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21st meeting of the General Committee

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GENERAL COMMITTEE

21st meeting

Monday, 2 August 1976, at 11.40 a.m.

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

Organization of work

1. The CHAIRMAN said that the work to be carried out at the fifth session of the Third United Nations Conference on the Law of the Sea was both crucial and critical and much would depend on what progress could be made. He announced that the representative of Mexico, who was not a member of the General Committee, had asked to participate in the Committee's discussions in his capacity as Chairman of the group of coastal States on exclusive economic zone.

2. Mr. TÜNCCEL (Turkey), speaking on a point of order, said that, although he had no objection to hearing a statement from the representative of Mexico, the Committee should establish its agenda before inviting the representative of Mexico to take a place at the Committee table.

3. Mr. ARIAS SCHREIBER (Peru) suggested that the representative of Mexico should be invited to make his statement immediately, since that statement was closely related to the agenda and would facilitate the work of the Committee.

4. The CHAIRMAN suggested that he himself should make a statement on the organization of work, after which the representative of Mexico could be invited to make a statement.

It was so decided.

5. The CHAIRMAN drew the attention of the Committee to his note contained in document A/CONF.62/L.12/Rev.1, emphasizing that it was for the Committees themselves to make the final decision as to which issues they should discuss. After consulting with the Chairmen of three Committees, he had made certain changes in the original text of his note (A/CONF.62/L.12).

6. With reference to the procedure to be adopted for the Conference, he said that, for the negotiations to be workmanlike, it was important that the negotiating groups to be established by each Committee should be of a reasonable size and that they should be composed of those delegations which were most concerned over the topic in question. It was also important, however, to ensure that all members of each Committee were kept informed of the progress made in the various negotiating groups and each Committee should therefore hold regular meetings of the Committee of the whole. The Chairmen of the negotiating groups would be selected by the Chairman and members of the Committee in question. It would also be desirable for the President of the Conference to meet regularly with the Chairmen of the three Committees and for the Conference to hold plenary meetings at regular intervals in order to assess the progress made.

7. Since part IV of the single negotiating text had not yet been the subject of preliminary negotiations, it should be discussed at informal plenary meetings. The resulting revised text would then be treated in the same way as parts I, II and III. Similarly, document A/CONF.62/L.13, concerning the preamble and final clauses of the convention, should also be discussed at plenary meetings. In that connexion, he suggested that the Conference might concentrate initially on the formal aspects of the preamble

or final clauses and then proceed to examine questions of substance in the light of discussions on parts I, II and III.

8. Finally, since he himself would be absent from 5 to 23 or 24 August, he suggested that, during that time, he be replaced by the representative of Norway who, as had been decided by lot at the fourth session, took precedence over the other Vice-Chairmen.

It was so decided.

9. Mr. IMAM (Kuwait) asked for an assurance that only one negotiating group from each Committee would meet at any given time, since small delegations might otherwise be unable to participate fully in the negotiations.

10. The CHAIRMAN said that it was difficult to give such an assurance in view of the amount of work to be covered. Furthermore, it was for each Committee to establish its own programme and it would be wrong to limit their possible courses of action by establishing hard and fast rules at the current stage.

At the invitation of the Chairman, Mr. Castaneda (Mexico), Chairman of the group of coastal States on exclusive economic zone, took a place at the Committee table.

11. Mr. TÜNCCEL (Turkey), speaking on a point of order, said that while he did not object to the representative of Mexico taking a place at the Committee table, it should be made clear in the summary record that he did not represent all coastal States but only a particular interest group of coastal States. His country, although a coastal State, had not been invited to take part in the discussions of the group in question and would therefore participate in the Conference as an independent entity.

12. Mr. CASTAÑEDA (Mexico), speaking in his capacity as Chairman of the group of coastal States on exclusive economic zone, said that the group had held four long meetings on 29 and 30 July, following a meeting of its co-ordinating group. Invitations had been sent to 87 members of the Conference, of which 25 as late as 28 July. Even though a fairly large number of delegations had not arrived in New York on those dates, the meetings of the group had been attended by almost 60 members. The group would meet continuously throughout the Conference and its participants would certainly be even more numerous. He said that the group had reached agreements on important questions of substance—including the nature of the exclusive economic zone—which would be made known at the appropriate time in the Second Committee, as well as on the following questions concerning the method of work of the Conference.

13. First, the fifth session of the Conference should be action-oriented. There should be no new article-by-article revision of the revised single negotiating text in the Second and Third Committees. The group had not examined or taken a position on the method of work of the First Committee.

14. Secondly, a special small group created by the Conference in plenary meeting (or the Drafting Committee, if there was no objection) should immediately consider and draft texts concerning the routine and technical questions of the preamble and final clauses of the future convention, taking into account document

A/CONF.62/L.13. The clauses concerning reservations, entry into force or other questions of political significance should not be examined by that group, since their consideration required a full debate at the appropriate time and in an appropriate forum, by all participants in the Conference.

15. Thirdly, there should be a full debate of part IV of the single negotiating text in informal plenary meetings.

16. Fourthly, the identification of key issues should be made at the committee level and not in plenary meetings. To that end, document A/CONF.62/L.12/Rev.1 should serve as a useful reference paper but should not be binding on the Committees. The process of identification should be limited to a maximum period of two days in the Second and Third Committees.

17. Fifthly, all negotiations on key issues should be carried out informally within the framework of the Committees.

18. Sixthly, if negotiations on the key issues relating to parts II and III of the negotiating text succeeded, the results of those negotiations, which should not last more than three or four weeks, should be incorporated in the appropriate parts of the revised single negotiating text. Such a procedure would not prejudice the method of work of the First Committee.

19. Seventhly, any action thereafter should be taken in the Committees and not in plenary meetings. The group had taken note of the different levels of progress achieved in the negotiations on parts II and III, on the one hand, and parts I and IV of the text, on the other, but felt strongly that the relative delay in the negotiations on some issues should not prevent efforts to reach earlier agreement on others. The different parts of the text would have to be integrated at a later stage and any action on the complete package should be taken in plenary meetings. Action at the committee level should be such as not to prejudice or affect the position of each State regarding other parts of the convention or the convention as a whole. Thus, the group was committed to the global "package" approach.

20. Eighthly, any action taken in the Committees should concern large groups of interrelated issues.

21. Ninthly, although negotiations and debates in the Committees should be carried out in informal meetings, any action should be taken in formal meetings.

22. The group would examine later, in the light of prevailing circumstances and after a closer study, the precise type of concrete action to be taken by the Committee at an appropriate time as well as the meaning, scope and implications of "formalizing" and "consolidating" the revised single negotiating text.

23. The CHAIRMAN said he took it that the group would be satisfied if those sections of parts II and III of the text which had been agreed upon after consultations appeared as addenda to the revised single negotiating text. It was also important that the process of formalizing or consolidating the text should apply to the text as a whole rather than to individual parts of the text.

24. Mr. ARIAS SCHREIBER (Peru) proposed that the statement of the representative of Mexico should be reproduced *in extenso* in the summary record of the meeting.

It was so decided.

25. Mr. ARIAS SCHREIBER (Peru) said that the group of coastal States on exclusive economic zone had agreed that the exclusive economic zone should be regarded as a zone *sui generis* which was not a part of the territorial sea nor of the high seas. That was important, since it excluded the possibility of making the economic zone international against the wishes of the majority of nations. It was also connected with the extension of the continental shelf to the outer edge of the continental margin when the latter was wider than 200 miles and with the recognition of the rights of land-locked States and other States with special characteristics in accordance with formulas to be negotiated. It was clear that the consolida-

tion of the group of coastal states on exclusive economic zone and the unanimous position adopted by its members on procedural and substantive matters would be of considerable significance to the success of the Conference and would be registered in the history of the law of the sea as an event similar to the one which had been taken place at Caracas in 1974, when overwhelming support had been expressed for the limit of 200 miles for the zones under national jurisdiction and for a régime intended to ensure that the international seabed was administered as the common heritage of mankind. His delegation would comment on the proposals of the President of the Conference (A/CONF.62/L.12/Rev.1) at the appropriate time.

26. Mr. BELAID (Tunisia) said that the Chairman had endeavoured, on the basis of various discussions and consultations and in the light of the negotiations held, to determine what appeared to be the key issues on which the Committees should concentrate their efforts. His list had been accompanied by appropriate and pertinent comments. The Tunisian delegation wished to commend him and to thank him for the efforts he had made to make work easier for everyone.

27. It felt, however, that in consideration of various relevant factors, relating primarily to the stage reached in the deliberations and to the progress made in the negotiations in the various Committees, there was reason to believe that the task of drawing up the list of key issues and formulating the content of those issues and the arrangements for their discussion would best be entrusted to each of the Committees concerned. In expressing its preference for that method, the Tunisian delegation was stating a view widely held by a number of delegations, and was merely reiterating a suggestion contained in the note by the President of the Conference, of which it fully approved. In paragraph 2 of that note, it was stated that the President's suggestions on the subject should not be regarded as "an *ipse dixit*" and that the matter might be decided by the Committees.

28. Among the important questions rightly noted by the Chairman was the crucial problem of the settlement of disputes. As the Chairman himself had remarked, the question has not been given the full attention it deserved by the Conference, and substantive issues—the most important of which had been mentioned—still remained undecided as could be seen from paragraph 7 and paragraphs 18 to 21 of the note. The Tunisian delegation agreed with the viewpoint of many delegations which considered, like the Chairman, that the Conference should devote considerable effort to the study of that question, which was decisive for the success of the entire Convention. The Tunisian delegation would therefore be in favour of establishing a working group of the whole responsible for preparing, on the basis of document A/CONF.62/WP.9/Rev.1,¹ a text reflecting the main ideas that had emerged in the course of the negotiations with a view to instituting a system for the settlement of disputes that was viable, general and compulsory. Needless to say, in view of the highly political nature of the subject-matter on the one hand and, on the other hand, of the very relative progress made thus far in the negotiations, the discussions should, at that stage of the proceedings, be of an informal nature.

29. One of the questions to be taken up by the Conference was the problem of the drafting of the preamble and final clauses. The importance of that question had not escaped the President of the Conference, who had given it pride of place in his note (paras. 22 to 24). The Tunisian delegation felt, like the Chairman, that the Conference should give considerable thought and attention to that question. However, it was of the opinion, as were many delegations, that a useful study, based on a thorough knowledge of the facts, could not be undertaken during the first few weeks of the session, as had been suggested.

¹See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V (United Nations publication, Sales No. E.76.V.8).

30. The contents of the preamble itself and of the final clauses, which dealt with a number of problems of a highly political nature and were thus highly sensitive, could not usefully be considered until the operative part of the treaty and its annexes had been finally prepared, or at least until it was the subject of a wide consensus.

31. The Tunisian delegation therefore proposed that the drafting of the clauses in question should be entrusted to an *ad hoc* committee to be established by the Conference. Should that proposal be adopted, it would like to make it clear that the task of that committee should be confined to the drafting of purely technical provisions and that it should not be given the task of drafting provisions of a political nature, such as reservations and conditions concerning the entry into force of the convention.

32. In the light of developments in the negotiations at the various sessions of the Conference, some representatives had formed the conclusion that earlier bonds of political and regional solidarity had become blurred and that new interest groups had emerged to which a fairly important role should be accorded in the negotiations now opening.

33. The Tunisian delegation would not wish to engage in useless polemics on that point. It did wish to point out, nevertheless, as a number of delegations had done, that in its opinion, regional groups constituted a necessary framework for the conduct of the negotiations. Such a framework was necessary and justified, not only because genuine political solidarity existed within the regional groups but also because the States belonging to them intended to affirm their determination to maintain that solidarity as a matter of the highest priority and, consequently, to act in unison. The Tunisian delegation wished, in that connexion, to stress the importance of resolution CM/Res.515 (XXVII) of the Council of Ministers of the Organization of African Unity, which urged the African countries to present a united front at the forthcoming session and to give effective support to all the decisions taken by OAU to ensure their acceptance by the Conference.

34. Accordingly the Tunisian delegation, in common with many other delegations, thought that the time-table for the session should be arranged in such a way as to enable the regional groups to meet regularly and quite frequently, so that they could play the constructive and dynamic role they were capable of assuming in the negotiations. The Conference should therefore take an appropriate decision on that matter.

35. The last point which the Tunisian delegation wished to deal with was the important problem of the organization of the work of the Committees. As the Chairman himself and a number of delegations had noted, the procedure followed at the previous session had given rise to some very grave shortcomings, which had seriously jeopardized the success of the proceedings. The Tunisian delegation, like those delegations, hoped that at the session which had just opened, the Conference would proceed in such a way as to ensure that past mistakes were not repeated. The solution might be to let each Committee decide its own organization of work, in the light of the particular nature of the problems that it had to solve and the requirements of its time-table. The Tunisian delegation was thinking particularly of the First Committee, because that was where the shortcomings he had mentioned had been most apparent. It would thus be necessary to find a clear-cut solution to the problem. To that end, the two following principles might be applied: first, it should be the prerogative of the First Committee and the other Committees, to decide, in the course of their deliberations, how they would organize their work and to take any measures they deemed appropriate to improve their organization of work. Secondly, the Conference should give the First Committee the task of studying the single negotiating texts and, if necessary, amending their contents and subsequently transmitting the results of their proceedings to the Conference.

36. Mr. AHMED (Egypt) suggested that the statement of the Tunisian representative should be reproduced *in extenso* in the summary record.

It was so decided.

37. Mr. WITEK (Poland) said that his delegation, too, felt that the current session was a crucial one. Referring to the fact that the President of the Conference had said that the fifth session would be devoted to building a compromise, he said he was disappointed to see that the Mexican representative had not made any proposals as to how such a compromise might be achieved, even though the group on whose behalf he had spoken had been established specifically to facilitate a compromise. In fact, his statement seemed rather an attempt to dictate to the Conference what it should do. His delegation would study the implications of that statement accordingly.

38. Mr. OXMAN (United States of America) said that the first effort of the group of coastal States on exclusive economic zone seemed very promising. Although the suggestions did not relate to substantive points, they were intended to help the Conference to move forward. One of the key questions was what was meant by "action". He assumed that that would be decided at the appropriate time. The meaning of other terms, for instance "full debate" on the text on the settlement of disputes, also needed clarification; he understood it to mean that a detailed examination was required rather than a general debate. He expressed the hope that all groups would adopt a substantive position conducive to reaching agreement; however, he was somewhat pessimistic in view of the substantive remarks made by the representative of Peru, since he could not conceive that agreement would be reached on the basis of those remarks. He was more optimistic with regard to the suggestions made by the President of the Conference and believed that the list of major issues which still needed to be negotiated was shorter than the President's note seemed to indicate.

39. The CHAIRMAN agreed that part IV of the convention would not be subject to a general debate but, like the other three parts, would be the basis for negotiations. It was quite true that the list of key issues was not as long as he had indicated.

40. Mr. ZEGERS (Chile) associated his delegation with the remarks made concerning the importance of the group of coastal States on exclusive economic zone. The fact that the latter's proposals were procedural did not mean that the group was not ready to negotiate on matters of substance but merely reflected the fact that they were being submitted to a procedural body. As its Chairman had said, the group was pledged to an over-all "package deal". Moreover, the mandate of the Conference, according to General Assembly resolution 3067 (XXVIII), was to draft a convention dealing with all matters relating to the law of the sea. The draft texts of the preliminary and final clauses prepared by the Secretariat (A/CONF.62/L.13) would ensure the unity of the convention.

41. Since there seemed to be general agreement that three to four weeks should be spent in negotiations on the key issues, he suggested that a report on the negotiations should be submitted to the General Committee on 30 August so that the latter might decide what action was needed. Secondly, the Committee should set a date for the detailed examination of the text on the settlement of disputes. Lastly, his delegation agreed that the Secretariat draft of the preliminary and final clauses could be considered from the technical aspect and suggested that the drafting group should undertake that task; subsequently, the substantive aspects and the technical document produced by the drafting group could be discussed in plenary meetings.

42. The CHAIRMAN suggested that the last proposal by the representative of Chile should not be considered until a preliminary discussion had been held on the clauses in question.

43. Mr. TÜNCEL (Turkey) said that his delegation in general

agreed with the note by the President of the Conference, particularly with paragraph 2 which stated that the suggestions set out therein were subject to modification. With regard to the term "key issues", he repeated his delegation's earlier warning that it was not a good idea to evaluate and categorize the problems since the position of each State would depend upon its geographical location. It was not right to start by classifying the problems in order of importance. While the President had listed some of the issues in his note, he had left it to the three Committees to make their own modifications. His own delegation did not believe that the list of problems set out in the President's note was exhaustive.

44. Finally, he believed it had been decided earlier that document A/CONF.62/L.13 would be discussed in plenary meetings. It was therefore premature to start considering that question.

45. The CHAIRMAN said that the fact that some issues were called key issues did not detract from the importance of other issues. Document A/CONF.62/L.13 would, indeed, be the subject of a general discussion and only then could the Conference decide what action to take on it.

46. Mr. MWANGAGUHUNGA (Uganda) associated his delegation with the remarks made by the Tunisian representative. The latter's reference to the resolution adopted by the Organization of African Unity calling on African States to present a united front was particularly relevant in view of the fact that old ties had become blurred in the pursuit of new interests (A/CONF.62/L.12/Rev.1, para. 28). His delegation agreed that the list of the key issues was not exhaustive; it did not, for instance, include the question of land-locked countries.

47. Mr. KOZYREV (Union of Soviet Socialist Republics) said that, in order to achieve results during the current session, it was important to identify the key issues to be considered. His delegation was prepared to support the ideas advanced by the President of the Conference concerning the issues on which attention should be focused in plenary meetings and in the three Committees, on the understanding that the final decisions concerning the list of issues would be taken by each Committee individually immediately after the recommendations of the General Committee had been endorsed in plenary meeting. His delegation also agreed that further consideration should be given to problems relating to the procedure for the settlement of disputes concerning the interpretation and application of the future convention, and that the Conference should begin to draw up preambular and final clauses for the convention. Priority should, however, be given to the work of the Committees on the list of issues suggested by the President and the discussion in plenary of questions relating to the settlement of disputes.

48. Finally, in connexion with the statement by the representative of Mexico, he said that attention should be concentrated not on negotiations within groups but on negotiations between groups, since no single group could produce solutions that would be acceptable to all. International co-operation was the only way to solve international problems. The Conference alone was competent to draw up an international convention on the law of the sea and the activities of all States and all delegations should be directed towards ensuring its most effective use in the interests of all peoples and all States.

The meeting rose at 1.15 p.m.

22nd meeting

Tuesday, 10 August 1976, at 10.35 a.m.

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

In the absence of the Chairman, Mr. Evensen (Norway), Vice-Chairman, took the Chair.

Organization of work

1. The CHAIRMAN proposed that the Committee should hear the reports of the Chairmen of the three Committees, after which he himself would report on the progress made at informal plenary meetings.

It was so decided.

2. Mr. ENGO (United Republic of Cameroon), speaking in his capacity as Chairman of the First Committee, said that, in his opening statement to the First Committee, he had emphasized that the negotiations had entered a new and critical stage. At the previous session the main responsibility, namely that of preparing a revised single negotiating text, had lain with the Chairmen of the Committees, whereas now the responsibility had passed into the hands of the delegations.

3. Since consultations among the officers had proved inconclusive, the question of the organization of work had been submitted to the Committee itself, which had decided that all delegations should have an opportunity to participate, that the Committee should hold regular formal meetings in order to assess progress and that there should be a single informal negotiating forum open to all delegations. The Committee had therefore decided to establish a workshop with two Co-Chairmen and with a mandate to negotiate all issues within

the competence of the First Committee. The workshop had elected as its Co-Chairmen Mr. Jagota (India) and Mr. Sondaal (Netherlands), and had adopted certain principles. The two Co-Chairmen would preside over alternate meetings of the workshop. If there were two meetings in one day, one meeting would be presided over by one Co-Chairman and the second by the other Co-Chairman. Flexibility would be maintained. When one Co-Chairman presided, the second Co-Chairman would sit on his right-hand side rather than with his own delegation. The draft report of the work done at each meeting of the workshop would be prepared by the Secretariat and would be given to the Co-Chairman who had presided over that particular meeting. The two Co-Chairmen would exchange views every day and would thereafter inform the Chairman of the Committee about the progress of work. If possible, the joint written report of the two Co-Chairmen would be prepared by Thursday evening and submitted to the formal meeting of the First Committee on Friday morning. After the report had been submitted, the meeting would be adjourned. The next formal meeting of the Committee would be held the following Monday, when, if necessary, the report would be considered. The remaining time would be spent in meetings of the workshop. The issues to be considered and the method of work in the workshop would be determined by the workshop.

4. In connexion with the programme of work, consultations were going on and he hoped that a decision would be reached shortly. Several subjects had yet to be examined in detail and