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25th meeting of the First Committee

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FIRST COMMITTEE

25th meeting

Wednesday, 4 August 1976, at 3.25 p.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

Organization of work

1. The CHAIRMAN said that the Conference, and the First Committee in particular, had reached a crucial and critical stage in its work.
2. The levels of economic development across the globe were frightfully uneven. The vast majority of mankind remained colonized and terrorized by nagging and oppressive poverty, in an era of inequalities—inequalities induced not necessarily by lack of natural resources in developing countries, most of which had only recently attained political self-determination, but by a cruel system which encouraged the channelling of wealth and its benefits to a privileged few.
3. The developed countries, with varied levels of development among them, jointly shared the benefits of the remarkable revolution offered by advances in science and technology. That revolution had created new needs and new interests, fostering renewed appetites and base ambitions. Those had given birth to frantic egoism, induced individual or collective isolationism and shut the door to more inspired concern for the common good and survival of mankind as a whole.
4. The experience of that generation in contemporary history was that the situation was untenable, having regard to the grave dangers facing the international community with their attendant threats to international peace. It was therefore necessary constantly to bear in mind the nature of the negotiations now being conducted. The Committee was saddled with grave and historic responsibilities.
5. The Conference was, in his view, inspired by the desire to seize the opportunity presented by the wealth of the oceans and the developments in science and technology, for a fresh start in attempting to dispel existing misgivings within the international community and to avert the tragedies that threatened it. The representatives were not assembled in order to share loot nor to waste valuable time demonstrating the impotence of various forms of power—economic, military or purely numerical. They were assembled, instead, to design a global system based on a new form of international cooperation in administering the common heritage of all mankind in a way that met the needs and interests of all sectors. Those needs and interests could, of course, be interpreted subjectively. A common effort must therefore be made to set up objective criteria, embracing the totality of the elements of survival for the human race, providing sustained well-being for all and the capacity to develop according to the rational needs of each people. At the present time, those needs were greater for some than for others.
6. The economic and social needs of the developing countries were an integral part of the global problems of the era. The threats they posed must concern rich and poor alike. That, in his view, was now generally recognized, as evidenced by the universal cry for a new economic order. Their peoples must have the basic minima for the capacity to participate as equal members in every aspect of international life.

7. Also important, in their own way, were some of the needs of the developed countries to maintain a reasonable industrial growth. He used the term “reasonable” in a restrictive sense, considering only the needs of their peoples to maintain the standard of living already attained. It was, in his view, of global interest that their progress in science and technology should continue, provided that it became available to mankind as a whole, responding to various needs for economic development everywhere.

8. Part I of the revised single negotiating text (see A/CONF.62/WP.8/Rev. 1)¹ had been drawn up by the Chairman primarily to indicate his own views of what would be the best basis for a consensus. The ideas contained in that text were therefore his own and did not claim to reflect the conclusions of all participants. His task had been to provide a good basis for further negotiations rather than to dictate a new convention. The duty to work out the details of a new convention remained that of delegations. It was time for delegations to negotiate seriously with a view to elaborating treaty articles which could be universally adopted and ratified. There was broad agreement on many issues but many more areas needed to be covered, and all issues were important until they were resolved. Some outstanding areas of conflict could be regarded as key issues only in the sense that they should be given priority in time and not necessarily in over-all importance, in order to produce wider agreement. What was important was that the Committee should adopt the articles of the convention by consensus as a “package”.

9. The Committee’s officers had not reached any conclusions on the plan of work for the session and two basic decisions must be taken by the Committee before it started its work. It must first decide which were key issues, and then adopt a method of work which reconciled efficiency with the possibility for all delegations to participate fully in the negotiating effort. He therefore called on members of the Committee to express their views on both those questions.

10. Mr. DE SOTO (Peru), speaking on behalf of the Group of 77, agreed that the work of the Conference had entered a new phase for which new procedures were required. The Group of 77 welcomed the decision by the Conference to leave Committees free to organize their own work and to decide which were the key issues requiring negotiation and what order of priorities should be established. His Group shared the view of the Chairman that, in negotiations in the First Committee, all issues were important until they were resolved. All the issues to be discussed in that Committee were awaiting negotiation and decision and use of the term “key issues” seemed to imply, wrongly, that some issues had already been settled. However, the Group did recognize that some issues should be discussed before others. It therefore proposed that the issues before the Committee be grouped into two main topics: the status of the international sea-bed area and the machinery for administering it, and all aspects of conditions

¹. See *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).

for exploiting that area. Each of those main groups would obviously generate important subtopics, of which some should take priority over others.

11. In the new stage reached by the Conference, the main responsibility lay with the Committee and with individual representatives and could not be delegated. The Committee should therefore try to meet formally so that it could have summary records and should be guided by the Conference's rules of procedure.

12. His Group thought that a working group should be set up to deal with the two main topics he had outlined, and should be open to all members of the Committee. As participation in such a group would by nature be non-obligatory, its Chairman would have to use his powers to ensure that all delegations which were vital to negotiations attended its meetings. The group would formally notify the Committee of any decisions it took.

13. The Group of 77 hoped to meet frequently during the current session, as such meetings would promote constructive agreements within the Committee.

14. Mr. SONDAAL (Netherlands), speaking on behalf of member States of the European Economic Community, said that the EEC countries felt that some progress had been made at the fourth session and, in order to maintain the momentum achieved, the Committee should at the fifth session concentrate on issues which had not yet been thoroughly discussed. He proposed that certain issues should be given priority in time: namely, the composition of the Council and its decision-making process, the statute of the Enterprise, the financing of the Authority, financial arrangements, in particular those outlined in the special appendix to part I of the revised single negotiating text, and the settlement of disputes in relation to part I. However, his proposal did not mean that the EEC countries agreed with all those articles in the revised single negotiating text which concerned issues already discussed. Such an approach would simply provide an over-all picture of outstanding issues.

15. Miss MARTIN-SANÉ (France) expressed concern at the statement by the representative of the Group of 77. Her delegation had discussed the Committee's work with a number of other delegations and the general view had been that a new procedure was required at the current stage of negotiations. The time for official meetings, when all delegations spoke at length, was past and informal meetings were needed around which negotiations could be organized. Once such informal discussions were over, working groups could be set up to draft a text. That procedure had been followed with great success for a number of issues at the previous session. Such groups should not meet simultaneously, as some small delegations would then be unable to participate in all of them, and in any case continuity of work would be better maintained by dealing with each point successively. Working groups should be open to all delegations, although of course attendance by the most active delegations was most vital.

16. Regarding the matter of key issues, some parts of the revised single negotiating text had already been discussed at length, for instance articles 9 and 22, most of annex I and the section dealing with the Assembly of the International Authority. Other parts, however, had hardly been dealt with; they included the composition and decision-making powers of the Council (article 27), the financing of the Authority (articles 46 to 51), financial arrangements (para. 9 (d) of Annex I and the special appendix), the statute and the question of the finances of the Enterprise and the statute of the Tribunal. Discussion of the last point would be best left until a later stage. On the other hand, two groups of issues should be given priority in time: institutional problems (composition and decision-making process of the Council and statute of the Enterprise) and economic and financial problems (finances of the Authority, financial arrangements and financing of the Enterprise). If those issues were not dealt with

first, there was a risk that the Committee might never achieve the general compromise sought by all for so long.

17. Mr. WUENSCHÉ (German Democratic Republic) said that the revised single negotiating text provided an excellent basis for further negotiations. That text differed from those of the other Committees in that only parts of it were revised versions. Some parts had been discussed only in preliminary fashion, for instance the composition of the Council, relations between the Council and the Assembly, the Council's decision-making process, the Enterprise and the system of peaceful settlement of disputes. At the fourth session, there had been a consensus in the Committee that those parts would be discussed fully at the beginning of the fifth session, before parts already discussed and revised were given further consideration. His delegation proposed that the method of work followed successfully at the fourth session be continued: the issues he had mentioned should be discussed at informal meetings and after each meeting the Chairman should establish an open-ended working group. His delegation had doubts as to the possibility at that stage of solving extremely complex problems at formal meetings. Constructive negotiations were required so that unilateral points of view could be harmonized in a convention which was acceptable to all States. Time was running out and there was a growing threat that countries might start to apply unilateral regulations. All delegations wished the convention to be adopted by consensus, since majority decisions which ran counter to the interests of important groups of States would lead to chaos in international law and would pose a threat to international security, co-operation and détente.

18. Mr. BELAID (Tunisia) welcomed the Chairman's suggestions regarding the work of the Committee at the fifth session, which fully reflected the consensus reached in the plenary meeting of the Conference.

19. His delegation felt that, if the status of the revised single negotiating text were clarified, a number of misunderstandings would be avoided. Several delegations had said that various articles should be regarded as having been finalized. However, the single negotiating text was the Chairman's alone and the Committee had every right to discuss and revise that text completely if it so wished. Some delegations might be satisfied with some of the articles in it, but many others were not and he shared the view of the representative of Peru that for many delegations all issues were still under negotiation.

20. The Conference had decided in plenary meeting that all Committees were free to organize their own work. Since all delegations had different priorities and interests, the Committee should discuss all the texts before it. Once that principle had been accepted, a working group should be set up without delay to establish a time-table for discussing those texts in the time available. He agreed with the Chairman that there were no priorities except in terms of time and felt that all texts had the same status. The Committee's programme of work should enable it to deal with all issues if it was to hold effective negotiations.

21. Much time had been wasted at the fourth session because the Committee had tried to combine two successive negotiating stages, namely that of consultation between delegations and that of negotiations on the basis of the outcome of those consultations. At the fifth session, the time should be used rationally so that consultations took place informally and working groups and plenary meetings were used solely for negotiations.

22. Mr. ALOUANE (Algeria) said that the situation facing the First Committee seemed very difficult, as matters had been needlessly complicated. Many delegations were saying that the time was ripe for serious negotiations. In his view, every session could have been a negotiating session but certain delegations had persisted in using procedural subterfuge to achieve satisfaction on a few restricted points. The revised single negotiating text now before the Committee could have been an acceptable one but, unfortunately, much valuable earlier work had been jettisoned in drawing it up. Although there was no need to refer to specific

delegations, he could assure the Chairman that the situation was not the fault of the developing countries.

23. All delegations must realize that there was no room for threats or procedural subterfuge; a narrowly conceived convention could not be forced upon the Conference. Whereas in the other Committees particular political and national interests might play a role, the interests facing the First Committee were those of all humanity. Furthermore, it was untrue that some issues were more important than others; for the developing countries, which formed a majority at the Conference, all issues were important. Similarly, it was untrue that any portion of the revised single negotiating text, which showed so little evidence of the majority opinion, was in any way finalized; the whole text had to be studied and reviewed. With regard to procedure, in particular the problem of working groups, he said there was no need for several such groups, nor could he agree to any limitation of membership in such groups. One negotiating group open to all was sufficient if there was a desire for real negotiations. In that connexion, he urged the Committee to accept the proposals of the Group of 77 as presented by the representative of Peru.

24. The Committee must agree on the basic political questions; they were the most important issues, which could not be circumvented by focusing on technical problems. Financial matters acquired importance only once the political issues had been solved through serious and honest collaboration. He stressed that his delegation would not make any concessions with regard to the basic political issues, nor would it countenance threats or tricks from any quarter.

25. Even though it might be necessary to review and revise the complete negotiating text, the Committee could accomplish its task. Portions of the text were probably already acceptable but all of it had to be reviewed in open and serious consultations and negotiations. He warned that, if the Conference once again failed to achieve any significant progress, Algeria might consider itself obliged to withdraw from the Conference.

26. Mr. RAJAONARIVELO (Madagascar) said that his delegation fully supported the views expressed by the representative of Peru on behalf of the Group of 77. He agreed that the Conference had now reach a new, critical stage. It was necessary to avoid repeating the error committed at the previous session, characterized by a proliferation of informal negotiations that had been very difficult to follow. The question had also been raised as to whether the results of those negotiations were fully reflected in the revised single negotiating text. His delegation doubted whether it would be appropriate to set up several working groups; that approach, which had been followed at the previous session, had not proved particularly fruitful.

27. He agreed with the Chairman that all issues were important until resolved. Since delegations had different views as to which issues were important, it was necessary to discuss them all, following the order proposed by the spokesman for the Group of 77.

28. The discussions should be held in open meetings, with only one working group of the whole. Closed meetings should be avoided, since the convention was of concern to the whole world, not to a few privileged countries.

29. Mr. RATINER (United States of America) said that almost all of the critical issues within the First Committee's mandate had been the subject of intensive and repeated negotiations, but that there was still widespread disagreement on important matters of substance.

30. In the case of some important issues, however, discussions had not even begun. Whatever procedures were adopted, it was probably true that more discussion and more time would be needed on those issues that had not previously been discussed in the Committee than on issues which had already been the subject of intense negotiations. Such an allocation of time should not,

however, prejudice the right of any delegation to bring up other matters which it considered to be important.

31. He acknowledged that many parts of the revised single negotiating text were unsatisfactory and stated that the United States was not a great deal happier with the revised single negotiating text than Algeria appeared to be, but it would not be possible to reach a consensus by including in the programme of work the whole of that text and all its annexes. The proposal by the representative of Peru that discussions should centre on the First Committee's mandate simply did not constitute a programme of work. Certain issues must be given priority, namely, those that were either very important or had not yet been studied sufficiently.

32. A compromise must be found regarding a workable procedure. The stand taken by the delegation of Algeria did not augur well for the success of the Conference.

33. He felt that it would be useful to set up more than one negotiating group. Progress on certain important issues depended upon progress on other related issues; the procedure adopted must therefore involve some alternation of subjects.

34. Finally, he noted that the spokesman for the Group of 77 had not indicated why that Group felt so strongly about its procedural proposal. He hoped that its position was negotiable.

35. The CHAIRMAN suggested that the meeting should be suspended to enable him to attend a meeting with the President of the Conference and the Chairmen of the other Main Committees.

The meeting was suspended at 5.05 p.m. and resumed at 6.55 p.m.

36. Mr. WARIOBA (United Republic of Tanzania) said he could not agree with the view expressed by the representative of France. Since the end of the previous session, some of the main issues had been under continuous examination. It would be meaningless to discuss the composition and voting procedures of the Council or the statute of the Tribunal without defining their functions.

37. As to the conduct of the negotiations, he felt that it would be better to work in the Committee itself than to set up separate groups, which might be less productive. His delegation attached great importance to formal meetings, which ensured that discussions were placed on record. He expressed his delegation's disappointment at what had been achieved at the previous session. Furthermore, some of the results were not fully reflected in the revised single negotiating text.

38. The stage of real negotiations had now been reached, and the world must be informed of what was happening. A beginning must now be made on the groundwork for the interpretation and application of the convention.

39. Mr. BOUBA (Central African Republic) regretted that the Conference was marking time when the whole world was waiting for results. Press agencies had sought to discredit the developing countries, accusing them of trying to jeopardize the whole Conference.

40. In his delegation's view, consultations should be frank, in open plenary meetings, and no issues should be given priority. The group of African States seemed to be inclined to accept the list of issues drawn up by the President (A/CONF.62/L.12/Rev.1), leaving delegations full freedom to add new topics. His delegation, for its part, was ready to begin work immediately, whether in one or several groups in order to advance the work.

41. Mr. ROMANOV (Union of Soviet Socialist Republics) agreed that the Committee had reached a new and critical stage in its work. His delegation wished to express its gratitude to the Chairman for performing the very important and difficult task of preparing the revised text, in which he had sought to reconcile opposing views. While his delegation did not agree with all the draft provisions of that text, it could form a sound basis for further progress, given the requisite goodwill.

42. His delegation wished to submit the following tentative list of topics: first, the statute of the Enterprise; secondly, the statute of the sea-bed dispute settlement system; thirdly, the special appendix on financial arrangements, in regard to which two sets of proposals, described as "Approach A" and "Approach B", had been presented by the Chairman; fourthly, outstanding issues concerning the powers and functions of the Authority in regard to regulation of activities in the area; fifthly, outstanding issues concerning the basic conditions of prospecting, exploration and exploitation; sixthly, the organs of the Authority and their respective powers and functions; and, seventhly, finance. Topics could be added to or deleted from that list, and could be grouped under main headings. Furthermore, it was not intended that the list should prejudice the order of priority of the issues.

43. In contrast, the Committee would be taking a step backward if it confined itself to general formulations, as had been suggested by some delegations. The original list of items assigned to the First Committee, which had contained only two main issues, was no longer appropriate. In his delegation's view, the revised single negotiating text would form an appropriate basis for the Committee's work.

44. While his delegation felt that it would be better to set up two or three working groups, as was current practice at international conferences, it would not object if only a single group was set up, in order to enable smaller delegations to participate in its work.

45. He appealed to delegations to try to overcome their long-standing dislike of smaller groups. After all, they should accustom themselves to the idea that the various subsidiary organs of the Authority would be of limited membership.

46. While he did not oppose formal meetings as such, he felt that they might merely result in rigid positions being placed on record. There was need for a more flexible formula. For example, it might be possible for records to be prepared for informal meetings. He hoped that delegations would not adopt an attitude of confrontation. He recalled the view expressed by his delegation at the 71st plenary meeting² pointing out that concrete results could be achieved if all delegations showed goodwill, realism and readiness to seek mutually agreeable solutions; and emphasizing that negotiations between groups were of special importance, that no group could of its own accord work out mutually acceptable solutions and that nor could such solutions be reached in confrontations of one group with another.

47. Mr. DALI (Libyan Arab Republic) supported the proposals made by the representative of Peru on behalf of the

Group of 77 and expressed his appreciation of the statements made by the representatives of Tunisia and Algeria. Like them, he favoured the establishment of a single working group open to all delegations. As the delegations from most developing countries were small, the establishment of more than one working group would pose problems. The programme of work proposed by the Group of 77 would allow all delegations to express their views and the Committee to finish the session with an acceptable text.

48. Mr. BAVAND (Iran) said that at the present critical stage of the Committee's work the use of previous procedures was not appropriate. There was clearly no consensus on the principal issues and the Committee should therefore agree that all issues were subject to negotiation. He saw no particular difference between the proposal to have a single negotiating group and that of having two groups which would meet successively. His delegation attached great importance to the question of the priority of issues to be discussed. In its view, the most important question was that of the system of exploration and exploitation. The revised single negotiating text seemed to suggest three systems, which was one more than in the previous single negotiating text and would lead basically to parallel systems. Other questions of financial arrangements and conditions for exploration and exploitation depended on the cardinal question of the system set out in article 22.

49. Mr. OUYANG Chu-ping (China) said that his delegation was ready to exert a positive effort in the struggle to achieve a convention which would meet the interests of all. It was necessary to proceed from the principle that all countries were equal. There should be continuous, full and democratic consultations on all issues with the participation of all countries. Negotiations should therefore proceed only in the Committee. His delegation supported the views of the Group of 77 with regard to the establishment of a single open-ended working group. It was inadmissible for the super-Powers to impose their unreasonable views on the majority consisting of over 100 States.

50. The question of the organization of work and the determination of key issues for discussion on a priority basis should be thoroughly considered by the full Committee. His delegation was in agreement with those of Algeria and other developing countries that the Committee should first discuss issues of principle, such as the status of the area, the organs of the Authority and the system of exploration and exploitation. It would be inappropriate to take up other matters first, such as financial issues. The final agreed text should be faithful to the negotiations and should reflect the views of the majority, especially the developing countries.

² *Ibid.*

The meeting rose at 8 p.m.

26th meeting

Thursday, 5 August 1976, at 3.25 p.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

Organization of work

1. Mr. WUENSCHÉ (German Democratic Republic), Vice-Chairman of the Committee, said that having held consultations with several delegations concerned with the organization of the Committee's work, as requested by the Chairman, he was in a position to submit a number of proposals. First of all it was suggested that a working group should be established in which all delegations could participate; the working group would elect two co-chairmen who would have joint respon-

sibility for the entire mandate of the group. The general feeling that had emerged from the consultations was that the two co-chairmen should not be selected from among the officers of the Committee, so that the Chairman would be free to direct the over-all work of the Committee. Consultations and negotiations in the working group would be carried out in informal meetings, and the co-chairmen would report to the Committee on the results achieved, at formal meetings. Those results would be submitted in writing so that all delegations could give them careful study. All interested delegations