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25th meeting of the General Committee

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25th meeting

Wednesday, 1 September 1976, at 10.20 a.m.

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

Organization of work

1. The CHAIRMAN invited the Chairmen of the Committees to report on the work of their Committees.
2. Mr. ENGO (United Republic of Cameroon), Chairman of the First Committee, said that the Committee workshop had set up an *ad hoc* group to negotiate on articles 22 and 23 of part I of the revised single negotiating text and the related paragraphs of annex I. Further information on the work of the group could be found in document A/CONF.62/C.1/WR.3. The group had held six meetings to date, and any concrete results achieved by it would be reflected in the reports of the Co-Chairmen of the workshop.
3. The Secretariat had been requested to make a number of studies, which the Committee would use to help it to reach conclusions regarding the Enterprise. The Secretariat should be able to make the first study available by the following week.
4. A request had been made that some way should be found to include in the official records of the Conference the proposal of the Group of 77 concerning the system of exploitation of the international area. He would take a decision on that matter and related issues before the end of the session.
5. At the 30th meeting of the First Committee, he had been prompted to make a number of serious comments regarding the rate of progress of negotiations in the Committee, the workshop and the negotiating group. There was general concern at the time spent on procedure and the appreciable lack of progress in the actual negotiations. He had spent the past week considering those problems and consulting with other officers of the Committee and a number of delegations. In the past three years, the Committee had gradually reached some common ground and accepted some common presumptions without the formality of a vote, and all sides had moved towards a compromise. A number of general principles regarding the economic aspects of activities in the international area had been accepted by all delegations, and there was no longer any serious divergence of view regarding the institutional framework within which the machinery would operate, notwithstanding the problem of decision-making processes within each body. However, the forward thrust of former sessions seemed to coming to a halt. He had initially attributed that to the fact that the Committee had reached the critical beginning of the final stage in its work. Some delegations were frightened by that fact and did not want to make mistakes, others were merely distrustful, others again were perhaps over-zealous, and some perhaps felt that the time was not ripe for agreement because their interests and rights were not satisfactorily reflected in an emerging consensus.
6. On further reflection, he had come to the conclusion that the Committee had reached a crucial stage where a number of serious political decisions would have to be made on all sides. However, many representatives in the First Committee were unable to take such decisions themselves because of the issues that were still outstanding, and no progress could be made in the absence of those who could take such decisive steps. At the previous meeting of the General Committee, he had appealed to heads of delegations to attend meetings of the First Committee so that the serious outstanding problems which stood in the way of the adoption of a convention could be resolved. He now wished to reiterate that appeal, since members of delegations should not have imposed on them the undesirable duty of continuing to put forward conservative and outdated ideas.
7. The main cause of the Committee's difficulties was the persistent fear of delegations that certain fundamental guarantees were lacking. Some developed countries, fearing an erosion of their traditional economic and political power, advocated almost absolute guarantees of access to the resources of the area. The developing countries, on the other hand, in their fear of economic and technological monopolies which would result in impoverishment and neo-colonialism, sought firm guarantees in a strong international régime and machinery. That tended to create the erroneous impression that the proposed International Authority—especially the Enterprise—was designed to help the developing countries alone. That was not the case, since the Authority would represent the whole of mankind and to strengthen it would be to strengthen the international community and its capacity to play a major role in promoting international co-operation and peace. The Enterprise must not be seen as a prospective rival of the industrialized developed countries, or indeed of any section of mankind. If that fact could be recognized, the situation in the First Committee would become much clearer.
8. One problem which, if resolved, might lead to a breakthrough was how the Enterprise would be financed. The developing countries feared that the Enterprise would exist merely on paper and the only ones that could ensure that it became more of a reality were the wealthy industrialized countries with major technological know-how. He therefore appealed to such countries not to see the proposed Enterprise as an attack on their interests but to contribute, through their technological know-how and financing, to finding a way of enabling the Authority and the Enterprise to do business as soon as activities in the area began. He also appealed to the developing countries, once they had obtained fundamental guarantees regarding the powers of the Authority and the Enterprise, to find ways of associating in their activities those countries which possessed vital technological know-how. If that whole issue was carefully resolved, there was still a chance that the First Committee might reach a consensus before the end of the session, provided always that those with the power to find a compromise were willing to do so.
9. Mr. NJENGA (Kenya), speaking on behalf of the Chairman of the Second Committee, said that negotiating group No. 1 had decided to discuss two main subitems: the legal status of the exclusive economic zone, and the rights and duties of other States with respect to the living resources of that zone. A small group had been set up to hold informal consultations on the first of those subitems and had so far held three meetings. In his view, less progress had been made on that issue than in areas being dealt with in other groups. The time was now past when the question of the legal status of the exclusive economic zone could be discussed in terms of whether it was a zone of the high seas or of the territorial sea. That it was still being so discussed was due to the fact that some delegations were arguing over middle ground, in order to gain tactical advantages in areas which the Committee had hoped to separate from the issues being discussed in the group. He appealed to delegations to refrain from proposing solutions in the form of radical amendments to articles 44, 46 and 75, and he welcomed the attempts at the last meeting of the Second Committee to make the wording of articles 44 and 46 more acceptable without changing their basic structure.
10. The negotiating group itself had been discussing the second subitem and had held two meetings in the previous week, at which discussion on the subject had been exhausted

for the time being. The group had decided to allow time for a private group dealing with related issues to produce results, and accordingly had not yet held any meetings during the current week.

11. Where negotiating group No. 2 was concerned, the work on the right of access of land-locked States to and from the sea and freedom of transit had continued in the small group established for the purpose of informal consultations. That group had held three further meetings, and negotiating group No. 2 had met to report on the progress of such consultations. To date, agreement had been reached on two of the eight articles under consideration and agreement was near on four others. At the previous day's meeting he had been asked to make suggestions on how to resolve difficulties in the remaining articles; since on most matters delegations were quite close to agreement, he felt that such an initiative on his part might prove successful.

12. As for the work of negotiating group No. 3, the smaller group established for informal consultations on the definition of the outer edge of the continental margin and on revenue-sharing with respect to the exploitation of the continental shelf beyond 200 miles, had held three further meetings. Some progress had been made as a result of the detailed discussion of some of the practical problems arising with respect to those questions. At the previous day's meeting of negotiating group No. 3 he had outlined the progress made on the question of revenue-sharing. The general structure of the revenue-sharing system as envisaged in the revised single negotiating text had in general been approved in the smaller group. There had been a broad consensus on the definition of the continental shelf to the outer edge of the continental margin, on the understanding that a realistic form of revenue-sharing in the area beyond 200 nautical miles would be adopted. Some delegations in the small negotiating group still maintained their objections to any extension of the continental shelf beyond 200 nautical miles. The manner of contribution of revenues and their distribution would have to take into account the economic realities, so that developing countries benefited most from the scheme.

13. The progress of work in the Second Committee confirmed the merit of convening small consultative groups. That procedure would not inevitably lead to a solution of all outstanding problems, but at the present stage, if it did not produce results, nothing short of a more formal decision-making process would, and it might therefore prove to be the last chance to achieve success through negotiations.

14. Mr. YANKOV (Bulgaria), Chairman of the Third Committee, said that since the last meeting of the General Committee, significant efforts had been made in the Third Committee to reach agreement on key issues, and progress, though relatively slight, had been steady. New elements of agreement and definitions of bargaining limits had been arrived at daily. In the past week, the Committee had concentrated its efforts on vessel-source pollution and on a consideration of articles 21 to 30, which were key articles for adopting and enforcing standards. The Committee had ended its first round of negotiations, which had involved discussion of all articles and paragraphs individually. That discussion had led to the formulation of substantive and drafting proposals. The Committee was now approaching the end of its second round of negotiations, which involved discussion of the proposals made regarding the articles under consideration. The difficulties which the submission of a large number of proposals had created initially for negotiations and for debate in a large forum had demonstrated to the Committee the virtues of the single negotiating text. The more the Committee departed from that text, the more the balance of negotiations

was upset, which showed that the single text did play a positive part in helping the Committee to reach over-all agreement.

15. Small negotiating groups had been set up to consider vessel-source pollution. The groups had held very profitable discussions and had considered concrete proposals which had emerged, mostly of a general nature.

16. He expressed concern at the fact that, so far, discussions in the small negotiating groups, particularly on article 21, had progressed somewhat slowly, and he appealed to some delegations to try to be more understanding of the position of others and not simply to insist on their own positions, thus blocking the Committee's work. Extreme national positions could no longer be adhered to if a convention was to be achieved. On some issues there was a mere handful of delegations which continued to insist that national sovereignty within the territorial sea in connexion with standard-setting and enforcement measures should have absolute priority. If that were the premise on which negotiations had been taking place, the Committee would have been engaged in a futile exercise. The experts, whose opinions were cited in support of such an attitude, were present in order to help delegations, and it would be unfortunate if the rather restrictive viewpoint of those technicians were strictly adhered to. The Committee should take into account the global interests of navigation.

17. The discussions on marine scientific research had been extensive, particularly with regard to the main principles of the régime for marine scientific research, namely, consent and the modalities of consent. Some delegations had difficulty in making a final statement on certain issues because problems were interrelated by reason of either their substance or their functional connexion or because of national interests; accordingly, the over-all progress of negotiations would condition agreement on particular issues. Consideration of the question of transfer of technology would start the following day, and he hoped that discussion of the main items could be completed by 10 September. In his view, there was a good chance that areas of possible agreement on the main issues would be identified and that delegations would realize that the latitude for bargaining had become very limited.

18. The CHAIRMAN, reporting on progress on the dispute settlement procedure, said that consideration of annex I A had been completed and the first consideration of annex I B was about to be completed, after which annex I C and annex II would be dealt with. A formal plenary meeting would be held, perhaps by the end of the week, in order to discuss the final clauses. He realized that there were other issues, besides those on which the negotiating groups were focusing their attention, that certain delegations considered important, and he hoped that it would be possible to give them due attention.

19. Mr. BEESLEY (Canada), Chairman of the Drafting Committee, reminded members of what the Chairmen had said on previous occasions concerning the need to co-ordinate the texts of the three Chairmen and to bear in mind that the texts were negotiating, not negotiated, texts and therefore were not sacrosanct. It was important that that be kept in mind not only by delegations, which might or might not favour the revised single negotiating text, but by the respective Chairmen, who must be careful to avoid undue pride of authorship. Thus they should explain their texts, rather than defend them. He urged delegations with the necessary manpower to examine the texts very carefully, particularly those from the Second and Third Committees, in order to make sure that the necessary co-ordination would prove possible. Naturally, that might mean that one Committee's text, or even both, would need to be altered.

The meeting rose at 11.05 a.m.