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30th meeting of the First Committee

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume VI (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Fifth Session)*

30th meeting

Friday, 27 August 1976, at 11.20 a.m.

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

At the invitation of the Chairman, Mr. Srivastava (Inter-Governmental Maritime Consultative Organization) took a seat at the Committee table.

Weekly report by the Co-Chairmen on the activities of the workshop

1. Mr. JAGOTA (India), Co-Chairman of the workshop, introduced the report contained in document A/CONF.62/C.1/WR.3 and said that the last sentence of paragraph 3 should be amended to read: "These principles, it was noted, were reflected in workshop paper No. 2, which was supported by some delegations."
2. Mr. JUSUF (Indonesia), referring to paragraph 8 of the report, pointed out that the representative of Peru, in his capacity as Chairman of the Group of 77, should be listed as an *ex officio* member of the negotiating group.
3. Mr. GONZALEZ DE LEON (Mexico) said that the second report by the Co-Chairmen (A/CONF.62/C.1/WR.2) accurately reflected discussions in the workshop. He suggested that workshop papers 1 to 3 should be included *in extenso* in the summary record, since they could then be referred to more easily.
4. The CHAIRMAN said that the workshop papers would not be included in the summary record. However, he was trying to decide on the best way to make documents available to delegations and would inform the Committee of his decision before the end of the session.
5. Mr. MAZILU (Romania) said that his delegation agreed with the content of the Co-Chairmen's second report. The debate on the system of exploration and exploitation of the area showed the importance which all States attached to setting up an efficient and equitable system. That objective could be attained only if the unique and indivisible character of the common heritage was preserved. Accordingly, his delegation supported the views expressed by the Chairman of the First Committee at the 24th meeting of the General Committee. Moreover, while it appreciated the democratic manner in which discussions in the workshop had been held, it would prefer delegations to be more specific in their comments.
6. Any compromise solution should take account of the need, first, to grant the new Authority wide powers for organizing and conducting the whole process of exploration and exploitation, which implied drawing up well in advance the principal guidelines in those two aspects; secondly, to secure full and effective control over all exploration and exploitation activities, production and sharing of benefits; and, thirdly, to concentrate all the resources of the world community with a view to creating an efficient Enterprise in order to secure continuous production by means of the most advanced technologies. All States must contribute to improving the exploration and exploitation system, as the common heritage could only be administered to its fullest advantage by focusing not on the sharing of it but on the preservation of its unique and indivisible character. Lastly, all nations should contribute to the exploitation of that heritage for the benefit of all States, so that existing gaps would not widen and the new principles of international relations would become a reality.

Progress of work

7. The CHAIRMAN said that, at a meeting of the Chairmen of the Main Committees with the President of the Conference on 25

August, he had been unable to point to any element of progress in the work of the First Committee. At the beginning of the fifth session, he had reminded the Committee that negotiations had reached a critical stage and had invited delegations to negotiate unresolved problems with the appropriate seriousness. However, the Committee had expended considerable effort on procedural debates, with the result that substantive questions had been relegated to the background. He therefore reminded delegations that they could count on only six more working days before the end of the session.

8. In view of the time wasted on procedural issues, an onlooker might be justified in wondering whether delegations wished to negotiate or conclude a convention at all. A perusal of the workshop papers or the relevant reports alone might give an absentee from the Geneva and New York sessions the erroneous impression that nothing had really changed since Caracas. However, delegations knew that the success of many years of effort depended to a considerable degree on what was achieved in the First Committee, and he was convinced that, given the usual dedication and understanding, the appropriate political will and a strong spirit of compromise, it was still possible to draft a treaty acceptable to all. The Chairman had been given the responsibility of drafting the revised single negotiating text; delegations must now accept responsibility for improving that text and working towards a compromise. To that end, they must avoid confrontation and base their strategy on a common desire to achieve consensus on every single problem.

9. At the beginning of the session, he had been encouraged by the requests for full participation by all delegations, and he still believed that there were grounds for optimism. However, delegations were now fully aware of the unresolved problems and it was time to decide whether they were ready to conclude that part of the convention for which they were responsible. In taking that decision, they should remember that all countries stood to gain tremendously from the establishment of an effective international Authority and that the absence of such an authority would mean international chaos. Each negotiator must make informal suggestions which he sincerely believed would solve problems, not merely emphasize them.

10. He would encourage any individual or collective initiative that might further contribute to the negotiating effort, but such initiatives should complement workshop activities, not replace them. While the General Committee would do its best to encourage the attainment of a consensus, the real responsibility lay with delegations, since they had been granted plenipotentiary powers by their respective Governments. Delegations owed it to their Governments, their peoples and the international community to make every effort to ensure success. The Committee should therefore try to establish a frank and genuinely informal forum in which to tackle the unresolved issues that threatened the success of the Conference. He appealed to developed and developing countries alike to make the last two weeks of the Conference the most productive ones. No country could afford not to participate, since no one could tell with certainty who would fall into the categories of rich and poor tomorrow. The world of today was unable to exercise effective control over the effects of scientific and technological developments on mankind, and no country could ignore the problem. If the Conference failed, the fault would lie not with procedures but with the refusal of delegations to make those procedures work. However, it was

not too late, since the unresolved problems were now fully understood; that was almost half the battle won.

11. Mr. DE SOTO (Peru) expressed concern at the Chairman's unusually pessimistic comments regarding the workshop papers. Those documents were not appended to the Co-Chairmen's reports, whereas the Chairman's statements would appear in the summary record and might create the erroneous impression that the workshop papers did not represent any advance since the session in Caracas. Because the workshop papers would not be made public, he wished to correct the impression created, at least with regard to those submitted by the Group of 77. The Chairman's comments might seem to confirm the erroneous, and almost slanderous, picture presented by some organs of the press, particularly the local press, of the attitude of the developing countries to the Conference. Yet it was well known that the Group of 77 had made constructive progress in its negotiations, in strict conformity with the Declaration of Principles governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction adopted by the General Assembly.¹ Careful reading of the papers submitted by the Group of 77 in the workshop confirmed that progress had in fact been made, at least as far as the Group of 77 was concerned.

12. The CHAIRMAN said he agreed with the representative of Peru that an erroneous impression might be created of the progress of work at the Conference. He appealed to the press to exercise great restraint in that respect. When he had said that the Conference was progressing very slowly, he had not meant persons who did not know what was happening at the Conference to take comfort from the misrepresentations advanced about the Conference. The President of the Conference had made great efforts to inform the press as to the nature of the Conference's work and had made it clear that no agreements or concrete progress could be announced publicly until the package deal had been obtained. The press could in fact help the work of the Conference by making the public aware of the tremendous difficulties which the Conference faced. Regarding the statement he had just made, none of his comments had been directed at a specific geographical group.

13. Mr. GONZALEZ DE LEON (Mexico) agreed with the statement made by the representative of Peru. In the circumstances, he wished to reiterate his suggestion that it might be appropriate, at least where the work of the Group of 77 was concerned, for workshop paper No. 1 to be included verbatim in the summary record of the meeting.

14. The CHAIRMAN said that he would be discussing that matter with the other officers of the Committee and hoped to have resolved it by the end of the session.

15. Mr. THOMPSON-FLORES (Brazil) said that he too supported the statement by the representative of Peru. Every member of the Committee knew that the Group of 77 had made progress since the session in Caracas, and that fact should be acknowledged by the Conference. He none the less appreciated the Chairman's concern at the lack of concrete results achieved to date. Yet he was convinced that, if goodwill prevailed, the Conference was near to achieving such results, provided that it used the remaining time profitably. To that end, he wished to propose that, as most members of the First Committee did not need to attend the weekly meetings of the General Committee, Monday mornings should be used by the Committee to work on concrete texts.

16. Mr. AL-WITRI (Iraq) also supported the statement by the representative of Peru. As a developing country, Iraq had made great efforts to help to bring about tangible progress and the adoption of concrete proposals by the end of the current session. Yet whenever it had tried to propose compromise solutions to other parties, it had encountered great difficulties and intransigence and each of its concessions had been met by more

stringent demands. As a result, each party to the negotiations was holding to its own position and insisting on its own principles. He wondered whether it was necessary, in order to achieve concrete results, to ask delegations to make concessions and give up their legitimate demands, and whether the developing countries would have to abandon the idea of establishing an international Authority for the sea-bed with full and effective powers. Surely it was possible for the participants in the Conference to set up an Authority which represented the interests of all mankind and was based on the principles of equality and equity for all parties. His delegation appealed to the interests of the entire international community in requesting States not to insist rigidly on their own viewpoints, so that all parties could co-operate for the good of future generations. For their part, the developing countries had no reason to feel guilty about their work at the current session, for they had made considerable efforts to bring about a successful conclusion of the Conference.

17. Mr. WEHRY (Netherlands), speaking on behalf of the States members of the European Economic Community, agreed with the Chairman that considerable time had been spent on procedural matters at the current session while little progress had been made with negotiations. However, it had been necessary to create an atmosphere of confidence by setting up a negotiating group, and there was now hope that progress could be made within that group. Since the session in Caracas, the States members of the European Economic Community had also taken positive steps towards finding a middle ground with other groups of countries, and it was clear from written and oral statements at the current session that progress had in fact been made by more than one group of countries. He was convinced that workshop papers 1 to 3 and the revised single negotiating text contained enough constructive elements for fruitful negotiations to be held. He also referred the Committee to the statement made on behalf of the European Economic Community at a plenary meeting of the Conference.

18. Mr. HYERA (United Republic of Tanzania) said that the records of formal meetings must reflect the true situation in the Committee so that the public was not given an erroneous impression either by omissions or by a failure to assess the Committee's work objectively. The Chairman's report was his own assessment of the Committee's work, and the reports of the Co-Chairmen of the workshop were likewise their own personal reports and did not necessarily reflect the position in the Committee or in the different groups of countries. It was for members of the Committee to correct any possible misrepresentations contained in those reports, and he was therefore grateful to the representative of Peru for contributing to the objectivity of reports on the work of the Committee.

19. If members of the Committee tried to assess its work, they could say either that everything possible had been done to reach a consensus or that all hopes of a consensus had not been exhausted. His delegation would incline to the first view and accordingly recommend that the Committee should follow the rules of procedure, but it was prepared to listen to arguments to the contrary.

20. On the question whether genuine moves had been made to accommodate opposing interests, it was his view that the Group of 77 had for a long time tried to adjust its views to those of other groups. The papers produced by that Group showed both that it enjoyed overwhelming majority support in the Committee and that it represented not only its own interests but also those of mankind as a whole. Thus, in pursuing its negotiations and attempting to work out further concessions, the Group of 77 was only trying to accommodate the interests of the few remaining countries with which agreement had not been reached. It had done all it could in that respect, and the reports emanating from the Committee were therefore far from reflecting the real situation on that score. The workshop papers produced by the Group of 77 spoke in terms of the interests of all mankind, whereas those produced by other

¹ Resolution 2749 (XXV).

groups referred to individual States which in fact represented less than one third of the members of the international community. To say that the Group of 77 alone maintained a one-sided position was erroneous, and such views should not be made public. If the situation in the Committee was to be assessed objectively, it must be recognized that at one end of the spectrum there was a group which represented the majority of countries and their interests in the common heritage of mankind while at the other there was a small group of countries which represented less than one third of the world community. The representative of Peru had therefore been justified in attempting to correct the erroneous impression created by official and semi-official reports produced by the Committee.

21. Mr. ESKIN (United States of America) supported the Brazilian proposal that Monday mornings should be used for work in the First Committee. He shared the Chairman's concern regarding the lack of progress and would support any steps which would help the Committee to complete its work.

22. Like the spokesman for the European Economic Community, he wished to stress that his delegation had always tried to negotiate agreements which enjoyed broad support in all groups, reflected the interests of the international community and made for the adoption of a meaningful convention. Over the years, his delegation had submitted many concrete proposals which had been progressively adjusted to developments in the negotiations in order to meet the concerns of the Group of 77 and other groups of countries. His delegation had made many attempts to accommodate the interests of other groups and individual countries and, rather than argue that point, he hoped that the negotiating machinery established in the Committee would now lead to concrete results.

23. Mr. WUENSCHÉ (German Democratic Republic) said that he supported the main lines of the Chairman's statement and his appeal to delegations to ensure that positive results were achieved. He pointed out that in supporting the proposal of the Soviet Union his delegation had sought to achieve a compromise which would be acceptable to all and he was hopeful that a solution could be reached on the basis of a consensus.

24. Mr. BARNES (Liberia) supported the comments made by the representative of Peru. The records of the Committee would show that the Group of 77 had done everything possible to accelerate the pace of negotiations. He endorsed the proposal of the Brazilian representative and urged the Committee to heed the Chairman's suggestion, since the success of

the Conference depended largely on the outcome of the First Committee's work.

25. Mr. KAZMIN (Union of Soviet Socialist Republics) said that he shared the concern of the Chairman regarding the need to accelerate negotiations. At the 24th meeting of the General Committee his delegation, speaking on behalf of the Eastern European countries, had stated that those countries were prepared to promote constructive negotiations with other groups and to start at once. It had also set forth the major provisions which might form a basis for an agreement, namely, the right of the Authority to exploit the resources of the international sea-bed area; the right of States to conduct such activities; the right of the Authority to take necessary measures to prevent the adverse effects of mining in the seabed on the economies of exporting countries, particularly developing countries. States parties should not be placed on the same footing as private companies. Those were the basic provisions of a "package deal" which could form the basis for a compromise.

26. He did not wish to list all the concessions his delegation had made, but would point out that it had conceded at the last session the measures contained in article 9. His delegation welcomed the spirit of co-operation evidenced in the discussion of the system of exploitation and in the workshop, and the willingness of the Group of 77 to make a proposal designed to facilitate a compromise solution; unfortunately that proposal did not constitute a basis for a compromise acceptable to all, since it did not provide for the right of States to participate in exploitation activities. In connexion with statements made on proposals for State participation in activities in the area, he pointed out that his delegation had made its own proposal which would secure to all parties the right to participate in the activities, irrespective of their geographical location, stage of development or social system.

27. Mr. BOOH BOOH (United Republic of Cameroon) observed that, whatever concessions each group claimed to have made, the fact was that only two weeks remained in the session and no one knew what would happen during that time. He suggested that the Committee should adjourn and that members should read the Chairman's statement carefully before the next meeting.

28. The CHAIRMAN endorsed that suggestion, and reiterated that his intention had not been to criticize any delegation or group of delegations.

The meeting rose at 12.45 p.m.