

GENERAL COMMITTEE

45th meeting

Monday, 9 April 1979, at 9.50 a.m.

Chairman: Mr. H. S. AMERASINGHE.

Message from the Secretary-General

1. Mr. ZULETA (Special Representative of the Secretary-General) read out the following message from the Secretary-General:

"As in past sessions of the Third United Nations Conference on the Law of the Sea, I have been following with the greatest interest and attention the developments in this eighth session and the process of your negotiations.

"I am gratified to see that you have agreed to the same plan of work as the one adopted during your last session, namely, to deal with the 'hard core' remaining issues in informal groups, and that there seems to be general agreement that this must be the final negotiating session.

"I wish to express my appreciation to the President of the Conference as well as the Chairman of the Committees and of the negotiating groups for their efforts to bring this Conference to the point where a consensus on a universal treaty for a new legal order for the seas may prove feasible.

"The international community has given this Conference the great responsibility of adopting a legal régime to cover the traditional uses of the sea, the rational management of living and non-living resources, the preservation of the marine environment, the new scientific frontier, and the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction as the common heritage of mankind. It has been agreed that the problems of ocean space are closely interrelated and need to be considered as a whole.

"On the outcome of this Conference depends whether all these problems can be solved under the rule of law or whether they will be left in a legal vacuum that can only increase inequities and widen the gap between developing and developed nations. But there is still more involved in this Conference. You know how many vital principles and interests are at stake. Should the Conference not succeed, world public opinion will further question whether Governments have the resolve to use fully the machinery of the United Nations to achieve international understanding on global issues.

"After seven sessions and a total of 54 weeks it is clear to me that the process of negotiation must be concluded. This Conference has reached a point where definitive positions have to be taken and difficult decisions have to be made. This point of view is shared by practically all the States represented in this Conference; some have even made public their position to the effect that no efforts should be spared to bring this Conference to a conclusion as soon as possible.

"If we do not act now and thus lose the moment to complete the decision-making process leading to the adoption of a comprehensive law of the sea convention, we risk being overtaken by events that will make it more difficult, if not impossible, to reach agreement at a later stage on a new legal order for the oceans.

"I therefore strongly appeal to all participants in this Conference to make every effort to conclude negotiations on those outstanding issues on which consensus has still to be reached. We have come to the moment of decision and we cannot afford to fail."

2. The CHAIRMAN requested the Special Representative of the Secretary-General to convey to the Secretary-General the Conference's gratitude for his message. He was sure that all participants in the Conference fully agreed with the sentiments which had been expressed by the Secretary-General.

Organization of work

3. The CHAIRMAN said that the representative of Honduras, Chairman of the Group of 77, had requested to be invited to participate in the Committee's meeting. If there was no objection, he would take it that the Committee agreed to that request.

It was so decided.

4. The CHAIRMAN said that, as President of the Conference, he had issued a note concerning the future organization of work (A/CONF.62/BUR.11). Before the Committee proceeded with its discussion of the item under consideration, however, certain corrections must be made to that document. In paragraph 5, the words "Modifications of the revision" should read: "Modifications or revisions"; and in paragraph 8 the words "the President", should be inserted after the word "consult" in the text relating to recommendation 8. In the second line of paragraph 10, the word "composite" should be inserted after the word "informal", and in paragraph 12 the words "First Committee" should replace the words "Committee 1". It was essential to bear in mind that, in paragraphs 12, 13 and 14, the references to a "smaller group" and to a "small working group" in every case signified the group of 21 to deal with First Committee issues.

5. It had been brought to his notice that the clause in paragraph 14—namely, "If the results achieved in the negotiating groups are to be preserved intact"—might be incorrectly interpreted and might give rise to differences of opinion on the question whether certain results represented a consensus that had to be preserved intact. Nevertheless, he had decided that paragraph 14 should remain unchanged and that the group of 21 should itself decide which results should be preserved intact and which results should be further negotiated.

6. Paragraph 15 should end with the words "fifth week" in the second line. The remaining two sub-paragraphs—in the first of which the words "in Plenary" should be replaced by the word "other"—should appear as a new paragraph 16, and the remaining paragraphs should be renumbered accordingly. The intention underlying the new paragraph 16 was that only the issues outstanding at that stage of the proceedings would be discussed. Indeed, he fervently hoped that all necessary negotiations could be completed in committee, without any

need to set up a small group at plenary level, i.e., a group that would also consist of 21 members but would have a different membership from that of the group of 21 if that proved necessary in the light of the issues to be examined. Nevertheless, it was essential to be ready to confront the circumstances that might arise. It should be noted that paragraphs 12, 13 and 14 of document A/CONF.62/BUR.11 related exclusively to issues before the First Committee, Negotiating Groups 1, 2 and 3 and the Group of Legal Experts; however, if the Second and Third Committees also considered that more intensive negotiations were required in a small group, they were at liberty to establish such a group, after due consultation with the President and all the other groups on the question of representation of the various interests relating to the issues dealt with in those two Committees.

7. In the group of 21, it might not be possible for a member to represent a particular interest in the matters that would come up for discussion. Accordingly, he suggested the appointment of seven alternate members on each side—in other words, seven alternates for the ten principal members representing the Group of 77 and seven alternates for the ten principal members representing mainly the interests of the industrialized countries. It should be clearly understood that not more than 21 delegations would participate in the negotiations on any one issue and, needless to say, no country would be entitled to have both a principal and an alternate member. The alternate members should therefore be appointed from delegations other than those which constituted the principal members of the group of 21. The physical arrangements would be such that the leader of the negotiations would have direct access to all the delegations, behind which the alternate members would be sitting. In addition, the members would be able to group themselves according to the interests they wished jointly to support.

8. In relation to First Committee issues, the Chairman of the First Committee would act as the principal co-ordinator, with the Chairman of Negotiating Groups 1 and 2 as his fellow co-ordinators. The presence of the Chairman of the Group of Legal Experts would also be required, so as to explain points that would arise with regard to matters referred to the Group of Legal Experts.

9. He hoped that his proposals, which were merely an extension of decisions that had already been taken by the Conference and were set out in document A/CONF.62/62,¹ would meet with the Committee's approval. If the Conference were to attain the objective of preparing a revised informal composite negotiating text before the end of the session, it was imperative that the negotiations he had referred to should be completed by the end of the current week.

10. Mr. KAZEMI (Iran) said that the note by the President of the Conference concerning the organization of work confirmed his delegation's opinion that the work of the Conference, particularly at the current session, was giving rise to some apprehension as a result of the nature of the negotiating text itself and of the atmosphere that prevailed during the discussions. Admittedly, the informal composite negotiating text² was far from satisfactory to all delegations, but none the less it represented a very careful balance between views that were often contradictory. Every effort should be made to maintain that precarious balance and the Conference must at all costs refrain from re-opening discussion of issues which had already been solved in ways that were acceptable to most of the parties concerned.

11. When changes came to be made in the informal composite negotiating text, it was essential to avoid any radical alter-

ation of the text and to bear in mind the possible consequences of the revision on the balance that had been achieved. The outstanding issues formed part of an over-all package which could not be broken down into separate parts. Consideration of those two factors would, in his opinion, have a favourable impact on the negotiations now in progress.

12. Again, further negotiations could not be conducted under an implicit threat of unilateral declarations. Exploitation of the international area before the negotiations were even concluded might well prove fatal to the work of the Conference. Such exploitation was plainly contrary to the principle of the common heritage of mankind, particularly since the right to exploit the resources of the sea-bed beyond the limits of national jurisdiction was not expressly provided for in positive law as set forth in the 1958 Geneva conventions. The moratorium decided upon by the General Assembly in 1969³ must be observed by all States, since it constituted the sole guarantee pending the conclusion of a universal treaty.

13. Substantial progress had been made in the past two years, but it was desirable to speed up the work of the Conference in order to embark on the final stage of negotiations and arrive at the conclusion of a convention. The new procedures proposed by the President therefore merited close examination. His delegation's position in that regard was in keeping with that adopted by the Group of 77 at the beginning of the session. At the same time, his delegation was ready to consider any other proposals that would be conducive to a favourable atmosphere for further discussions and would avoid too radical an alteration of the negotiating text in its present form.

14. Mr. GOERNER (German Democratic Republic) said that the group of Eastern European States had considered the proposals for the future organization of work at the current session and had agreed that, if there were no objections from other groups, a small negotiating group should be established in order to represent the interests involved in the issues before the First Committee. The group should consist of the representatives of 21 States, the Chairmen of the negotiating groups concerned and the Chairman of the Group of Legal Experts. The mandate for the small negotiating group, as proposed in paragraphs 12, 13 and 14 of document A/CONF.62/BUR.11, was acceptable, and it was understood that the results of the group's work would be treated as *ad referendum*. No objections had been raised to the proposal that the working group should conclude its work in time to enable the First Committee, and subsequently the plenary, to undertake a review of the results before the end of the fifth week of the session.

15. On the other hand, the proposal in the new paragraph 16 to set up a further negotiating group to deal at plenary level with all issues pertaining to all Committees had given rise to serious doubts within the group of Eastern European States. A number of questions remained unanswered. What indeed were the issues to be dealt with by such a group? Were they issues that fell within the purview of Negotiating Groups 4, 5, 6 and 7 or were they other unresolved issues, including perhaps the preamble and the final clauses? Again, what would be the composition of such a group? If all issues relating to all the Committees were to be considered, it would be difficult to ensure that all the interests involved would be represented and, at the same time, to have a membership that was sufficiently limited for speedy and intensive negotiations. In addition, who would chair the group in question, what would be its relationship to the negotiating groups established during the seventh session and to the group of 21 dealing with First Committee issues, and what time-table would it have?

16. The group of Eastern European States had therefore reached the conclusion that it was not appropriate at the present juncture to provide for the establishment of a second

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. X (United Nations publication, Sales No. E.79.V.4).

² *Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4).

³ Resolution 2574D (XXIV).

negotiating group dealing at plenary level with all issues relating to all the Committees. The new paragraph 16 of document A/CONF.62/BUR.11 should therefore be deleted. A decision on the question whether or not to set up a negotiating group at plenary level could be taken at a later date, if the need for such a group arose. The group of Eastern European States took the view that it would be appropriate to focus attention on the work of the group of 21, without prejudice to that of other negotiating groups, so that substantial progress could be made in solving outstanding First Committee issues in the near future.

17. The CHAIRMAN said that, in the light of his explanation of the intention underlying the new paragraph 16 of his note, it should be obvious that a decision on the establishment of a small group dealing at plenary level with all issues relating to all the Committees would have to be taken at a later stage. The matter had been raised simply to indicate to delegations what they might be required to consider at some time in the future. For the reasons he had advanced earlier, it might well prove advisable to constitute a small group of manageable size; but it would be necessary to see, first, which issues had not been resolved in the Committees and whether the plenary, with its entire membership would be able to deal with them in an efficient manner.

18. As to the comment that the results of the work of the group of 21 would be treated as *ad referendum*, the First Committee itself would have to decide whether the group's findings would be considered in the Committee or whether they would be referred direct to the plenary.

19. He had omitted to mention earlier that the informal plenary meeting on the settlement of disputes would also have to be convened at an appropriate time. The work of Negotiating Groups 4 and 6 came within the purview of the Second Committee, the work of Negotiating Group 5 came within that of the informal plenary meeting on the settlement of disputes, and the work of Negotiating Group 7 came within the competence both of the Second Committee and of the informal plenary meeting.

20. Mr. CARÍAS (Honduras), speaking as Chairman of the Group of 77, thanked members for giving him an opportunity to address the Committee. The Group of 77 had unreservedly supported the endeavours in the negotiating groups to arrive at generally acceptable formulas which would lead to a satisfactory text for the convention. In the past three weeks, efforts had been made to reconcile differing positions and to broaden the areas of agreement. It had not been an easy task and, though some progress had been made, it had not been possible to achieve major advances on topics that were vital to the negotiations, more particularly on the sea-bed régime and on the international machinery.

21. Consequently, the Group of 77 had deemed it advisable to advocate the establishment of a negotiating group on inter-related topics outstanding in connexion with First Committee issues. As a result of wide-ranging consultations, it had been possible for the Group of 77 to agree with the President's proposals concerning the organization of work. Naturally, the composition of the group of 21 should not be regarded as a precedent and the establishment of the group was conceivable only if all participants in the Conference were provided with frequent and timely information on the group's deliberations and the results of its work. In that connexion, he wished to praise the efforts made by the Chairmen of Negotiating Groups 1, 2 and 3, to thank them for the documents containing negotiating formulas which they had recently circulated, and also to express full support for the work that they were to co-ordinate. In endorsing the arrangements for the future organization of work as proposed by the President of the Conference, the Group of 77 also wished to draw attention to its aim of achieving a revised informal composite negotiating text in the manner described in the statement it had made to the 110th

plenary meeting. The Group appreciated the explanations given concerning new paragraph 16 of document A/CONF.62/BUR.11, and it understood that the second negotiating group would be set up only if circumstances so required. The question of alternate members could be viewed simply as an internal matter for the groups or parties concerned.

22. Lastly, the Group of 77 was of the opinion that informal meetings of the Third Committee could continue to be held on the few topics pending in connexion with the preservation of the marine environment, and that there could be further meetings of the negotiating groups of the Second Committee which still had matters outstanding, of the Group of Legal Experts which still had to complete its work on the settlement of disputes, and also of the Drafting Committee.

23. Mr. ARIAS SCHREIBER (Peru) agreed with the President of the Conference that the Conference must, at its current session, produce a revised informal composite negotiating text; he would even go so far as to say that it must produce a formal revised text—in other words, an official draft convention—if the convention was to be signed in 1980. He would not, however, press that point if the majority accepted the proposals put forward by the President of the Conference in document A/CONF.62/BUR.11. Except for the suggestions relating to the second working group, the President's proposals appeared inadequate. In the opinion of the Peruvian delegation, the second working group should be established immediately and should start negotiations on outstanding issues to be settled by the plenary, including the preamble and the final clauses, and also on outstanding Second and Third Committee issues, including those examined in Negotiating Groups 4, 5, 6 and 7. He made that proposal because it seemed clear that the separate discussions hitherto held in the Third Committee and in the negotiating groups on Second Committee issues were unlikely to produce results. A small group at the plenary level should therefore be established. The time-table for that group should be the same as that for the proposed group of 21, i.e. it should complete its work before the end of the fifth week of the session. The second group could consist of delegations which had submitted amendments to the informal composite negotiating text at the seventh and eighth sessions, and of delegations directly connected with the interests involved. It was possible that the group would decide that none of the proposals hitherto made commanded sufficient support to be incorporated in the revised informal composite negotiating text; but, unless the proposals were analyzed and an attempt made to fit them into the text, no results would be achieved.

24. The CHAIRMAN appealed to the representative of Peru not to press his point. The Chairmen of the Second and Third Committees should be given an opportunity to examine the situation in their Committees and to co-ordinate the results achieved by their negotiating groups. Furthermore, he had not yet held any discussions with the Chairmen of the Committees concerning the composition of the second working group.

25. Mr. AL-WITRI (Iraq) said that adoption of the President's proposal that a small working group should be set up to deal with issues still outstanding would enable the Conference to advance to a new stage of its work, in the course of which an attempt would be made to solve problems specific to the First Committee. A decision concerning the establishment of a working group to deal with problems specific to the other Committees should be deferred until a later date.

26. His delegation agreed with the suggestions made in document A/CONF.62/BUR.11 concerning the proposed new group of 21. It was very important that all delegations should be kept informed of progress made in that group.

27. Referring to paragraph 6 of document A/CONF.62/BUR.11, he suggested that the Chairmen of the

negotiating groups should also be members of the team to work on the revised informal composite negotiating text.

28. The CHAIRMAN said he did not think that the Chairmen of the negotiating groups could have the same status as the Chairmen of the Committees.

29. Mr. KOZYREV (Union of Soviet Socialist Republics) said that, since the position of the Group of Eastern European Countries had already been explained in detail by the representative of the German Democratic Republic, he would limit his statement to a few additional remarks. In the first place, he wished to draw attention to the very constructive efforts of the Chairmen of the negotiating groups on First Committee issues and of the Chairman of the Group of Legal Experts. The priority given to Negotiating Groups 1, 2 and 3 during the first half of the eighth session had made it possible to concentrate on First Committee problems and to make further significant progress.

30. In Negotiating Group 1, mutually acceptable texts had been prepared on basic problems of a system of exploration and exploitation of the resources of the sea-bed, including the right of States and of the Authority to undertake such activities, and also on problems of the resource policy of the Authority, the transfer of technology to the Authority and conditions for concluding contracts and preventing monopolies by fixing specific quotas for the allocation of areas for the exploitation of deep sea resources.

31. In Negotiating Group 2, general principles had been developed for the financing of the Authority and for the financial terms of contracts, and the figures proposed for financial charges could serve as a basis for final agreement. On the whole, the financial terms were designed to ensure the economic viability of the development of the resources of the area and to provide the necessary financial means to meet the needs of the International Authority and the Enterprise.

32. Negotiating Group 3 had discussed and reached agreement on a number of important provisions concerning the structure of the International Authority and the functions and powers of its main organs—the Assembly, the Council and the functional commissions—and also provisions concerning the status of the international Enterprise and the secretariat of the Authority.

33. With regard to one of the political problems examined in Negotiating Group 3—the question of the composition of the Council of the International Authority and its decision-making procedure—some principles on the basis of which a consensus could be reached had been clearly defined. Those principles, which had been included in the informal composite negotiating text, were supported by many States. It had become clear during the deliberations of Negotiating Group 3 that attempts to revise those principles and to impose one-sided solutions of the problem of the composition of the Council and its decision-making procedures could only complicate the general state of affairs at the Conference.

34. The Group of Legal Experts set up within the framework of the First Committee was conducting negotiations on the problem of the settlement of disputes concerning the international area of the sea-bed. His delegation hoped that those efforts would be successful.

35. In drawing attention to the successful results of the work of Negotiating Groups 1, 2 and 3, his delegation was convinced that on the basis of those results the First Committee could reach a final settlement of the problems confronting it, as the Third Committee had already done and as the Second Committee had succeeded in doing with respect to most of the problems on its agenda. On the other hand, since other delegations and apparently the Group of 77 as a whole had spoken in favour of the establishment of a small informal group, his delegation would not oppose the creation of such a representative unofficial group within the framework of the First Com-

mittee, with a view to preparing mutually acceptable compromise solutions of outstanding issues, i.e. issues on which, in the opinion of the Chairmen of the negotiating groups, agreement had not yet been reached to a degree that would justify the inclusion of new formulations in the revised informal composite negotiating text. His delegation further agreed that the new group should be presided over by the Chairman of the First Committee and believed that the Chairmen of Negotiating Groups 1 and 2 should serve as Vice-Chairmen and assist the Chairman in conducting negotiations and preparing compromise texts on problems falling within the competence of their Groups. Incidentally, his delegation wished to point out that no group should be regarded as representing either the developing or the developed countries: the Conference could not be divided into the South and North, as was the Paris Conference, but consisted of many regional groups. The Eastern European countries, in any case, had no intention of setting themselves against the developing countries.

36. In agreeing to the establishment of the group of 21, his delegation assumed that the group would not alter the compromise provisions already prepared, but would seek to settle outstanding issues and to prepare mutually acceptable texts on those issues with a view to their inclusion in the revised negotiating text. If other delegations interpreted the task of the new group in the same way, the results of negotiations between its future participants could be expected to be favourable.

37. Following subsequent approval of those results in the First Committee and then in plenary, by means of consensus or through the emergence of a measure of agreement that would justify the inclusion of those results in the revised negotiating text, there would be absolutely no need for the General Committee or the Conference in plenary to establish yet another small group at plenary level and to waste time on procedural discussions. That remark applied equally to the other Committees, in view of the references to them in paragraph 11 of the President's note.

38. Even after the President's explanations, his delegation still had some doubts concerning the new paragraph 17 of the note, which suggested that unless the proposed procedure, including that set out in the new paragraph 16, was adopted—in other words, unless a new negotiating group was set up at plenary level—, there was little likelihood that the Conference would have a revised text and that it could attain its objectives.

39. A revised negotiating text was not an end in itself for the eighth session of the Conference. The task of the session was to elaborate mutually acceptable decisions on the remaining outstanding problems of the law of the sea, and the negotiating groups set up at the seventh session were concerned with the attainment of that objective. On the basis of such mutually acceptable decisions, it should not be difficult to prepare a revised negotiating text on a collective basis, in accordance with paragraph 6 of the President's note.

40. The members of the General Committee should express their full confidence in those who would direct and participate in the negotiations in the group to be set up to deal with First Committee issues, instead of prophesying the failure of those negotiations, as was done in the new paragraph 16 of the President's note. In that connexion, the same confidence should be placed in the Chairmen and members of Negotiating Groups 4, 5, 6 and 7, which had been set up at the seventh session at the decision of the plenary meeting. It was hoped that they, like Negotiating Groups 1, 2 and 3, would complete their negotiations successfully. Yet the new paragraph 16 in effect implied that, however hard the members of the new group or the existing groups might work and whatever efforts they might deploy, they could achieve no success and the General Committee should therefore, without awaiting the results of

negotiations, provide for the establishment of a new body called a small group dealing at plenary level with all issues relating to all Committees.

41. Without prejudging its future position, and considering it premature to express any opinion concerning the advisability or inadvisability of setting up such a group, his delegation could not agree that the question of its establishment should be decided upon at the current meeting, since that question could be examined at any time; it was to be hoped that the President would not press the proposal contained in the new paragraph 16 of his note.

42. The main difficulties of the current session lay not in the organizational form of the conduct of negotiations, but in the fact that the delegations of certain countries were still basing themselves on false premises, assuming that by adopting new methods of work or establishing new groups they would be able to impose on the Conference one-sided solutions which would not take into account the legitimate interests and rights of other States. Those countries seemed to consider that the time for final negotiations had not yet come and that they could delay the adoption of compromise positions. His delegation was reluctant to believe that the Conference was witnessing a display of tactics designed to hinder or undermine its work; for its part, it intended to pursue the course of mutually acceptable compromise in all negotiating groups, and it appealed to all other delegations to do the same.

43. The CHAIRMAN explained that the new paragraphs 16, 17 and 18 of document A/CONF.62/BUR.11 merely reflected his own comments; the General Committee had not been requested to approve those paragraphs.

44. Mr. LUKABU-K'HABOUJI (Zaire) agreed with the Chairman of the Group of 77 that the figure of 21 suggested for the membership of the smaller working groups should not be regarded as a precedent.

45. In the opinion of his delegation, adoption of the suggestions put forward in document A/CONF.62/BUR.11 would enable the Conference to make progress. He hoped that, by the end of the session, the revised informal composite negotiating text would have become the official text of the Conference.

46. Referring to the new paragraph 16 of document A/CONF.62/BUR.11, he agreed that the President of the Conference should be allowed sufficient time to consult the Chairmen of the Committees concerning the composition of the second working group; he considered, however, that it would be useful to establish such a group.

47. He noted that document A/CONF.62/BUR.11 made no reference to the question of dissemination, to the Conference as a whole, of information concerning the work done in the small group of 21. He suggested, in that connexion, that it might be useful to publish records of the discussions of that group; in those records, delegations should not be mentioned by name.

48. He would welcome further information on the exact functions of the alternate members of the proposed group of 21.

49. In conclusion, with reference to paragraph 14 of document A/CONF.62/BUR.11, he suggested that, in order to save time, the decision concerning the issues to be discussed in the group of 21 should be taken by the Chairman of the First Committee, in co-ordination with the Chairmen of the negotiating groups.

50. The CHAIRMAN said that it was certainly not his intention that the membership figure of 21 should be regarded as a precedent.

51. The fact that the results of the working group would be treated as *ad referendum* meant that they would be brought to the attention of the Conference as a whole.

52. It was his understanding that an alternate would participate in the work of the small working group only if there were

questions on which he was better able than the principal member to represent a given interest.

53. Mr. PERIŠIĆ (Yugoslavia) supported the statement by the Chairman of the Group of 77. He also agreed with the President of the Conference that a decision concerning the establishment of a second small working group to consider outstanding issues other than First Committee issues need not be taken immediately. It might be possible at a later stage to establish such a group to deal with Third Committee issues. The Second Committee issues, however, were so diverse and involved so many interests that it would be exceedingly difficult to establish a small group in which all those interests could be adequately represented.

54. With regard to the question of alternate representation in the group of 21 which would deal with First Committee issues, he proposed that the alternate representatives should be present at all meetings of the group.

55. Referring to the question of final clauses, he stressed the great importance of the issues involved and proposed that work on the final clauses should be conducted in the informal plenary meeting during the fourth and fifth weeks of the current session of the Conference.

56. The CHAIRMAN said that it was for the various groups to decide who would be their members and alternate members in the proposed small group.

57. He had noted the comments of the representative of Yugoslavia concerning the final clauses. He considered, however, that the Conference would have to have a clear idea of the substance of the convention before it could deal with the final clauses.

58. Mr. KRÁL (Czechoslovakia) said he supported the President's suggestion that an attempt should be made to resolve outstanding First Committee issues in a small group in which all interests would be represented. He understood that the creation of that group would in no way affect previous decisions of the Conference, as contained in document A/CONF.62/62, regarding the process of elaborating texts of provisions for inclusion in the revised informal composite negotiating text.

59. He hoped that the small group would not reopen questions that had already been settled and would strictly respect all understandings and agreements reached to date. Its main purpose should be to help the Chairmen of the negotiating groups to assess the results of previous negotiations and fill the gaps that remained.

60. As for the idea that, at a later stage, a small working group should be established to deal with matters at the plenary level, he agreed that it would be premature to discuss the matter at the current stage, all the more so as the decision to establish such a group might weaken the resolve to find acceptable solutions in the existing negotiating groups and in the Committees.

61. Furthermore, his delegation thought that it would be better for the General Committee, with its well-balanced membership, to prepare decisions for the plenary rather than engage in negotiations, undoubtedly time-consuming, on the creation of a new body.

62. More generally, his delegation believed that the existing machinery and organs should be used to the full and that the Conference should not resort endlessly to the creation of new organs every time difficulties were encountered.

63. In the circumstances, his delegation thought that the new paragraph 16 of the President's note should be deleted.

64. Mr. ZEGERS (Chile) said that the Secretary-General in his message to the Conference had rightly pointed out that the current session was the last negotiating session, that the moment of decision had arrived and that the success or failure of the Conference would depend on the decision reached.

65. The position of the group of Latin American States, with which his delegation concurred, was that the final stage of informal negotiations had arrived and that the Conference should shortly have before it a revised informal negotiating text for formalization.

66. In that context, the proposals contained in the President's note seemed generally acceptable. He understood that the procedural provisions contained in documents A/CONF.62/62 and A/CONF.62/69⁴ remained unchanged. His delegation supported in particular the suggested establishment of a group of 21, as originally proposed by the Group of 77.

67. With regard to the suggested establishment of a second limited group at plenary level, he said that the idea was an interesting and important one which might be discussed after Easter. As the Chairman had rightly pointed out, time had to be allowed for the negotiating groups to meet and for the Committees to examine their work. It should be possible for that work to be completed during the current week and for progress reports to be submitted in the following week; then talk of package deals would begin. It would probably be necessary to establish some over-all negotiating machinery since, at the current stage, all imaginable procedural devices should be used to facilitate negotiations and to reach the moment of decision.

68. Mr. AN ZHIYUAN (China) said that his delegation basically agreed with the suggestions of the President of the Conference concerning the organization of work for the following three weeks. The mid-point of the session had been reached and, thanks to the joint efforts of the Chairmen of the Committees and negotiating groups and of the overwhelming majority of delegations, the Conference was in general developing in a positive direction. However, progress as a whole had been slow and differences of opinion still existed on several questions.

69. For the purpose of facilitating the negotiations, the Group of 77 had suggested that a small working group should be established to undertake direct and more effective negotiations on outstanding First Committee issues. His delegation, which supported that proposal, was happy to find it incorporated in the President's note on the organization of work.

70. His delegation had consistently held the view that the questions considered by the Conference involved the vital interests of all countries, and that all delegations had the same right to participate in the deliberations of the Conference at its various stages. Consequently, it was necessary on the one hand to abide by the principle of sovereign equality and democratic negotiations, and on the other hand to ensure that the negotiations would be effective in practice. The number of participants in the negotiations should be smaller, and the questions to be negotiated should be more concentrated.

71. In paragraph 12 of his note, the President of the Conference had correctly pointed out that the views of the small working group would not be conclusions but suggestions for further consideration by the Conference. All delegations were entitled to make any comments on the results of the small working group's deliberations. At the same time, since most delegations would not be able to participate directly in the small working group to be established, an effective way should be found to enable all delegations to be informed in time of what had actually taken place in the small working group, and to participate in the over-all negotiations. Among the many possible ways, consideration might be given to the addition of a certain number of observer seats in the meeting room; to the circulation of periodic reports by the Chairman of the small group; and to internal briefing and consultations within each geographical group.

72. Judging by the discussions of the first three weeks of the session, his delegation believed that, provided all participants showed the necessary goodwill, it would be possible to make the expected progress, conclude informal negotiations and prepare a revised negotiating text by the end of the session. His own delegation was ready to make its contribution to ensure the success of the small working group.

73. Mr. YOLGA (Turkey) said that his delegation had certain difficulties with the new paragraph 16 of the President's note.

74. In the first place, it considered that the decision taken by the Conference at its previous session, and referred to in paragraph 5 of the note, to the effect that modifications of the informal composite negotiating text were to emerge from the negotiations themselves and were not to be introduced on the initiative of any single person, should in principle be applied at the current session also.

75. His delegation was able to agree to the establishment of a small group of 21 to deal with First Committee issues, since the issues in question were interrelated and were not of more particular interest to any one delegation or group of delegations. Moreover, the Conference had hitherto devoted most of its efforts at the current session to those issues and had achieved some positive results. It was also relevant that the Group of 77 supported the idea of establishing such a small group.

76. The position regarding Second Committee issues was completely different. That Committee dealt with many and varied issues, in each of which the different delegations were interested to varying extents. It would be difficult therefore to establish a limited group able to represent the various interests in question. There were also certain Second Committee issues, in particular the régime of islands and semi-enclosed seas, which had not yet been tackled by the Conference.

77. The fact that the results of such a small group would be treated as *ad referendum* might appear to be a guarantee, but in practice it was not. Experience showed that when a decision had been taken *ad referendum*, it was seldom possible to have it changed subsequently.

78. For all those reasons, his delegation was opposed to the establishment of a group to deal with Second Committee issues. It proposed, therefore, that those issues should be dealt with in accordance with the normal procedure, and that the new paragraph 16 of the note should be deleted, so that later misunderstandings could be avoided.

79. The CHAIRMAN said he regretted that he was unable to delete the new paragraph 16. That paragraph expressed opinions of his own and in no way bound the Conference.

80. Mr. MWANGAGUHUNGA (Uganda) said that his delegation endorsed the statement by the spokesman for the Group of 77 and the statement by the representative of the Secretary-General concerning the position of the negotiations.

81. With respect to the creation of a group of 21, his delegation was able to accept the proposal on the Chairman's assurance that the establishment of that group would not constitute a precedent.

82. He further welcomed the Chairman's assurance that the question of alternates would be a matter for decision within the regional groups.

83. Mr. MESLOUB (Algeria) said that the Conference had reached an advanced stage when it was essential that every effort should be made to reach a consensus on some very complex and important issues. It was in that context that his delegation welcomed the President's note.

84. It had decided not to object to the establishment of the proposed group of 21 to consider First Committee issues, on the assurance that no precedent would be set for the Second Committee.

⁴See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. X (United Nations publication, Sales No. E.79.V.4).

85. However, the proposal concerning alternates was hardly adequate. It would be very difficult for delegations to participate in consideration of the issues at the plenary level, if they had not followed the work of the group of 21. He suggested, therefore, that the group on First Committee issues should be open-ended.

86. Mr. SYMONIDES (Poland) said that the President's note constituted a useful guideline for the realization of the objectives of the Conference. The organization or work proposed therein would, in his delegation's view, be conducive to effective negotiations on the various outstanding issues.

87. He wondered, however, what would be the exact text of the General Committee's decision concerning the proposals in that note. In particular, he was unclear as to the relationship between earlier documents on the organization of work, such as A/CONF.62/62 and A/CONF.62/69, and the new suggestions made by the President. The General Committee might possibly have to propose to the plenary that its previous decisions should be changed.

88. His delegation was also unclear as to the manner in which the final stages of the work of the Second and Third Committees would be organized. He wondered whether a programme of work for the fifth week of the session had been laid down for the Second Committee, since he understood that the possibility of creating a small negotiating group on Second Committee issues was not excluded. The best solution would probably be for the question of working methods to be dealt with in the Second Committee itself.

89. The CHAIRMAN said that the proposals contained in his note in no way constituted a modification of the arrangements decided upon by the Conference and contained in documents A/CONF.62/62 and A/CONF.62/69. His note merely suggested that those arrangements should be extended to intensive negotiations within a smaller group.

90. With respect to the organization of the final stages of the work, he proposed to hold a further meeting of the General Committee the following week.

91. Mr. CALERO RODRIGUES (Brazil) said that the President's note—and particularly the suggestion in paragraphs 12 to 15 for a group of 21 to deal with First Committee issues—was most welcome, as was the President's interpretation of the role of alternates. On the other hand, his delegation did not consider that the proposal in the new paragraph 16 to set up a small group of manageable size to negotiate other outstanding issues was either feasible or useful; it therefore gladly accepted the President's explanation that that proposal was not under discussion during the current meeting.

92. Mr. OSMAN (Egypt) said that his delegation associated itself with the Secretary-General's views concerning the urgent need to reach a decision at the present stage of the work of the Conference and it therefore supported the suggestion to set up the group of 21. It also noted with satisfaction that the number of Member States comprising the group and its composition—10 members from the Group of 77 and 11 from other countries—were not to be taken as a precedent for negotiating groups either at the Conference on the Law of the Sea or in other bodies, such as the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization or the specialized agencies.

93. One important point was the flow of information from the group of 21. In his delegation's opinion, in addition to information on the final results of the group's work which were to be treated as *ad referendum*, there should be a constant flow of information on the course of the group's negotiations, so that non-participating delegations did not feel excluded.

94. In conclusion, since the establishment of the group would be a novel procedure, the relevant decision should perhaps be submitted to the plenary meeting for approval, in pursuance of paragraph 4 of document A/CONF.62/62.

95. The CHAIRMAN said that the proposed procedure was not new, but represented a modification of existing procedure, so that there was no need for the plenary meeting to endorse the establishment of the group of 21.

96. Steps would certainly be taken to ensure that all delegations were fully informed of the course of the negotiations in the new group.

97. Mr. NAKAGAWA (Japan) said that his delegation fully supported the suggestions by the President of the Conference, since the establishment of a smaller negotiating group was clearly the only way of solving the problems confronting Negotiating Groups 1, 2 and 3.

98. Mr. BAILEY (Australia) said that his delegation too was sure that the President's suggestions would advance negotiations; and it had noted the clarifications concerning the new paragraph 16. In the belief that the success of the new group's work would depend largely on the physical arrangements for negotiations, it hoped that the best possible accommodation would be chosen for the group, so that the negotiators would not be seated too far from each other and from the Chairman and the advisors would have access to the negotiators without taking the places of the alternates.

99. Mr. ZULETA (Special Representative of the Secretary-General) said that the points mentioned by the Australian representative would be taken into account in making the necessary arrangements, which would, however, be subject to one technical constraint, namely that only a few conference rooms in the Palais des Nations were equipped with six interpretation channels.

100. Mr. MARSIT (Tunisia) said that his delegation fully supported the President's suggestions, which were designed to achieve the objectives of the Conference in the interests of all the participants. On the other hand, the clarification concerning the number of alternates seemed to be difficult to reconcile with the geographical distribution of the new negotiating group. Moreover, it should be made clear that the work of the group of 21 could not be regarded as a final solution on which general consensus had been reached until all the participants in the Conference had been given an opportunity of stating their views.

101. His delegation supported the Yugoslav representative's remarks concerning the final clauses and hoped that all those clauses could be considered and finalized during the current part of the Conference's deliberations. In conclusion, he hoped that the work of the negotiating groups would not be hampered by the establishment of the new group.

102. The CHAIRMAN said that it was not for him or, indeed, for the General Committee to decide on the number of alternates for each delegation. The secretariat would make every effort to ensure that meetings of the group of 21 would not interfere with those of the existing negotiating groups.

103. Mr. SHARMA (Nepal) said that his delegation welcomed the President's proposals, particularly since they incorporated the views of the Group of 77, but he wondered whether the suggested procedure constituted a modification of the procedure set out in documents A/CONF.62/62 and A/CONF.62/69 and was as such subject to endorsement by the plenary meeting. The replacement of open-ended negotiating groups by one with a limited membership indeed represented a considerable change which might require approval by the plenary meeting. Moreover, there seemed to be some discrepancy between paragraph 12 of the President's note, according to which the results of the new group's work were to be treated as *ad referendum*, and paragraph 14, according to which the group was to be given the task of revising the informal composite negotiating text.

104. The CHAIRMAN drew attention to his ruling that approval by the plenary Conference was not required, since the

procedure decided upon at the seventh session had not been revised, but had been modified to make it more effective. Nor was there any conflict between paragraphs 12 and 14 of his note, since the function of the new group would not be to revise the informal composite negotiating text, but to elicit proposals for revision from all delegations.

105. After observing that paragraphs 16 to 18 of his note did not call for a decision, he suggested that the General Committee should approve paragraphs 1 to 15 of that document.

It was so decided.

The meeting rose at 12.25 p.m.

46th meeting

Friday, 27 April 1979, at 10.40 a.m.

Chairman: Mr. H. S. AMERASINGHE.

Organization of future work of the Conference

1. The CHAIRMAN said that the meeting had been convened in order to enable delegations to decide whether the Conference should meet again in resumed eighth session or in ninth session, and to establish the duration and dates of the next session. If he heard no objection, he would take it that Chairmen of negotiating groups who were not members of the Committee would be allowed to participate in the meeting.

It was so decided.

2. Mr. ZULETA (Special Representative of the Secretary-General) said that the General Assembly, in its resolution 32/71, had called upon the Secretariat to provide the Conference with information regarding the utilization of services made available to it. The information he was about to give should be interpreted only as the discharge of the obligation outlined in that resolution. During the current session, the Conference had used 322.40 of the 936 hours of interpretation services that had been available to it. He had reason to believe that, when approving the budgetary allocations for the future work of the Conference, the competent organs of the General Assembly would take into account all the relevant facts, but would demand of the Secretariat a stricter adherence to the guidelines issued by the General Assembly. He was certain that, with the co-operation of the President of the Conference and the Chairmen of Committees, negotiating groups and informal groups that required conference services, it would be possible in the future to have a more precise programme for the utilization of services. To that end, in accordance with paragraphs 1, 3 and 6 of section IV of resolution 32/71, the Secretariat would hold the necessary consultations in order to be able to make available to delegations well in advance a draft calendar of meetings of organs and groups established by the Conference, as well as of other informal groups that had traditionally made use of the services provided by the Secretariat. Such a procedure would enable participating States to organize their delegations in a manner consistent with their actual working requirements.

3. In its resolution 33/17, the General Assembly had empowered the Conference to decide to hold further meetings under arrangements to be determined in consultation with the Secretary-General. He had been instructed to inform the Conference that the necessary services could be made available only during the period 16 July to 24 August 1979. The fact that those services could be made available was attributable to the excellent co-operation of the Committee on Conferences which, under the terms of General Assembly resolution 32/72, was the only body competent to change the calendar of conferences established by the General Assembly.

4. Mr. CARÍAS (Honduras), speaking as Chairman of the Group of 77, requested that the first three days of the first

week of the resumed session should be allocated entirely to the Group of 77 to enable that Group to carry out its preparatory work for the session.

5. Mr. DE LA GUARDIA (Argentina), speaking on behalf of the group of Latin American States, said that the group could agree that the Conference should meet again in resumed session. It insisted, however, that the revised text of the version of the informal composite negotiating text should be formalized at that resumed session. The group was in favour of a five-week session, to which would be added the three days requested by the Group of 77, giving a session of approximately six weeks in all. The dates mentioned by the Special Representative of the Secretary-General were acceptable to the group. The group was of the opinion that at least one half of the resumed session should be devoted to the work of the group of 21.

6. Mr. LARSSON (Sweden), speaking on behalf of the group of Western European and other States, said that the group was anxious that the impetus gained at the current session should be maintained. It could agree, therefore, that there should be a resumed eighth session starting in New York on 16 July and lasting six weeks. In the view of the group, the first two to three weeks of the resumed session should be devoted mainly to First Committee matters on the understanding, of course, that the negotiating groups of the Second Committee could also meet in order to discuss hard-core issues in their respective fields. The group could agree that three days at the beginning of the resumed session should be given over to the Group of 77.

7. Mr. MAHMOOD (Pakistan), speaking as Chairman of the group of Asian States, said that, on the assumption that the informal composite negotiating text would be revised, the Group could agree that there should be a resumed session in New York during the period indicated by the Special Representative of the Secretary-General. The resumed session could last for either five or six weeks, but the duration of the session should be definitely fixed and no possibility for extension allowed.

8. The meetings of the contact group of the Group of 77 on First Committee matters should not begin before 16 July. Whether the resumed session should start on 16 July or after the meeting of the Group of 77 would depend on the programme of work for the resumed session. If that programme comprised only First Committee matters, then the session should start after the Group of 77 had completed its work; if matters dealt with by other Committees were also to be discussed, the session should start on 16 July. Once the Group of 77 had completed its work, there should be alternate meetings of the contact group of the Group of 77 and the group of 21.