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14th meeting of the General Committee

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GENERAL COMMITTEE

14th meeting

Monday, 15 March 1976, at 11.10 a.m.

Chairman: Mr. H. S. AMERASINGHE (Sri Lanka).

Organization of work

1. The CHAIRMAN said that he had consulted with the Chairmen of the three Main Committees, the Chairman of the Drafting Committee, the Rapporteur-General and the Special Representative of the Secretary-General concerning the procedures to be adopted at the current session. He recalled that it had already been decided that the general debate had been completed. It had been agreed in those consultations that there should be no general discussion of the informal single negotiating texts at the current session and that the Conference should proceed immediately to informal negotiations in the three Main Committees. It would be left to the discretion of the Chairmen of those Committees to determine the procedures to be followed for the negotiations, as they might vary with the circumstances prevailing in each Committee.

2. To ensure the orderly conduct of work, he suggested that the Chairmen proceed article by article, inquiring whether there were any objections, proposals or amendments. They would also be free to take up a group of articles where a single article could not be negotiated in isolation from others which were closely related to it. It had also been suggested that each Committee should concentrate on what it considered to be the key issues before it in order to reach an understanding on them.

3. Objections or proposals should be presented as informal amendments, not necessarily in impeccable legal terms or treaty language, but in sufficiently clear, precise and unambiguous terms to be put into proper treaty language at the appropriate stage.

4. The suggestion had also been made that it would be preferable to allow only informal amendments to be submitted and not separate drafts which would have the effect of revising a portion of the text so substantially as almost to replace it, thus opening the way to alternative texts, a development which the Conference had sought to avoid. Although the idea of the informal single negotiating text had been designed to eliminate the possibility of a multitude of alternative texts, he felt that that last suggestion would not be feasible, inasmuch as the understanding reached at the 55th meeting on 18 April 1975 had been that the single negotiating text (a) should take into account the formal and informal discussions previously held; (b) should be informal in character; (c) would not prejudice the position of any delegation; (d) would not represent any negotiated text or accepted compromise; (e) was a procedural device and was to serve only as a basis for informal negotiations; (f) would not affect the status of proposals already made by delegations; and (g) would not affect the right of any delegation to submit amendments or new proposals.

5. He intended to confer at least once weekly with the Chairmen of the three Main Committees, the Chairman of

the Drafting Committee, the Rapporteur-General and the Special Representative of the Secretary-General to ensure, as far as possible, that even progress was being made in all three Committees. It was one Conference, not three, and the work of the three Main Committees had to be properly co-ordinated at all stages. To that end, at the appropriate stage, informal plenary meetings would have to be held for the purpose of co-ordination and negotiation, in order to reconcile conflicting provisions in the texts of the various Committees.

6. The informal procedure and informal status of the texts should be retained for a reasonable length of time to promote proper negotiations; however, that period should not be so short as to create the impression that undue pressure was being exerted on participants, nor should it be so protracted as to create a sense of complacency with regard to the time available for agreement. If after a certain period of informal negotiations the Chairman of any Committee felt that there was a set of amendments commanding such widespread support as to justify the revision of the original text, he should be free to effect such a revised version of the relevant portion of the original single negotiating text, while retaining the informal character of the document. That would be entirely within the discretion and responsibility of the Chairman concerned, who would act in accordance with the wishes of his Committee.

7. He suggested that each Chairman should secure his Committee's agreement to the allocation of time allowed for stating objections or proposing informal amendments. It did not seem appropriate or necessary at the current stage for participants, in stating objections or suggesting informal amendments, to make lengthy explanations of the underlying reasons, as those had already been expressed on more than one occasion.

8. Emphasizing that the Conference should be a working session, he said that it would be left to the Chairmen to determine how the informal negotiations should be conducted, i.e., whether in full informal sessions of their Committees, or in smaller groups to which specific issues would be assigned for negotiation before being brought to the full Committee. However, those arrangements must be made with the full knowledge of the Committee and any interested delegation must have the right to participate. It was unnecessary to take official notice of "family gatherings" such as informal groups that constituted themselves to discuss matters of particular concern to them. It was imperative that the results of the efforts of all groups, whether formally constituted or functioning informally, be reported to the Chairman of the Committee concerned. There should be no other types of reports from groups on the results of their consultations. The extent or nature of any agreement should be communicated to the Chairman and would also be reflected in the course of the negotiations themselves. If no

agreement had been reached, there was no need for the Committee to be informed. The absence of agreement would itself become apparent in the course of the negotiations.

9. The question of changing the status of the informal single negotiating texts would be discussed at the appropriate stage. He suggested that a period of four weeks should elapse before the Chairmen attempted to revise their single negotiating texts on the basis of any informal amendments which commanded a very wide measure of support.

10. He pointed out that at every stage negotiations would be conducted informally. Even plenary meetings should, as far as possible, be informal. That would avoid the need for summary records.

11. It was essential that the Special Representative of the Secretary-General be kept informed of group meetings convened by Committee Chairmen so that the necessary facilities could be provided. Other groups which wished to meet should avoid convening at times which interfered with meetings of the plenary or the Committees and requests for such group meetings should be communicated to the President, or the Chairmen concerned and the Special Representative of the Secretary-General, so that the wishes of those groups could be met as far as possible.

12. He had taken it upon himself to prepare an informal single negotiating text on the question of settlement of disputes (A/CONF.62/WP.9), provision for which had been made in the text of the Chairman of the First Committee in relation to matters concerning the international machinery, but not in the texts prepared by the Chairmen of the Second and Third Committees. He realized that, given the genesis of the other informal single negotiating texts, the one which he had prepared could not claim the same status, since there had been no general discussion on the question of settlement of disputes. He therefore intended to set aside two days—or more, if necessary—for a general discussion of that question. It was his intention to inform the plenary that afternoon of the procedures which he had just outlined.

13. He wished to announce that Mr. Galindo Pohl of El Salvador had resigned as the Chairman of the Second Committee owing to other pressing demands on his time and that Mr. Aguilar of Venezuela had been nominated by the Latin American Group of States to succeed him. That nomination would be considered by the plenary that afternoon.

14. He reminded the Committee that, in accordance with the arrangements made at the 7th plenary meeting, to the effect that Ireland and Belgium would alternate as Vice-Presidents of the Conference, it was Belgium's turn to take the seat at the current session.

15. The representative of the United Kingdom had informed him that his Government had decided to grant independence to the Seychelles on 28 June. In keeping with precedents set in the case of countries which had been similarly assured that they would be granted independence by a particular date, such as Papua New Guinea, he suggested that the Seychelles should be invited to participate in the Conference as an observer until it had acquired the status necessary to enable it to be admitted as a full participant. If there was no objection he would take it that the Committee wished him to make a recommendation to that effect to the plenary.

It was so decided.

16. Mr. ZULETA (Special Representative of the Secretary-General) urged all group Chairmen to advise the Office of the Executive Secretary when they wished to meet and of the nature of such meetings in order to ensure that there was no conflict with the Main Committees to ensure co-ordination with the Main Committee Chairmen on a daily basis.

17. Mr. ENGO (United Republic of Cameroon), speaking as the Chairman of the First Committee, emphasized that at its current session the Conference should get down to the business of negotiating a convention with a view to adopting it by the end of the session.

18. It was his understanding that the suggestions by the Chairman of the General Committee would not tie the hands of the Chairmen of the Main Committees regarding the procedures to be adopted. In particular, the article-by-article approach might not be appropriate in some circumstances.

19. While he understood the spirit in which the Chairman of the General Committee had suggested the submission of informal amendments, he felt that that suggestion should not be construed as an invitation to various delegations or interest groups to submit formal amendments in the guise of informal amendments. Members of the First Committee had communicated to him their reactions to the single negotiating text which he had prepared, and he was studying their suggestions and proposals and holding consultations with a view to determining at what stage a revision of the type mentioned by the Chairman of the General Committee could be prepared.

20. With regard to informal meetings, he recalled that at the third session of the Conference it had been difficult for the Committees to conduct their work when various groups had met during Committee meetings. He therefore appealed to geographic or interest groups to ensure that that did not happen again.

21. Lastly, he endorsed the other suggestions made by the Chairman of the General Committee.

22. Mr. YANKOV (Bulgaria), speaking as the Chairman of the Third Committee, said that he agreed with the Chairman of the General Committee that no general discussion of the informal single negotiating texts was necessary at the current stage and that those texts should be considered in informal Committee meetings, on an article-by-article basis where possible. The suggestions made by the Chairman of the General Committee regarding informal amendments were useful. From time to time the President should meet with the Chairmen of the three Main Committees to co-ordinate the three parts of the single negotiating text.

23. It was also desirable to consider at what stage the Drafting Committee should meet informally to assist the Main Committees. Delegations should have the opportunity to express their views on the single negotiating texts in the Main Committees, since those texts had been submitted only at the end of the third session of the Conference. It was also necessary to establish guidelines for the timing of the Committees' work; it was very important that they complete the initial stage of their negotiations at the same time. The single negotiating texts, with all their advantages and disadvantages, should for practical purposes be considered the basis for the negotiations. To admit any alternative texts would be retrogressive.

24. In the light of those considerations, he endorsed the suggestions made by the Chairman of the General Committee.

25. Mr. RATTRAY (Jamaica), Rapporteur-General, said that the current session was crucial for the future of the Conference and that members must learn from the lessons of earlier sessions, particularly the sorry lessons of the third session. The involvement of all delegations in the work of the Conference was essential in order to create a climate in which a consensus could emerge. Meaningful participation required that prime time be devoted to the work of the Conference itself.

26. He stressed the need to involve all the Committees of the Conference in the joint effort. The role of the Drafting Committee must be recognized at the current stage, since it

would be the primary responsibility of the Chairman of that body to hold consultations and identify areas of difficulty in the single negotiating texts and to propose revisions. Accordingly, the Chairman of the Drafting Committee should assist the Chairmen of the other Committees on an informal basis.

27. Mr. ZEGERS (Chile), speaking on behalf of the Latin American Group of States, said it was the Group's understanding that if the representative of Venezuela was appointed Chairman of the Second Committee by the Conference, El Salvador would replace Venezuela as a member of the Drafting Committee.

28. Speaking as the representative of Chile, he said that the focus of the current session should be on negotiations aimed at reaching agreement on an agreed text of the convention. General debates should be avoided and it was particularly desirable to avoid procedural debates in the Committees which might lead to the adoption of differing procedures. To that end the General Committee and the plenary Conference should adopt general guidelines for all the Committees which would, nevertheless, preserve the freedom of action of the Chairmen.

29. The Chairman of the General Committee had made a valuable suggestion to the effect that the Conference should estimate the time needed to complete a first consideration of the single negotiating texts; four weeks, as had been suggested, seemed a reasonable amount of time for that purpose.

30. The Chairman had also stated that he would ensure co-ordination in procedural matters in conjunction with the Committee Chairmen. It would be useful if he would also convene meetings of the General Committee from time to time so that it could make recommendations regarding co-ordination to the plenary on the basis of the Chairman's suggestions.

31. The CHAIRMAN said that he had taken note of the Latin American Group's suggestion that El Salvador should replace Venezuela as a member of the Drafting Committee. He assured the representative of Chile that in accordance with rules 16 and 18 of the rules of procedure he would convene meetings of the General Committee at regular intervals.

32. Mr. ARIAS SCHREIBER (Peru) said that the suggestions put forward by the Chairman of the General Committee warranted discussion in the plenary. He wished to know how the Chairman envisaged dealing with the agenda item entitled "Peaceful uses of oceanic space: zones of peace and security", which had been assigned to the plenary, since it was desirable to avoid what had happened in connexion with another item assigned to the plenary, namely the settlement of disputes.

33. The CHAIRMAN said that he intended to make arrangements for the consideration of the item in question in due course. He assured the representative of Peru that it was not his intention to prepare a single negotiating text on that item as he had done for the settlement of disputes.

34. Mr. TÜNCEL (Turkey) said that the work of the Conference had dragged on for several years and there were hopes that the current session would be its last. His delegation was prepared to continue to work seriously towards concluding the work of the Conference but would not give in to pressures to complete the work at any cost. Sight should not be lost of the fact that each delegation represented a sovereign State, the interests of which it was defending at a diplomatic conference. His delegation, for its part, was not willing to delegate any of its powers to any chairman, group, committee or bureau. While the Chairman was fully within his rights in holding consultations with the Committee Chairmen or any delegation, such consultations were not binding on any of the participants in the Conference. His

delegation would not be bound by any action taken without its knowledge.

35. His delegation believed that there should be an agenda for each meeting of the General Committee. Earlier the Chairman had made a series of oral suggestions which his delegation had not been able to assimilate. He therefore requested that they should be circulated in writing as an unofficial document of the Committee so that delegations could study them more closely. He also requested that the Chairman should not discuss his proposals in connexion with the organization of work in the plenary meetings, since the Turkish delegation could not be bound by them.

36. The organization of work within the Committees was a matter best determined by each Committee itself. The Chairman of the Third Committee had already indicated that he would convene a meeting of the officers of his Committee for that purpose.

37. The informal single texts on which the Committees would be basing their work at the current session had been distributed after the close of the previous session and consequently had not yet been discussed either formally or informally. In the circumstances, therefore, he did not see what harm there would be in allowing a certain amount of general debate for the purpose of determining whether the texts in question had been submitted in accordance with the mandates of the Committee Chairmen and whether they reflected all the various trends. The work of the Conference had reached a crucial stage and it was, therefore, imperative that every delegation should make its views clearly known.

38. The Chairman of the General Committee had suggested that negotiations should be conducted informally, a procedure which would, if adopted, entail the elimination of summary records. His delegation could go along with such an arrangement provided that a summary of all such informal negotiations would be drafted by the chairman of the group concerned and included in the summary records of the Conference. It was essential to provide specialists in international law, the International Court of Justice and other international legal bodies with records on which they could in future base their interpretations of the convention. As matters now stood, many of the opinions expressed in informal meetings had been lost and only the single negotiating text remained.

39. The Chairman had also suggested that two days should be allocated for discussion in the plenary of document A/CONF.62/WP.9, dealing with the settlement of disputes. His delegation, however, proposed that all consideration of that document should be postponed until the three Committees could review the work they had completed on that topic.

40. The CHAIRMAN, replying to the representative of Turkey, said that as a general rule the General Committee did not have an agenda for its meetings. He provided assurances that he would keep the Conference informed regarding every activity he conducted in his official capacity.

41. With regard to the request that his proposals should be circulated in writing, he observed that he had merely intended to suggest guidelines to ensure that there would be one and not three conferences and that to the extent possible a unified procedure should be adopted. The Committee themselves would ultimately decide how they would organize their work.

42. He did not agree that a general debate on the single negotiating texts was required to determine whether they reflected all possible positions. It was an acknowledged fact that it was impossible to produce a single text without alternatives if all trends were to be reflected.

43. With regard to informal negotiations, he had not intended to suggest that that procedure should be followed exclusively. The Committees could decide at any time that

they wished to have summary records and there was no reason to fear that international legal experts would be totally deprived of documents needed to interpret the convention.

44. Mr. ABDEL MEGUID (Egypt) said that his delegation was in general agreement with the suggestions made by the Chairman of the General Committee, since they would help to organize and expedite the work of the Conference. It was essential to ascertain the reaction of the various Committees to the Chairman's suggestions and particularly to the suggestion that they should consider the single negotiating texts article by article. He would be interested to know whether the Committee Chairmen considered that suggestion to be compatible with the consideration by the Committees of "key issues".

45. The CHAIRMAN said that in suggesting that the Committees should consider the negotiating texts article by article he had not ruled out the possibility of other ways of organizing the work. When the different Committees met, the Chairmen would indicate whether they wished to concentrate on key issues and what those issues were, and the Committees themselves would take a decision in the matter.

46. Mr. ZEA (Colombia) said that there was a danger of repeating the performance of the preceding session if the Committees allocated their work to small working groups. It was essential for all delegations to participate in the discussion of texts, which should be adopted by consensus. The Chairmen of the Main Committees should have full authority to devise their own working procedures; however, he agreed with the Chairman of the General Committee that it should not be necessary to have a general debate in the Committees before getting down to the discussion of specific texts. He also agreed with the representative of Turkey that it would be extremely helpful to have summary records of important discussions so that the positions of delegations could be placed on record.

47. The CHAIRMAN said he understood that, if there was to be any delegation of specific tasks to working groups, such a decision would be taken only with the concurrence of the Committee concerned. As to summary records, he pointed out that the Committees had the right to determine whether they required summary records once the informal stage of negotiations had been completed.

48. Mr. LEARSON (United States of America) said that his delegation would not be able to take certain substantive decisions in the Main Committees until progress had been made in the negotiations concerning the settlement of disputes.

49. Mr. KOZYREV (Union of Soviet Socialist Republics) said that, in his delegation's view, the Main Committees could usefully work on the basis of the single negotiating text adopted in Geneva with the ultimate aim of elaborating a convention governing all basic issues relating to the law of the sea on a mutually acceptable basis. The work of the Conference might be facilitated by holding informal meetings as the need arose. Even in informal meetings, however, the aim should be to work around the single text and, where necessary, adopt amendments thereto. In that connexion, he endorsed the Chairman's suggestion that any amendments put forward should be communicated to the Main Committee concerned and should not have the status of alternative texts. If certain amendments enjoyed broad support, appropriate changes might be made in the corresponding article of the single negotiating text. As a general rule, the work of the Conference should be so organized as not to allow any

unwarranted delays in proceeding towards the elaboration of a convention. A successful conclusion of the Conference's work would be a major contribution to détente, the strengthening of peace and international security and the development of fruitful co-operation among all States and peoples. His delegation was prepared to collaborate closely with others in attaining that goal.

50. Mr. KEDADI (Tunisia) said that it would have been helpful if the Chairman had submitted his suggestions in writing, although delegations would have a chance to study them more thoroughly once the summary records of the meeting were issued. It was essential for all States to have an opportunity freely to express their views, and all decisions should be taken with the full participation of interested delegations. Although the procedure of meeting in informal working groups had produced the single negotiating text, it was not necessarily the most desirable procedure. Many small delegations were unable to attend the meetings of small working groups and might therefore object to formulations adopted without their participation. The General Committee was a good forum to assess the progress of work with the participation of all concerned. As to the role of the Drafting Committee, he was opposed to any unilateral decision by the Chairman to refer specific texts to that Committee. When conditions were ripe for the Drafting Committee to commence its work, a decision to that effect should be taken by the plenary Conference.

51. The CHAIRMAN assured the representative of Tunisia that no decisions would be taken by only a few participants. Any conclusions reached by small groups would be communicated to the appropriate Committee Chairman and brought to the attention of the members of that Committee. The General Committee would meet regularly and delegations which were not members of the Committee would be free to attend all such meetings.

52. Mr. MWANGAGUHUNGA (Uganda) stressed the need for decisions to be taken collectively. He agreed with the representative of Turkey that it was essential to have a formal record of decisions taken in the Committees or in the plenary so that future generations of legal scholars could consult the records and see the background against which a particular decision had been taken. The single negotiating text should not be sacrosanct; amendments could be put forward through the Chairman of the Committee concerned.

53. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that the members of the Drafting Committee were prepared to meet informally in order to consider any points referred to them. Questions of a purely technical nature or matters of standardizing terminology and removing accidental internal contradictions could be referred to the Drafting Committee at an early stage, provided they did not touch upon questions of substance on which agreement had not yet been reached. While the consent of the Committee concerned or the plenary Conference would be necessary to refer specific texts to the Drafting Committee, it might be possible to refer certain points informally so that they could be drafted more precisely. Such referrals should only be made, however, with the full knowledge of the Committee concerned. He hoped that every effort would be made to avoid referring drafting problems to the Committee at the last moment under great pressure. The Drafting Committee should not be asked to accomplish its work hurriedly.