIDENT pointed out that the Conference was not obliged to accept the General Committee's proposals. Furthermore, proposals by the President took precedence over all others.

8. Mr. ARIAS SCHREIBER (Peru) said that the General Committee had not taken any decision, but had simply made proposals to the Conference. The formulations suggested by the President were good, since they were based on the composite text, which took precedence over any suggestion by a delegation.

9. Mr. TUERK (Austria), speaking on a point of order, moved to suspend the meeting, in accordance with rule 30 of the rules of procedure.

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).