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choice in the procedures to be followed and in the selection of tribunals. However, it had doubts about the provisions of article 9, which could have the effect of imposing on parties to a dispute a particular tribunal that was not of their choice. Article 9 of the text submitted by the informal group on the settlement of disputes should be retained, because it was more likely to give effect to the wishes of the parties. In the event of disagreement, it provided for the determining choice of forum to be made by the defendant.

23. His delegation also had reservations regarding the exception provisions contained in article 18, paragraph 2, because they were too broad and ambiguous. Such a broad range of exceptions could result in wide disagreement on the extent of the exclusions. It would also exclude from the dispute settlement procedures many disputes which by their very nature should be the subject of prompt compulsory settlement. Exceptions, if any, should be restricted to the absolute minimum and spelt out with great clarity.

24. With respect to the law of the sea tribunal, his delegation favoured the establishment of one tribunal only, having comprehensive jurisdiction to consider all disputes, including those relating to the international area. That, of course, was without prejudice to the special procedures envisaged in annexes IIA, IIB and IIC. The tribunal should be small both in size and in cost, and his delegation therefore supported the concept of a small cadre of permanent members readily available to deal expeditiously with urgent matters such as applications for interim measures. In addition, there should be a panel of members to be used on an *ad hoc* basis, as and when required for sittings of the tribunal. A tribunal of 15 members would be too large and unwieldy to function efficiently and expeditiously. Furthermore, the expense of maintaining such a body on a permanent basis could not be justified.

25. With respect to the Conference's future work on the settlement of disputes, his delegation had grave doubts about the practicability of the formation of a fourth committee at the late stage the Conference had reached. It would prefer to proceed with consideration of that matter on an *ad hoc* basis, possibly under the chairmanship of the President of the Conference.

Mr. Al-Adhami (Iraq), Vice-President, took the Chair.

26. Mr. AL-MOUR (United Arab Emirates) said that document A/CONF.62/WP.9 was not the result of consultations and therefore did not reflect the main trends in the Conference. The present debate on the settlement of disputes was the true starting-point for the elaboration of texts on that subject. The document under consideration should therefore be revised to reflect a realistic balance and to lay a solid basis for international relations.

27. Integrated systems for the settlement of disputes were necessary if the convention was to be accepted and implemented by all. Procedures for the settlement of disputes should therefore be given priority in accordance with Article 33 of the Charter of the United Nations and recognition should be given to bilateral or multilateral arrangements concluded by States for the peaceful settlement of their disputes.

28. His delegation supported the establishment of one permanent tribunal to consider all disputes arising from the interpretation and application of the convention, since such a body would permit the harmonization of decisions. In establishing such a tribunal, however, the interests of developing countries must be taken into account, particularly with respect to the principle of equitable geographic distribution. The tribunal should also have two separate chambers, one for sea-bed disputes and the other for other matters relating to the law of the sea.

29. If the tribunal and the International Court of Justice had parallel competences, there would be conflict in the decisions taken. It was obviously clear that decisions taken by an international tribunal in matters relating to international relationships might affect not only the States parties to the dispute but the community of nations as a whole, owing to the fact that such decisions might deal with general rules of public international law, such as decisions on the delimitations of maritime areas.

30. Moreover, his delegation wished to draw attention to situations in which a dispute related to a topic with interrelated elements and in which only some of those elements were within the competence of the tribunal on the law of the sea while other elements were not. In such a case, could such a topic, with all its elements, be referred to the tribunal on the law of the sea that was to be established?

31. His delegation supported the concept of a simplified settlement of disputes and believed that the nature of the procedures should depend on the nature of the disputes. Accordingly, it did not object to special procedures for specific cases.

32. His delegation did not, however, agree with the principle of compulsory jurisdiction in matters relating to the exercise of sovereignty or sovereign rights or jurisdiction or regulatory powers in maritime areas within national jurisdiction. It therefore believed that article 18, paragraph 2, was fully warranted and supported the right of a State to express reservations when ratifying the convention so that it would not be compelled to apply some or all of the procedures specified therein.

The meeting rose at 11.25 a.m.

65th meeting

Monday, 12 April 1976, at 11.15 a.m.

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

Settlement of disputes *(continued)* (A/CONF.62/WP.8,[1] WP.9 and Add.1)

1. Mr. MacEACHEN (Canada) said that he was pleased to note that the Conference had made considerable progress in two years, thanks to the determination of representatives; much remained to be done, however, and time was running out.

2. At the thirtieth session of the General Assembly he had stated that the viability of an increasingly interdependent world order rested on the creation of a more equitable international economic order. The new law of the sea therefore had to lay down duties to go hand in hand with every new right recognized and to be based on principles of

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV (United Nations publication, Sales No. E.75. V.10).

equity rather than on power. In 1945 the founders of the United Nations had devised a system for the peaceful settlement of disputes, but 30 years later the Organization was still facing the same problems. It was imperative that the problem of dispute settlement should be considered thoroughly if the convention on the law of the sea was to have any value. Any State acceding to an international legal instrument should be prepared to abide by its terms and to agree to being judged by an impartial system of compulsory third-party dispute settlement; that was particularly important in view of the fact that a great many of the rules of the future convention would be new and even revolutionary. Differences would, therefore, inevitably arise from time to time as to their interpretation and application. Such differences should, of course, first be the subject of negotiation, a fundamental process in international relations. However, there would be cases in which only an independent third party could settle the dispute. Such a system would in the long run provide an important means of elucidation and interpretation of the text of the convention. It would also protect the rights of less powerful States by ensuring equality before the law. His delegation therefore believed that a dispute settlement system should be an integral part of the law of the sea convention. The inclusion of an optional protocol, leaving it open to States to accept or reject compulsory third party adjudication, would constitute a failure of the Conference on a central issue.

3. As to settlement procedures, his delegation had not yet adopted a firm position; it would do its utmost to promote the drafting of provisions which seemed likely to command broad support. In that connexion, although it had reservations with regard to certain points, his delegation welcomed the fact that the President had taken the initiative in introducing a text on the settlement of disputes (A/CONF.62/WP.9), and fully supported the use of that text by the Conference as a basis for negotiation.

4. He would next outline a few of his country's fundamental objectives with respect to the settlement of disputes in the context of that text.

5. First of all, there could clearly be no international settlement in the case of disputes which, under the convention, fell within the domestic jurisdiction of States. That being the case, it was of importance to ensure that there should be a comprehensive system of compulsory dispute settlement applicable, not only to the economic zone, but also to the high seas and any other area of the seas, such as international straits, in which freedom of navigation and the interests of coastal States might be in conflict. The rights of coastal States with regard to their environment and their security were also in need of protection.

6. Secondly, with respect to the principle that States should be free to choose the system of dispute settlement most appropriate to their needs, provided that the procedure was one which led to a binding decision, the proposals in the text seemed to be satisfactory. A corollary of that principle was that, subject to any specific exceptions made in the convention, no State should be free to choose the areas of law, or of the seas, which it wished to subject to compulsory settlement. Under the convention the system of settlement would apply to all disputes, and the parties would consider themselves bound by the decision of the judicial organ chosen. Canada was opposed to any system which allowed a party to opt in at the last minute for the purpose of instituting an action against another State, while not having previously made itself subject to compulsory dispute-settlement proceedings brought by other States. It was also opposed to a system of dispute settlement based upon an optional protocol. Given the nature and extent of the new law involved, such an approach would deprive the system of all effectiveness.

7. Thirdly, his delegation had reservations with respect to article 9, which gave primacy to a new law of the sea tribunal. It saw no need to create a new court when the International Court of Justice and arbitral procedures already existed. Most disputes could, in fact, be settled by arbitration or through recourse to experts. If, however, the majority of States preferred the creation of a new tribunal, his delegation would be willing to work with other delegations to establish an appropriate institution.

8. Fourthly, the variety of issues dealt with in the convention made it necessary to adopt certain special procedures, which might be of a judicial character. The First Committee was considering the question of a judicial organ of the International Sea-bed Authority and the Third Committee that of a special procedure for the settlement of disputes in the field of marine scientific research. The possible establishment of a continental shelf boundary commission was also under consideration. Such special procedures could prove very useful. It should be noted in that connexion that the link between the special procedures set out in annex II and article 6 was unclear. For the time being, his delegation did not consider that the procedures for arbitration by experts set out in annex II should be the principal means of resolving all disputes concerning fisheries, pollution and marine scientific research, although in certain cases recourse to experts was desirable. Special procedures were no panacea, and should not in any event replace a comprehensive procedure.

9. Fifthly, his delegation questioned the utility of the provisions for appeals and for provisional measures at the inception of a dispute, but it was prepared to discuss them with other delegations. With respect to the status of parties to a dispute, his delegation had difficulty with the suggestion that, as a general rule, private persons and private companies should be placed on an equal footing with States (article 13). It would, however, be prepared to consider an exception for private companies called to appear before the judicial organ of the International Sea-bed Authority in contractual matters.

10. Sixthly, one of the major issues was the extent to which disputes arising out of the exercise of coastal State authority in the economic zone should be subject to compulsory settlement. On the one hand, the resource rights and environmental duties of coastal States in the economic zone would involve the exercise of broad discretion, but, on the other hand, those rights and duties would have to be exercised in conformity with the convention and should not lead to interference with the legitimate rights of other States. His country was seeking no undue restriction on the exercise of the rights of the coastal State in the economic zone, but it did not share the view that no disputes arising from the economic zone should be subject to compulsory settlement. The first requirement was to specify the precise rights and obligations of the coastal State in the convention and to establish bilateral, regional and multilateral procedures for dispute avoidance. With that in mind, it was difficult to envisage dispute settlement with respect to the exploration and exploitation of the resources of the sea-bed and subsoil of the continental shelf. The same was true for fisheries management, except in the case of a coastal State failing to meet its obligations in respect of conservation or the full utilization of resources. Part II of the single negotiating text (see A/CONF.62/WP.8) conferred broad authority on coastal States. In the view of his delegation, any difficulties which the coastal State might encounter with other States in the exercise of its management jurisdiction over fisheries should be resolved by negotiation and by the establishment of various bilateral and multilateral bodies set up for that purpose. It also believed that coastal States should be free to exercise their jurisdiction over the prevention of pollution

and the regulation of marine scientific research in the economic zone, so long as they remained within the bounds of the discretion vested in them and did not infringe the rights of other States. In cases of gross abuse, adjudication should apply with respect to both coastal States and other users, and in both the economic zone and international straits.

11. Rather than defining the situations in which compulsory dispute settlement would be appropriate, one solution would be to make an exception for disputes arising in the economic zone or international straits, except in the case of a gross abuse by either the coastal State or other users. Another approach would be to state that there could be no compulsory dispute settlement except in cases of interference by the coastal State with certain specific rights of other States, such as freedom of navigation or scientific research, or the abuse of such navigational rights by other states in a manner which damaged coastal or straits States. He had noted that a basis for either approach was already to be found in article 18 of document A/CONF.62/WP.9. The question was complex, but it should be possible to find a middle ground.

12. He suggested that a working group of the Plenary should be established to continue negotiations on the subject after the general debate. The group should be open-ended, and the President might use his good offices to ensure that its membership was broadly representative of the Conference. His delegation was, of course, prepared to participate in the work of the group.

13. His delegation was prepared to work with other delegations for the resolution of difficult problems concerning the compulsory settlement of disputes. A realistic, comprehensive and viable system was vital, not only for the long-term utility of the convention which was being negotiated, but also for the promotion of the rule of law in international affairs, and hence the shaping of a peaceful world with a stable and equitable world order.

14. Mr. KRISPIS (Greece) said that his delegation had an open mind on most of the points in document A/CONF.62/WP.9. On the matter of the interpretation and application of the future convention, it was in principle favourable to the establishment of a compulsory jurisdiction whose decisions would have binding force, as that would make the law of the sea effective. No legal document was so clear as not to require interpretation; consequently, it was natural that the parties to a dispute should sometimes have different views. Even where they agreed to refer the dispute to a third party, they frequently had difficulty in agreeing on the terms of a special agreement or a compromise. The possibility of unilateral recourse to a court therefore remained the only way out.

15. His delegation considered the International Court of Justice to be the most appropriate forum for judging law of the sea matters. However, if the Conference decided to establish a tribunal for the law of the sea, his delegation believed it expedient that such a tribunal should have concurrent jurisdiction with the International Court of Justice, that it should be composed of eminent jurists specializing in the law of the sea and that it should have jurisdiction over all questions of the law of the sea, including matters connected with the International Sea-bed Authority.

16. Furthermore, his delegation had no objection to leaving the choice of the court to the defendant, provided that the State concerned had stated such preference at the time of ratifying the convention.

17. He wished to stress that his delegation would be quite satisfied if the Conference decided to allow no exceptions to the compulsory judicial settlement. If, however, the Conference decided otherwise, the compulsory jurisdiction of the International Court of Justice, and that of the law of the sea tribunal if established, should also extend to the question of whether a given dispute constituted an exception or not. The International Court of Justice or the law of the sea tribunal must have "the competence of the competence", i.e. the authority to judge, on the unilateral application of either party, whether it was empowered to handle a dispute or not.

18. On behalf of his delegation he expressed appreciation for the initiative taken by the President of the Conference in submitting the paper on the settlement of disputes, which was a necessary complement to the informal single negotiating text.

Mr. Tredinnick (Bolivia), Vice-President, took the Chair.

19. Mr. DIOP (Senegal) said that his delegation attached the greatest importance to the question of the settlement of disputes, which, in its view, constituted the corner-stone of the legal edifice which the Conference was constructing. It welcomed the initiative taken by the President in submitting a paper on the subject and thus facilitating the task of the Conference, and thanked the representative of Australia and the informal group on the settlement of disputes for their help in preparing that document.

20. Generally speaking, Senegal subscribed whole-heartedly to the principle of the peaceful settlement of disputes set forth in Articles 2 and 33 of the Charter of the United Nations. More specifically, his delegation held that the procedure for the settlement of disputes should be determined by the nature of the dispute and the maritime area involved. In other words, any dispute relating to the interpretation or the application of the convention or arising from the coastal State's exercise of exclusive jurisdiction, under the terms of the convention, in its territorial waters or its exclusive economic zone should be settled by the competent authorities of the coastal State, provided that exceptions might be made if it could be demonstrated that the coastal State had deliberately infringed freedom of navigation or of overflight. Thus, the establishment of special procedures leading to binding decisions in respect of technical and scientific questions, such as fishing, pollution and scientific research, would not jeopardize the exclusive jurisdiction of the coastal State.

21. His delegation had no difficulty in agreeing to the proposition that the parties should have recourse to the law of the sea tribunal in disputes relating to the international sea-bed area or to the freedoms of navigation and overflight within the exclusive economic zone unless they agreed to refer the dispute to an arbitral tribunal or to the International Court of Justice. The proposed law of the sea tribunal should be designed to function expeditiously, flexibly and efficiently. The possibility of recourse to it should be confined to States and the International Sea-bed Authority. Any other party seeking a judicial settlement would have its interests represented by the State or States of which it was a national. However, the existence of a law of the sea tribunal should not rule out the possibility of leaving the choice of procedures to the parties, who should be free to select either arbitration or the jurisdiction of the International Court of Justice, the dispute being referred to the law of the sea tribunal only if they failed to opt for one of those procedures.

22. His delegation reserved the right to speak again on the subject in due course.

23. Mr. BAROODY (Saudi Arabia) said that he was not sure that it was advisable for the Conference to be considering the machinery for the settlement of disputes before the participants had reached agreement on substantive questions, which was like putting the cart before the horse. Moreover, the danger of being carried away by idealism, a mistake made at San Francisco in 1945 when the Charter had been signed, was evident; it had to be admitted that the Charter had by no means settled all problems. In the matter

under discussion, realism was needed; if the States which signed the future convention made too many reservations, its effectiveness would be greatly diminished. That would be extremely regrettable because the problems involved—rights of States, exploration and exploitation of resources, transfer of technology, and so forth—were exceedingly important.

24. He was inclined to ask whether a law of the sea tribunal might not face the same problems of dispute settlement as the International Court of Justice, whose decisions had been ignored with impunity by certain States. Likewise, there appeared to be no need to draw up exact rules for arbitration, which remained the best procedure in existing circumstances. Disputes might be settled in the first instance by compromise and, if that method failed, they should be referred to the International Court of Justice.

25. As to the convention itself, he recalled that several different covenants concerning the human rights question had been signed in Paris. The same solution might be adopted in the case at hand. Instead of a single treaty, three or four treaties, or a single treaty consisting of four distinct parts, might be concluded. The parts would be open for signature simultaneously, but could be ratified independently. That would undoubtedly be the best solution, since a global convention involving a complex settlement machinery would be sure to cause a host of problems. He therefore suggested that the representatives at the Conference, before putting the final touches to the text of the convention, should consider the establishment of a four-part treaty, which would give greater flexibility to the whole. Such flexibility was even more indispensable in view of the fact that the position of States could change radically at the will of Governments or according to circumstances.

26. That approach would be preferable to the package deal approach which was so widely supported at the Conference, though there was every reason to fear that it might turn out to be a Pandora's box.

27. He suggested that an *ad hoc* committee should be formed to deal with the question of dispute settlement. It would consist of representatives of the countries wielding world power and of the small States which might come to argue their case before it. For the sake of greater efficiency, membership should not exceed 15. The decisions taken by the committee would gain in practicality what they might lose in idealism. His delegation did not wish to belong to such a committee, but was prepared to give serious consideration to all its proposals. In the words of the old maxim, if one could not get all that one wanted, one should settle for what one could get.

Mr. Amerasinghe (Sri Lanka) resumed the Chair.

28. The PRESIDENT recalled that in accordance with his memorandum A/CONF.62/WP.9/Add.1, the Plenary Conference should indicate whether it wanted him to prepare a new informal single negotiating text of the same status and character as the three texts presented by the three Main Committees. In his opinion, a matter of such supreme importance as dispute settlement should not be dealt with differently from other matters. If the Conference so authorized, he would therefore prepare the new text taking into account the views expressed during the formal and informal discussions held thus far. He would also take into consideration any provisions of parts I, II and III of the informal single negotiating text (see A/CONF.62/WP.8), which was already before the Conference and on which the new text would have a bearing. In that connexion, he would be sure to consult the Chairmen of the three Committees. The new document would be informal in character, would not prejudice the position of any delegation and would not presume to represent any negotiated text or accepted compromise. It would be a procedural device providing a basis for later negotiations. It would in no way affect proposals already made by delegations or their right to submit amendments or new proposals. Delegations could therefore be expected not to reject *ab initio* any portion of the text. All the provisions submitted should be negotiated, inasmuch as the very purpose of negotiation was to reconcile that which might appear irreconcilable at the outset.

29. As to the procedure to be adopted in regard to the conduct of negotiations, various proposals had been made including the creation of another committee, an *ad hoc* working group, and the conversion of an existing informal group into a formal group. The informal group had already done very valuable work, and it seemed undesirable to change its status; the creation of another committee at that stage would cause insurmountable problems in practice. He recalled that at the session held in Geneva in 1975 he had called for the revival of the device of the consultative group consisting of small contact groups of about 10 representatives, with an equal number of alternates, appointed by each geographic group and representative of all interests; that proposal had not received general approval on the ground that negotiation, even if informal, should involve all participants. Then again, experience had shown that such a system, based on the existence of different groups, would, despite its intended open-ended character, secure the participation of all delegations only in theory; delegations, particularly those of limited size, would be unable to attend all the meetings.

30. He therefore proposed that the negotiations on the informal single negotiating text be conducted in plenary in informal sessions, that all groups already functioning be allowed to hold informal consultations but be required to bring the results of their consultations to his attention so that he might in turn report the results to all delegations in plenary, and that he be allowed to bring together for informal consultations delegations holding differing views on particular issues in an effort to resolve those differences before proceeding with the matter in plenary.

31. He hoped that that procedure would expedite negotiations and would be approved by all delegations.

32. Mr. VALENCIA RODRÍGUEZ (Ecuador) said that the plenary discussion showed that, generally speaking, no decision had been reached on many substantive questions which had been discussed only incidentally. The matter should be pursued further so that the rights of coastal States within the limits of their national jurisdiction would be appropriately protected. It could not be denied that a system of compulsory settlement of disputes would be necessary in the case of disputes beyond the limits of national jurisdiction of coastal States. In that connexion, there were different points of view regarding the respective jurisdictions to be granted to the various elements in the proposed regulatory machinery: the law of the sea tribunal, conciliation commission, arbitration procedure and the International Court of Justice. He hoped that the Main Committees would soon complete their work and that it would then be possible to draft a precisely worded document to serve as a basis for negotiation for the establishment of such a system. Views also differed regarding the procedures for the settlement of disputes arising in certain specific areas, such as fisheries, pollution and scientific research.

33. It therefore seemed that, in the main, delegations had decided to continue to go along the course that had been adopted but to refer the matter of the settlement of disputes to an *ad hoc* group of the plenary or to a separate committee which would give consideration to the views expressed during the general debate.

34. Accordingly he considered that the substantive discussion should be continued informally in plenary while smaller groups, which were accessible to all delegations, would

continue to meet. The President must also set aside sufficient time for consultations. Thereafter he would have the task of preparing a new informal single negotiating text on the settlement of disputes.

35. Mr. SAMANEZ CONCHA (Peru) agreed with the statement of the representative of Ecuador. He considered that that position was reasonable as many substantive questions had been discussed by some delegations in only very general terms and should be discussed in depth.

36. The PRESIDENT said that acceptance of that view would lead to reopening of the general debate. It was his understanding that most delegations had expressed preference for the system of small informal groups. He accordingly suggested that the procedure adopted by the other committees continue to be followed. In that spirit he had proposed the preparation of a new text which would be of the same nature and have the same importance as the texts submitted by the Chairmen of the three Main Committees. That solution would save time; naturally the new text would take account of the points of view expressed during the general debate and of all suggestions from informal groups that were brought to his attention.

37. Mr. DRISS (Tunisia) inquired whether the text in question was the same as that contained in documents A/CONF.62/WP.9 and Add.1 or whether it was a new text. In another connexion, it was his understanding that negotiations would take place in plenary, but that such meetings would be of an informal nature. He did not see any great difference between that and the formula creating an open-ended *ad hoc* working group, or even a new committee. In his opinion, consultations should take place before any decision was taken in the matter. Furthermore, he considered that any proposal containing three or more elements should be submitted in writing by delegations in order to avoid any misunderstanding between them and the President. He also considered that at the present stage, the time had come to determine and establish the extent to which the procedure adopted had proved fruitful. So far the trend had been to consider all issues informally. Should that practice be continued, should there be a reorientation, or should improvements be considered?

38. The PRESIDENT pointed out that the new text he would present would be a modified one in that it would take account of the points of view which had been expressed. However, it would still be a negotiating text which, by definition, could not cover all proposals in their entirety. The three Main Committees had adopted and continued to follow that procedure which had proved perfectly acceptable. A radical reorientation at the current stage was certainly not desirable since the time had come to initiate negotiations.

39. Mr. CISSÉ (Senegal) strongly favoured the continuation of the informal method of work. He felt sure that the new informal text submitted by the President would provide a satisfactory basis for work and that it would take account of the views expressed and of the need to safeguard the rights of coastal States in the exclusive economic zone and in the territorial sea. However, he hoped that there would be no preconceptions concerning the title of the new single negotiating text to be submitted, and that, without necessarily specifying that it would be an informal text, it would be indicated that it would have the same character as the texts submitted by the three Main Committees.

40. Mr. HARRY (Australia) supported the President's proposal and stated that co-ordination of the new text with those submitted by the Main Committees would have to be ensured in all matters relating to the settlement of disputes that might arise in their respective fields of competence. He was confident that in the new text, the President would take account of all the elements at his disposal and, in particular, of the views expressed both in the plenary and in the meetings of the informal groups. He would like to see a reference in that text, in the same way as in document A/CONF.62/WP.9, to documents A/CONF.62/L.7[2] (proposal by the nine), and document SD/Gp/2nd Session/No. 1/Rev.5 (submitted by the informal working group at Geneva) and, if possible, reproduction of those documents as an annex to the new text on the settlement of disputes.

41. The PRESIDENT said that he would consider the matter. However, he noted that none of the texts submitted by the three Main Committees contained such an annex. He reiterated that he would take account of the points of view expressed both in the plenary and in the consultations in the informal groups.

42. Mr. ROMANOV (Union of Soviet Socialist Republics) considered that the proposed procedure in respect of negotiations on the text relating to the settlement of disputes was quite logical; such procedure would provide the opportunity for detailed consideration of the various procedures for settling disputes which might derive from the interpretation and implementation of the convention. His delegation was prepared to study the new version of the single negotiating text to be submitted by the President as soon as it was distributed. The only question which arose was whether sufficient time would be available at the present session for reconsideration of that issue. For its part, his delegation was prepared to begin such a study forthwith.

43. He emphasized the fact that the ultimate aim of the Conference was to produce a generally acceptable text, which, if necessary, would be a compromise, representing the global solution which had been decided at Caracas, on the basis of the principle that ocean space should be considered as a whole and not as fragments belonging to one or another group of countries. The new single negotiating text on the settlement of disputes would constitute one element of that global solution.

44. Mr. GÜNEY (Turkey) did not object to the continuation of the informal method of negotiation. However, the formula proposed by the President was rather unusual. Current practice consisted of transforming the plenary of the Conference into a committee of the whole, which was perfectly democratic. However, it was less usual that a diplomatic conference transformed itself into an informal committee. His delegation had not adopted a definite position in that respect. However, it would prefer that the question of settlement of disputes should be considered by a special committee or an informal *ad hoc* group open to all delegations. To date, the President had made an important and decisive contribution to the informal negotiations. There was a danger that if he could no longer preside over the informal work in a permanent capacity, it would become disorganized and yield no results. Consequently, it was necessary to know the position before deciding to proceed in that manner.

45. The PRESIDENT pointed out that a decision had been adopted at Caracas to negotiate in plenary, thereby precluding the possibility of establishing a fourth committee. He reiterated that, in preparing the new single negotiating text, he would, to the greatest possible extent, take account of all the comments that had been made. He considered that at the present time he was in possession of sufficient material to enable him to prepare such a text.

46. Mr. HANCOCK (United States of America) said that his delegation was prepared to work on the new negotiating text as soon as it was available and to participate in all informal meetings which might be arranged for that purpose.

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[2] *Ibid.*, vol. III (United Nations publication, Sales No. E.75.V.5).

He expressed the hope that such meetings would be frequent and organized on a regular basis, so that in the four remaining working weeks the Conference would be able to reach an agreement which would command the widest possible support with regard to the question of the settlement of disputes.

47. Mr. DRISS (Tunisia) inquired when the document in question would be available and whether it would be possible to submit suggestions and amendments to the text. His delegation acted as co-ordinator of the Group of 77 which it would have to consult on certain issues. He accepted in principle the proposal by the President regarding negotiating procedure. However, he would like to see sufficient time made available for the submission of proposals, since the item under consideration was highly controversial and he foresaw a need for much consultation.

48. The PRESIDENT said that he would announce the date by which he felt he would be able to submit the new text after consultations with the Chairmen of the three Main Committees. Furthermore, he would wish to meet the Chairmen of the various working groups in order to have their views, if possible, by the end of the week, but later if more time were required.

49. Mr. BARODY (Saudi Arabia) wished to know whether delegations which had not been able to or had not wished to participate in all the informal meetings would have an opportunity of submitting informal amendments to the new negotiating text.

50. The PRESIDENT assured him that they would. He noted that there was general agreement among delegations that, taking into account the comments and observations submitted to him both in the plenary and as a result of informal meetings, he should prepare a new single negotiating text on the settlement of disputes which would have the same nature as the three texts submitted by the three Main Committees respectively.

It was so decided.

51. The PRESIDENT also noted that all delegations were agreed that with regard to that text, the same negotiating procedure as for the three other texts should be adopted.

It was so decided.

The meeting rose at 1 p.m.

66th meeting

Monday, 19 April 1976, at 10.45 a.m.

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

Peaceful uses of ocean space: zones of peace and security

1. The PRESIDENT recalled that the first reference to the question had been made in General Assembly resolution 2467 (XXIII), which established a Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. In resolution 2750 C (XXV), the General Assembly had reaffirmed the mandate of that Committee and had decided to convene a Conference on the Law of the Sea. In its resolution 3067 (XXVIII), the General Assembly had decided that the mandate of the Conference should be "to adopt a convention dealing with all matters relating to the law of the sea, taking into account the subject-matter listed in paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the law of the sea formally approved on 18 August 1972 by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole". The list of subjects and issues had subsequently been adopted by the Conference itself.

2. It was clear therefore that any treatment of the question of the "Peaceful uses of ocean space: zones of peace and security" could not be divorced from the international negotiations being undertaken in the field of disarmament or from other measures adopted by the United Nations to ensure that the arms race, and in particular nuclear competition, should not spread beyond the outer limit of a sea-bed zone which had been strictly defined. Similarly, with regard to the declaration of zones of peace, it was essential that the measures adopted by different organs and bodies of the United Nations on the same subject should be properly co-ordinated, so as to avoid inconsistent provisions.

3. The deliberations of the Conference of the Committee on Disarmament, the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-Soil Thereof, in resolution 2660 (XXV), the Declaration of the Indian Ocean as a zone of peace, in resolution 2832 (XXVI), the establishment of a nuclear-weapon-free zone in the South Pacific dealt with in resolution 3477 (XXX) and proposals for the establishment of similar zones elsewhere should therefore be borne in mind in the course of the debate.

4. To the extent to which Members of the United Nations had committed themselves on courses of action in regard to disarmament, the denuclearization and demilitarization of the sea-bed with the establishment of zones of peace, they had imposed on themselves certain limitations on the action they might take within the Conference on the Law of the Sea.

5. Mr. BÁKULA (Peru) said it should not be forgotten, when the highly important question of the peaceful uses of ocean space was examined, that the mandate of the Conference was to work out a global convention dealing with all aspects of the law of the sea, not only the utilization of natural resources, pollution, scientific research, the transfer of technology and similar questions, but also the activities that might affect the peace or security of States and the provisions reserving the international area of the sea-bed and high seas exclusively for peaceful purposes. The objections put forward by the representatives of certain States to the effect that the Conference was not competent to examine that question were unfounded. The Conference was clearly competent to do so by reason of the mandate entrusted to it by the General Assembly and of its own decision to include the question on its agenda. Furthermore, the Conference was bound to adopt provisions to ensure that States should act peacefully, not only in the international area of ocean