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152nd Plenary meeting

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Conference should draw up a strict timetable for the resumed session, so that work could be continued on the pending issues which had been identified by the President at the end of the first part of the session earlier in 1981. The group attached great importance to the winding up of the very important and difficult work of the Drafting Committee as soon as possible. It would do its utmost to contribute to the final success of the current session and to that of the Conference itself.

17. Mr. PINTO (Portugal) considered that the proposed informal plenary meeting would represent a positive development. He agreed with the representative of Peru that all delegations, including that of the United States, should be at liberty to speak at that meeting. He did not believe that such a meeting would open a Pandora's box of objections.

18. The PRESIDENT said that, if there were no objections, he would take it that the Conference wished to adopt the proposed programme of work.

It was so decided.

Invitation by the Government of Malta

19. Mr. GAUCI (Malta) said that the choice of the site of the Authority was an important question of long-term significance on which delegations would require first-hand information before arriving at a decision. His Government had

therefore felt an obligation to give members a chance to see for themselves what Malta proposed to offer. He was consequently pleased to extend to heads of delegations or their representatives, and to the Special Representative of the Secretary-General, an invitation to visit Malta during the week-end of 7 to 9 August 1981. The invitation was pursuant to the letter addressed by the Prime Minister of Malta to Heads of State in which he had explained Malta's strong claim to host the Authority and had given advance notice that Malta would be extending an invitation to heads of delegation to visit the island as guests of the Government.

20. The visit would provide an opportunity to demonstrate the physical facilities which would be available, namely, the Mediterranean Conference Centre which was already fully equipped to house the Authority, as well as the alternative sites where a custom-built complex could be constructed. During their visit representatives would be able to see enough of the way of life in Malta to gain a lasting impression of the environment in which their personnel would be living once missions had been established on the island, if it was selected for the site of the Authority. There would be an opportunity for representatives to meet socially with members of Parliament from both sides of the House.

The meeting rose at 5.20 p.m.

152nd meeting

Monday, 17 August 1981, at 11.35 a.m.

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

Organization of work

1. The PRESIDENT drew attention to the programme of work recommended by the General Committee for the third week of the session. He also mentioned the question raised at an earlier meeting concerning the desirability of establishing time-limits for the work of the Drafting Committee.

2. Mr. SYMONIDES (Poland), speaking on behalf of the group of Eastern European States, expressed support for the proposed programme of work for the third week of the session, and observed that time and facilities had been allocated for speedy work on the problems still unresolved, while negotiations on the important issue of delimitation would also be continued during the week. Although it would have been better to have had a programme of work for the following week as well, the group which he represented understood that the President and the Collegium were reserving for themselves more freedom to allocate the remainder of the time in accordance with urgent needs. The programme of work was not an end in itself, but an instrument for achieving the goals established in the Conference decisions of 28 August 1980 (A/CONF.62/BUR.13/Rev.1) and in the 149th plenary meeting of the Conference of 16 April 1981. He was sure that everything would be done to finalize negotiations on outstanding issues; but there was no doubt that the successful outcome of the session depended very much on the work of the Drafting Committee. The group of Eastern European States appealed to the Drafting Committee to intensify its efforts. The group regarded the formalization of the draft convention as the ultimate goal of the session.

3. Mr. UL-HAQUE (Pakistan), Chairman of the Group of 77, said he had been instructed to suggest that the programme of work for the forthcoming weeks should be organized in such a way that it would be possible to formalize the text of the draft convention by the end of the session. In that connection, if necessary, the possibility of extending the session for a fifth week should also be borne in mind.

4. The PRESIDENT replied that that subject would be taken up at the next formal plenary meeting on 21 August. He suggested that it would be helpful if the regional groups could meet to consider the two problems raised by the Chairman of the Group of 77. The Collegium would be meeting on Thursday in preparation for the meeting on Friday, 21 August, and would take those problems into account.

5. Mr. MWANANG'ONZE (Zambia) said that, before the programme of work was adopted, his delegation would like to remind the Conference that, in its view, the outstanding issues to be negotiated included production limitations. Proposals had been made by African producers of metals affected by seabed mining, and constructive alternatives were being sought from other delegations. Negotiations should also be continued on the subject of the continental shelf, the exclusive economic zone and the access to the sea of landlocked States.

6. Mr. VALENCIA-RODRÍGUEZ (Ecuador) expressed his agreement with the proposed programme of work. The proceedings of the resumed tenth session should, however, be based strictly on document A/CONF.62/BUR.13/Rev.1 (note by the President on the programme of work for the tenth session). The formalization of the draft convention should therefore be subject to two basic conditions; one was the conclusion of negotiations on the outstanding issues, and the other was the successful outcome of consultations between delegations on issues that had not found adequate solution in the text as revised. Apart from the issues identified as outstanding, other questions also required negotiation in the appropriate committees and groups. That was the only way in which adequate conditions could be created for the formalization of the text.

7. The PRESIDENT expressed the hope that there would be no lengthy debate on the question of formalization which would depend, firstly, on the conclusion of negotiations on the outstanding issues as identified at the end of the ninth session and, secondly, on the results of consultations on certain other issues.

8. Mr. MAZILU (Romania) said that his delegation agreed with the proposals made by the General Committee but appreciated that, during the rest of the resumed tenth session, it would be necessary to create appropriate conditions for serious negotiations on all issues still pending, including—in addition to the delimitation of maritime zones—the innocent passage of foreign warships, some aspects concerning access to the living resources of the exclusive economic zones, and some questions regarding the final clauses.

9. His delegation had on other occasions affirmed its belief that the organization of future work should be subordinate to the main aim of the Conference, which was to achieve satisfactory solutions to all pending issues, through real negotiations with the participation of all interested States. All issues raised at previous sessions but not so far negotiated should therefore be taken into account.

10. Mr. DAVEREDE (Argentina) said that there were other outstanding issues that had not yet been negotiated owing to the special circumstances existing in the Conference. Some aspects of the informal text of the convention required further negotiation in order to attain a greater measure of consensus. The President himself had given guarantees that there would be possibilities for re-examining such questions.

11. Mr. TSHIKALA KAKWAKA (Zaire) thought that all outstanding issues should be taken into account in the programme of work. Like the representative of Zambia he regarded the question of production limitations as an outstanding issue. That issue was not a new one and had been referred back to the First Committee; but no satisfactory reply had emerged. He hoped that the issue of production limitations would not be forgotten when the programme of further work was decided on at the next plenary meeting. The question of access to the sea by land-locked and geographically disadvantaged States should also be considered further.

12. Mr. ARIAS SCHREIBER (Peru) supported the position taken by the delegations of Ecuador, Romania and Argentina. Since that matter had been raised, at the informal plenary meeting on 5 August, and referred to the Second Committee, he would like to know what progress had been made.

13. The PRESIDENT said that he would ask the Chairman of the Second Committee how the consultations in question were proceeding, and would report to the Conference at the next plenary meeting.

14. Mr. ENGO (United Republic of Cameroon), Chairman of the First Committee, replying to the Zambian representative's comments on production limitations, said that the procedures he had adopted at the present session had followed strictly the guidance given to him by the interested parties. Negotiations were continuing, and he was encouraging other delegations to allow time for them. The delegation of Zambia had appealed to the other parties in the negotiations to make proposals to help solve the problems. That constituted, in fact, an appeal to see whether some accommodation could be reached. He himself could not recommend any particular procedure until those concerned thought it expedient that the existing procedure should be altered.

15. The PRESIDENT said that, if there were no objections, he would take it that the Conference wished to adopt the programme of work proposed by the General Committee.

It was so decided.

16. The PRESIDENT said that, following an informal meeting of the Chairmen of the three Committees, the Collegium had invited the co-ordinators of the six language groups to meet with it. On that occasion, he had explained to the Chairman of the Drafting Committee and the co-ordinators the suggestion made by the group of Eastern European States and by the Group of 77 that a time-limit should be set for the completion of the work of the Drafting Committee. He had asked them whether they felt that it was possible for the

Drafting Committee to complete its work by 24 August (or 28 August) 1981. Only one co-ordinator had replied in the affirmative; the other five had answered that it was quite impossible for the Drafting Committee to complete its work by 24 August, or even 28 August.

17. The Chairman of the Drafting Committee, for his part, had pointed out that the Committee had been working 8 and even 10 hours every day, and that it was humanly impossible to demand more of it. He had stressed that his Committee should not on any account be made the scapegoat for delays in the work of the Conference. He had also emphasized the need for a five-week intersessional meeting of the Drafting Committee after the end of the present session. That point, however, should be left for discussion at the next plenary meeting of the Conference.

18. At the present stage, he wished to assure the Chairmen of the group of Eastern European States and of the Group of 77 that he had acted in pursuance of their suggestion and had discussed it with the Chairman of the Drafting Committee and the co-ordinators of the six language groups, all of whom (with the single exception of one co-ordinator) had felt that the time-limit of 24 August (or 28 August) could not be met.

19. Mr. BEESLEY (Canada), Chairman of the Drafting Committee, recalled his prediction that, at some stage in the Conference, a situation would arise in which a sudden desire would emerge for the Drafting Committee to complete its work as quickly as possible. As that situation had now arisen, he wished to point out that the Drafting Committee had been unable to begin its work until the Conference had felt it appropriate for it to do so. There was the additional difficulty that the Conference was working on the basis of an interrelated package, so that the Drafting Committee could not embark on its work on matters discussed in one of the Committees without considering the progress of work in the other Committees.

20. At the previous session, the Conference had decided that the Drafting Committee should give priority to work on Part XV of the draft convention for the first three weeks of its intersessional meeting; only after that had the Drafting Committee dealt with Part XI of the convention, which was the result of the work of the First Committee. In fact, Part XV had proved even more difficult than anticipated. To give but one example, one single article had generated 92 pages of recommendations, and none of them had been trivial. Every one of those recommendations had been the subject of a three-stage discussion: the first, within each of the language groups; the second, by the co-ordinators of the language groups, and the third by the Drafting Committee as a whole. The second stage of the work had been completed on Part XV, but the annexes had still to be dealt with and work on Parts XVI and XVII had not yet begun.

21. The Drafting Committee was bound to work at a comparatively slow pace because the draft provisions came to it from different quarters and accordingly lacked homogeneity. In addition, the sheer volume of the material was an obstacle to speedy action. Lastly, it had to be said in all frankness that the draft provisions contained many technical defects which the Drafting Committee had a duty to remedy.

22. Faced by all those difficulties, the Drafting Committee had devised a procedure under which any question that called for a substantive decision was referred back to the Conference itself. At the same time, it had to bear in mind the drafting history of each article; it could not leave aside a proposal simply because someone objected that it touched on substance. The draft convention represented years of work by a variety of different groups, and the parts produced by each of those groups were often the result of political compromises. However brilliant those compromises might be, the language in which they were couched did not necessarily make good law. It was the duty of the Drafting Committee to adjust the wording in order to make the convention enforceable.

23. He was not opposed to the establishment of a time-limit but urged that it should be realistic. It was only fair to recall that, at other stages of the Conference, other committees had worked very slowly indeed without any objection being raised. The Drafting Committee still had a formidable task before it: it had dealt with 19 articles of Part XI but still had 38 substantive articles of that part to deal with, as well as the 105 articles of annexes III to VIII.

24. The work of the Drafting Committee was such that every participating representative was constantly involved in it. The Committee was engaged in an unprecedented multilingual drafting exercise. It had to make constant efforts to avoid any discrepancy between the texts in different languages and to ensure that the Conference produced a single six-language convention and not six conventions. That task demanded a great deal of patient work and called for a high level of professional skill. Although he was not adverse to the Conference pressing the Drafting Committee to speed up its work, he urged it to realize that the Drafting Committee's task was not one which could be rushed through in a few weeks. The Drafting Committee itself was working under a real sense of urgency, but was anxious to do its work well.

25. Mr. PRANDLER (Hungary), speaking on behalf of the Chairman of the group of Eastern European States, said it was clear to all participants that the proposal by his group had

been designed to induce the Drafting Committee to complete its work as quickly as possible. Following the explanations given by the President of the Conference and the Chairman of the Drafting Committee, he wished to make it clear that his group fully appreciated the competence, skill and devotion of all the members of the Drafting Committee and was very grateful for that Committee's efforts. Its intention had been to underline the importance of speeding up the work of that important body; but at the same time, it wished to express its appreciation for the valuable assistance given by the Secretariat to the Drafting Committee.

26. In the light of the explanations provided by the Chairman of the Drafting Committee, the best solution would be for his group to introduce, at the next plenary meeting of the Conference, a proposal on the subject of a time-limit for completing the work of the Drafting Committee. At the present stage, the group of Eastern European States did not press its proposal for the time-limit of 24 August 1981 and maintained only the substance of its proposal—namely, its feeling that the Drafting Committee should complete its work as soon as possible.

27. The PRESIDENT thanked the Chairman of the group of Eastern European States for his co-operation.

The meeting rose at 12.25 p.m.

153rd meeting

Monday, 24 August 1981, at 6.45 p.m.

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

Tribute to the memory of Sir Humphrey Waldock, late President of the International Court of Justice

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

Recommendations of the General Committee

1. The PRESIDENT invited the Conference to consider the recommendations of the General Committee (A/CONF.62/114).

2. Mr. NI Zhengyu (China) said that the experiences of the past few weeks had shown that it was impossible to complete negotiations on the outstanding issues in the allotted time. There were a number of clauses in the draft convention which needed improvement, or on which consultations were still required in order to arrive at a consensus. Such provisions included the articles on innocent passage of foreign warships through the territorial sea and the reservation clauses.

3. The Drafting Committee had had a very heavy task and had found it impossible to complete its work in accordance with the original schedule at the present session. In the past three weeks, however, it had made a certain amount of progress thanks to the co-operation of many delegations; and the results of its work had been discussed by the Conference in an informal plenary meeting. The Conference had also found a solution to the problem of the site of the Authority and of the Tribunal. All the above-mentioned achievements should be taken into account and his delegation agreed that at the end of the present resumed session the informal text of the draft convention should be revised to reflect those achievements.

4. The Chinese delegation supported the recommendation of the General Committee in paragraph 2, that the revised text should now have a higher status, subject to the three conditions set forth in the concluding subparagraphs of that paragraph.

5. His delegation found the General Committee's recommendations reasonable and practical. They were themselves based on the recommendations of the Collegium, which reflected widely-held opinions within the Conference. He therefore supported the General Committee's recommendations, particularly those relating to the final decision-making session of the Conference.

6. Lastly, his delegation wished to express its gratitude to the Group of 77 for its valuable contribution to the work of the Collegium.

7. Mr. KOROMA (Sierra Leone) supported the General Committee's recommendation in paragraph 2 that the revised text of the draft convention should be elevated to a higher status; but he felt that the proposed new symbol, particularly the end portion "L.78", detracted somewhat from that higher status.

8. He also noted, from the end of the paragraph, that it would be possible to submit formal amendments after the termination of all negotiations. Did that mean that, when all consultations and negotiations had been completed, it would still be possible to submit amendments to the text now to be formalized?

9. Lastly, he expressed misgivings—which, he felt sure, were shared by numerous other small delegations—at the proposal to hold an eight-week session in New York preceded by a six-week intersessional meeting of the Drafting Committee. It would be very difficult for small delegations to participate in 14 weeks of meetings in New York.

10. The PRESIDENT said that the symbol "A/CONF.62/L.78" had been chosen on the recommendation of the Secretariat, which had suggested that it would be suitable for the revised draft when it was elevated to the status of a formal proposal. It was true that there were many other documents in the "L" series, but none of them were entitled draft convention.