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59th meeting of the General Committee

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GENERAL COMMITTEE

59th meeting

Monday, 16 March 1981, at 3.35 p.m.

Chairman: Mr. T. T. B. KOH (Singapore)

Organization of work

1. The CHAIRMAN reported that the Collegium had met that morning to consider the programme of work of the Conference at the tenth session. Using as the basis of its work the programme of work contained in document A/CONF.62/BUR.13/Rev.1, which was in turn based on the recommendations adopted by the General Committee at its 58th meeting, the Collegium had been unanimous in making a number of recommendations to the General Committee on the four outstanding matters to be taken up at the tenth session of the Conference.

2. With regard to the work of the Drafting Committee, the latter had carried out a very substantial amount of work at its meetings held between 9 January and 27 February 1981. A large volume of documentation had been prepared and had been considered first by the language groups, then by the coordinators of the language groups and finally by the Drafting Committee itself. The Drafting Committee's recommendations, based on those meetings, were contained in document A/CONF.62/L.67 and its addenda.

3. The Drafting Committee had completed a first reading, article by article, of those parts of the draft convention which fell within the mandate of the Second and Third Committees. The review of Part XI, concerning the international area, had commenced in the language groups, but so far the Drafting Committee had not examined those parts of the draft convention which fell within the informal purview of the plenary Conference.

4. The first recommendation of the Collegium was that the Drafting Committee, at one of the three levels mentioned, should be given conference facilities to meet half a day each day at the current session to continue its consideration of Part XI and thereafter those parts of the draft convention which fell within the informal purview of the plenary Conference.

5. The second recommendation of the Collegium concerned the manner in which the Drafting Committee's recommendations affecting those parts of the draft convention which fell within the mandate of the Second and Third Committees were to be processed. The Collegium had been unanimous in its belief that those recommendations should be considered in plenary meeting and not in the Committees, in order to ensure harmonization and co-ordination. It had, however, recommended that, when the plenary Conference examined recommendations of the Drafting Committee which affected the mandate of the three Committees, the Chairman of the relevant Committee and the Chairman of the Drafting Committee should preside over the meeting jointly with the President.

6. The Collegium further recommended that the question of the participation clause should be taken up by the plenary

Conference once the latter had dealt with the recommendations of the Drafting Committee.

7. The Collegium also recommended that a general discussion of the question of the Preparatory Commission should, in the first instance, take place in the First Committee and then in joint meetings of the plenary Conference and the First Committee under the co-chairmanship of the President and the Chairman of the First Committee.

8. On the question of the treatment to be accorded to preparatory investments made before the convention entered into force, the Chairman of the First Committee had informed the Collegium that, in view of the uncertain attitude of the United States delegation towards the draft convention in general and Part XI in particular, the Group of 77 had informed him that it was not prepared to negotiate that question until the United States' attitude towards Part XI was clarified. As a result, the Collegium was making no recommendation on that question.

9. The Collegium had noted that the two interest groups, led by Ireland and Spain respectively, on the delimitation of maritime boundaries wished to meet during the current session. It therefore recommended that they should be provided with the necessary conference facilities.

10. Following consultations with the chairmen of the five regional groups, it had been agreed that the plenary Conference would hold a memorial meeting on the morning of 17 March to pay tribute to the memory of the first President of the Conference.

11. Mr. ARIAS SCHREIBER (Peru) said that his delegation could generally agree with the recommendations of the Collegium as presented by the Chairman, but his delegation preferred the Drafting Committee's recommendations to be considered initially by the relevant Committee—not only the First but also the Second and Third Committees—before consideration in plenary meeting of the Conference, a procedure which would be consistent with that of previous sessions. He noted that the programme of work presented by the Chairman did not provide for meetings of the Second and Third Committees. He suggested that all the Committees should examine the relevant recommendations of the Drafting Committee and attempt to achieve agreement on the text, a procedure which, he thought, would not prejudice the possibility of achieving the necessary harmony in the plenary Conference at the appropriate time.

12. He noted that the programme of work agreed in Geneva had provided for finalization of the draft convention at the current session, but it appeared that the United States Government had made it known that it could not agree to any finalization of the text at the current stage. It was essential to know whether the decision of the United States Government still stood, as that decision would have enormous impact on the organization of the Conference's work.

13. The CHAIRMAN said that the Collegium had discussed the manner in which the Drafting Committee's recommendations should be dealt with and that the Chairman of the Drafting Committee had been invited to give his views. There seemed to be three options, namely, that the recommendations should be considered in plenary meeting; in the Committees; or in plenary meeting under the co-chairmanship of the Chairman of the relevant Committee and the President of the Conference. The Collegium had reviewed all three options, and the Chairmen of the Committees themselves had unanimously suggested that, to prevent the lack of harmonization and co-ordination, as had been the case before, the recommendations would best be dealt with directly in plenary meeting.

14. Mr. OXMAN (United States of America) said that no decision had been made by his Government, either for or against the draft convention and that his delegation had no hidden agenda nor any list of changes. A decision with respect to the draft convention would be taken by his Government only after a thorough review of the text and its history, in particular Part XI. He regretted any delay that might be caused by his Government's position but pledged his delegation's willingness to work to complete the review of the text as soon as possible. Furthermore, he hoped to be able to discuss with delegations the appropriate time for the next session of the Conference. His delegation was ready to work with other delegations, subject to his Government's over-all position with respect to the review of the text.

15. Mr. OTUNNU (Uganda), speaking as Chairman of the Group of 77, said that the draft convention was a compromise document that represented years of toil and many trade-offs. No delegation had accepted the text without some pain and reluctance. His delegation, like many others, had hoped that the current session would be the final one and regretted the position taken by the United States delegation. In the context of that position, the Group of 77 had decided, with deepest regret, that it was not willing to discuss issues concerning preliminary investments until the position of the United States was further clarified. He stressed that the responsibility for the situation rested clearly on the Government of the United States.

16. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said that the decision of the United States Government seemed to place some emphasis on matters within the purview of the First Committee, especially Part XI of the draft convention. It would be important to know what delegations intended to do at the current session, so that he could prepare a programme of work for the First Committee. He had been dismayed to hear that the United States delegation was thinking in terms of yet another session. In that connexion it should be remembered that the negotiations on the law of the sea were extremely expensive, especially for the poorer countries. He requested clarification of the views of the chairmen and of delegations concerning the programme of work for the session.

17. The CHAIRMAN said that the programme of work and time-table that he had suggested covered a period of two weeks. He preferred to deal with the future in instalments, especially since the plans of the United States had not been made clear. It might still be possible to negotiate on a package of compromise proposals. It seemed that the Group of 77 was ready to negotiate. He urged delegations to proceed with the work before them and hoped that the United States delegation would join in the intensive negotiation process so as to complete the work at the current session if at all possible.

18. Mr. HAMOUD (Iraq) said that the Drafting Committee's recommendations seemed to fall into two categories. The first did not involve substantive or controversial matters, and could be considered in plenary meeting. The second category seemed to include substantive issues which could evoke differences of views. If referred to the plenary

Conference, they would require lengthy negotiations. He believed that the Peruvian suggestion was quite valuable, especially with regard to the second category, as the plenary Conference might be unable to deal successfully with the recommendations without previous discussion in the Committees.

19. Delegations, including his own, had received instructions from their Governments to negotiate outstanding issues and to reach consensus at the current session. At the previous session, a specific programme of work had been worked out so that work could be completed at the current session. He regretted the delay caused by one delegation and requested that delegation to co-operate with other delegations in order to continue the negotiations. It was not in the interest of the Conference nor consistent with past practice to speak at the opening of a session of the need to convene another session and to withhold serious participation in the negotiation process.

20. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that, although the report of the Drafting Committee contained some recommendations of a procedural nature, all the actual drafting recommendations fell into one category. In its work the Drafting Committee had identified three types of problems. The first consisted of drafting matters pure and simple, namely, harmonization of terminology, editing points, and concordance of the various language texts to ensure that they all had the same juridical meaning. The second type had been termed "pending issues", which included difficult but not substantive matters that had been set aside and needed to be dealt with again at the current session. The third type had been called "basket three"; they raised substantive issues which the Drafting Committee had not included in its report, as it was believed that such matters should be dealt with in the Committees. He regretted that the Drafting Committee's report had had to be issued in instalments but pointed out that all parts were now available, except for Part X, which had been held up because of problems with one article.

21. Mr. KOZYREV (Union of Soviet Socialist Republics) expressed the hope that the Conference would be able to adopt the Convention at the current session. At the ninth session, the overwhelming majority of delegations had expressed their determination to implement the decisions of that session, namely, to consider outstanding matters at the tenth session and to conclude the work of the Conference by adopting the convention by consensus. However, such hopes had encountered opposition from the United States delegation, which stated that it was not yet ready to conclude negotiations.

22. His delegation wished to express its solidarity with the Group of 77 and those other delegations which had condemned the action taken by the United States to prevent adoption of the convention at the current session. He did not regard the United States position as a purely internal matter, for it affected the entire international community and the fate of an important international Conference. The United States could not invoke domestic reasons for its attempt to jeopardize the work of the Conference.

23. His delegation also agreed with the Group of 77 that the current session should not consider the United States position that additional provisions should be drafted on the protection of capital investments made before the Convention entered into force. The provisions of the draft convention afforded more than adequate protection for such investments. At the ninth session, the Soviet delegation had expressed its readiness to consider that issue, provided that any additional provisions on that subject were in keeping with the existing provisions of the draft convention. The draft provisions put forward by the United States at that session had, however, been totally contrary to the provisions of the draft convention and had been deemed unacceptable as a basis for discussion. Since then, the United States had put forward no new proposals.

24. His delegation could endorse the programme of work proposed by the Collegium. The Drafting Committee clearly needed to meet daily and its recommendations should be considered in plenary meeting, with the Chairmen of the Committees and of the Drafting Committee assisting in that task.

25. While his delegation did not oppose the holding of a general discussion on the Preparatory Commission in the First Committee, he believed that that Committee should attempt to conclude its work on the draft provisions governing the establishment of the Preparatory Commission and should refer them then to the plenary Conference.

26. Mr. ARIAS SCHREIBER (Peru) observed that the United States representative had not denied that a decision had been taken by the United States Government. Depending on the outcome of the internal review of the draft convention referred to by the representative, there was a serious risk that the Conference would be unable to complete its work at the current session.

27. With regard to the proposed programme of work, he wished to insist that even questions of style should be considered in the Committees. He was especially concerned that the programme of work proposed by the Collegium did not envisage the holding of separate meetings of the Committees when needed in order to determine whether all the Drafting Committee's recommendations dealt with questions of style rather than substance.

28. The CHAIRMAN reported that the Collegium had discussed whether the Committees should meet to consider outstanding matters. It had agreed that the Drafting Committee's recommendations concerning matters falling within the mandate of the First and Second Committees should be considered first, and the Chairmen of the Committees appeared to have an open mind as to when their Committees should meet and what they should consider. He would pursue his consultations on that point and report to the General Committee.

29. Mr. SHEN Weiliang (China) expressed the hope that the Conference would be able to overcome its difficulties and adopt an equitable convention as soon as possible.

30. With regard to the proposed programme of work, he recalled that a decision had been adopted on that subject at the ninth session. That decision could, of course, be amended, but only after extensive consultations. It could not be altered at the whim of one country, after all the work that had gone into the Conference over the years. His delegation therefore supported the views expressed by the Group of 77, and could endorse the proposed programme of work. It believed that certain parts of the existing text of the draft convention, such as the provisions dealing with the passage of warships through the territorial sea, must be given full consideration at the current session if they were to be resolved.

31. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, explained that the Committees planned to meet at the current session and that the next time-table drawn up by the President would reflect that fact. At the end of the ninth session, he had indicated which matters remained outstanding, and he wished to assure the General Committee that, after the plenary Conference had met, the First Committee would resume work on the matters falling within its mandate.

32. The CHAIRMAN expressed the hope that, with the co-operation and understanding of the representatives of Iraq and Peru, the General Committee would now approve the recommendations on the programme of work. Two weeks hence, the General Committee would review the situation and consider the Collegium's recommendations for the future work of the session. If he heard no objections, he would take it that the Committee decided to submit the recommendations on the proposed programme of work to the plenary meeting of the Conference on 17 March.

It was so decided.

The meeting rose at 4.40 p.m.

60th meeting

Monday, 30 March 1981, at 10.05 a.m.

Chairman: Mr. T. T. B. KOH (Singapore)

Tribute to the memory of Mr. Eric Williams, Prime Minister of Trinidad and Tobago

1. The CHAIRMAN announced with regret the death of Mr. Eric Williams, Prime Minister of Trinidad and Tobago, and expressed his condolences to the Government and people of Trinidad and Tobago.

2. The representatives of Algeria, Australia, Brazil, the German Democratic Republic (on behalf of the group of Eastern European States), Peru, Zaire and Zambia expressed their regret at the death of Mr. Eric Williams.

3. Mr. SEALY (Trinidad and Tobago) said that, on behalf of the Government and people of Trinidad and Tobago, he wished to express appreciation to the Chairman and members of the General Committee for their condolences and assured them that he would transmit them to the family of Mr. Williams and to the Government of his country.

On the proposal of the Chairman, the representatives observed a minute of silence.

Organization of work

4. The CHAIRMAN said that he had distributed to delegations a provisional programme of work indicating the meetings

of the various organs of the Conference for the next two weeks. The schedule had been drawn up by the Collegium, taking into account the views of the Chairmen of the regional groups.

5. The schedule provided for an informal meeting of the Conference on Wednesday, 1 April, at 10.30 a.m. so that the plenary could complete its consideration of the recommendations of the Drafting Committee. Since the Drafting Committee had not yet completed its examination of Part XI of the draft convention, the Collegium had allocated it as much time as possible in the schedule. He therefore urged the language groups to expedite their work with respect to Part XI, and reminded them that the Drafting Committee must also examine Part XV and other parts of the draft convention.

6. According to the schedule, the working group of 21 would hold two meetings in order to complete its discussion of issues relating to the Preparatory Commission. Time had also been allocated for meetings of the two interest groups on the question of delimitation. In that connexion, it was obvious that the problem of delimitation could not be solved if the two groups continued to hold separate meetings, as had been done during the past two weeks. He had therefore met with the Chairmen of the two interest groups to remind them that that was the only hard-core issue which remained outstanding and to