

STATEMENT OF MR. PAUL BAMELA ENGO, *Cameroun*
Chairman of the First Committee

Mr. President,

It may be recalled that the Plenary decreed in document A/CONF.62/62 the establishment of three Negotiating Groups to deal with three hard-core issues relating to the mandate of the First Committee at this Conference.

The Plenary itself established the first Negotiating Group to negotiate the system of exploration and exploitation, as well as the resource policy of the International Sea-bed Authority. It was to take note of the work of the group of experts on production control chaired by a member of the United Kingdom delegation. On 8 May 1978, the Chairman of that Negotiating Group, Mr. Frank Njenga of Kenya, gave to the plenary a progress report in which he outlined the suggestions he had to make at that stage of the negotiations, contained in document NGL/6 of 2 May 1978.

If you may recall he has since submitted his report to us both in accordance with the provisions of para. 3 of document A/CONF.62/62. Mr. Njenga's final suggestions for compromise, based on further negotiations and a revision of previous suggestions, are contained in document NGL/10/Rev.1 of 16 May 1978.

In exercise of the discretion offered the Chairman of a Main Committee in para. 4 of document A/CONF.62/62, I decided that the results of Negotiating Group 1 should first be considered in the First Committee before bringing them to the Plenary. The reason for this, which I have made clear in the past, relates to the necessity for examining them in the proper context of the package to which they belong, and from which they could neither be isolated nor divorced, i.e. the mandate of Negotiating Groups 2 and 3.

Mr. Njenga also made some introductory remarks to an informal meeting of the First Committee in which he explained further the work of the Group. An explanatory memorandum by him concerning his suggestions is contained in document NG1/12 of 16 May 1978.

Negotiating Group 2, chaired by Ambassador Tommy Koh of Singapore, was set up by the First Committee to deal with financial problems. It also had before it the results of an informal and preliminary study which was made solely for the information of 'delegates. The Group examined the financial arrangements of the Authority (involving Articles 170 to 175 of the ICNT), the financial arrangements of the Enterprise (involving paras. 9 and 10 of Annex III and Articles 158 (2)(vii) and 160 (2)(xv) of the ICNT), and, finally, the financial terms of contracts for exploration and exploitation. On all of these, tremendous strides were made, experts and non-experts alike making sacrifices and contributions to the common good.

The Chairman, Ambassador Koh, reported to the First Committee that pressure of time conspired with "other reasons" to deprive Negotiating Group 2 of the opportunity to complete negotiations on certain important questions relating to financial terms of contracts. He outlined the following:

- (1) the amount of the application fee;
- (2) the amounts of the annual fixed fee, if paid annually or if paid in a lump sum;
- (3) the percentage of the market value of the processed metals, or the percentage of the amount of the processed metals produced from the nodules extracted from the contract area, which a Contractor should pay to the Authority, if he chooses to make his financial contributions by way of the production charge;

- (4) in the case of a Contractor who chooses to make his financial contributions by way of a combination of production charge and share of net proceeds, three questions remain outstanding: first, how much should the Contractor pay by way of production charge?; second, what percentage of the Contractor's total net proceeds should be attributed to mining of the resources of the contract area?; third, what should be the Authority's share of the net proceeds attributable to the mining of the resources of the contract area, on each of the eight levels of profitability I have proposed?

These outstanding issues on financial terms will, on his recommendation, have to be taken up at the next session of the Conference.

The suggested compromise proposals by the Chairman of Negotiating Group 2 are contained in the following documents: NG2/4; NG2/5 and Corr.1; and NG2/7 and Corr.1. He has also submitted a memorandum to explain document NG2/7 in view of its complexity. This is to be found in document NG2/8 and Corr.1.

It was decided that the Third Negotiating Group be chaired by the Chairman of the First Committee himself. It dealt with the third hard-core area relating to the composition, powers and functions of the Organs of the Authority. A report was given to the Committee and is contained in document NG3/2 of 12 May 1978. It annexed suggestions for possible improvements to Article 159 of the ICNT relating to the composition, procedure and voting in the Council.

As soon as it was possible to do so, the texts of the above reports and suggested formulae were made available to delegations, with a view to expediting

and facilitating the examination of the package involved in the three hard-core issues identified by the Plenary. It was the general intention that this package be discussed in the First Committee before I made this report here. Time was made available for consultations among and across regional groups. Unfortunately, however, the inability of the translation services to reproduce them in the various official languages, between 9 p.m. on Friday night and, in some cases, Tuesday morning, frustrated the desired fruitful study by these informal contacts among delegations.

There is a general feeling in the Committee that our negotiating efforts this session have not been without some unprecedented success. We grappled with the hard-core issues and there is a willingness on all sides to negotiate, at least to ensure a closer walk with consensus. We may not have succeeded in adopting consensus text in every or most spheres, but we all share some satisfaction that there has been movement forward.

My consultations left me in no doubt that all delegations would like our attainments to be preserved and that some basis be found for continuing to negotiate the provisions postulated by the ICNT, having regard to the progress we have made in our efforts so far this session. We wanted a satisfactory basis on which we could move forward rather than backwards at our next meeting; one that will enable us to commence that meeting exactly where we terminated this one.

The Group of 77, in spite of their inability to have an in-depth review of the package in the short time available, nevertheless endeavoured to consider the package "in a preliminary way" and in a spirit of co-operation decided to raise no

objection to the reports of Negotiating Groups 1, 2 and 3, providing or constituting such basis for negotiations at the next meeting of the Conference. This was "without prejudice", they said, "to the ICNT, the proposals of the Group of 77 and other individual proposals of delegations". With similar co-operation and understanding from delegations in other groups, this approach was accepted by the Committee. I thus commend it to the Plenary together with the set of the three reports.

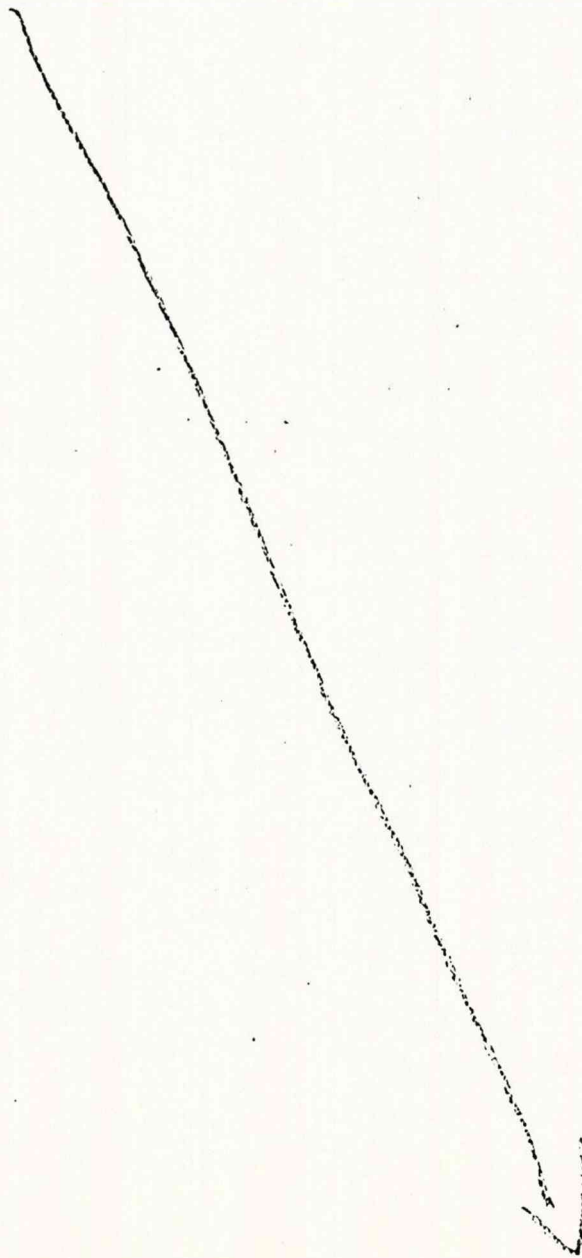
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Thus, for the purpose of work in the First Committee, there has in fact been an adjournment, not a termination, of a continuing process for agreeing on an overall package on our mandate. We will have to examine in future not only this mini-package of hard-core issues but also other questions, some of which may not necessarily divide us but may present difficulties of a sort. We also have unfinished business on appropriate figures in the financial arrangements. The scope is not discouragingly wide.

Throughout this extremely demanding and, in my view, fruitful session, in addition to the many duties I have had to cope with, I have tried to maintain a constant overview of the separate core-issues negotiations in progress and their impact on the text of the ICNT as a whole.

One of the problems we shall have eventually to examine is that of refining and clarifying Annex II. This Annex will lie at the heart of the operations under Part XI of the Convention. It may be a constant point of reference. It will be the

centre of intense scrutiny. It is inevitable that it will become the subject of frequent and careful interpretation by those who come after us, and who will be charged with implementing the provisions of the Convention.



A reading of that Annex leaves one profoundly aware, by the lack of clarity and systematic presentation, of many of its provisions. At this session, we have witnessed much progress on some of its provisions under the leadership of my brothers, Frank Njenga and Tommy Koh. The Annex will be substantially completed - as a negotiating text, of course, and no more - and enhanced by the results of their work.

However, I think the time may be approaching when it will be necessary to take a very critical look at the way in which the provisions of Annex II have been put together, and to take some preliminary steps towards clarification. Ambassador Tommy Koh has approached the difficult task of financial questions with the same objective.

It would be useful if we could all begin to take such a look at the Annex. I shall be glad to receive informal suggestions from all of the delegates who would be kind enough to give me the benefit of their wisdom, ways and means of improving the presentation of the provisions. I could then informally suggest ideas at the appropriate moment in order to avoid wasteful exercise in a general debate in the future.

For the rest, Mr. President, I can only express my satisfaction for the work done this session and express the hope that we do not delay in returning to complete the unfinished task of the First Committee mandate which is of such vital importance to mankind. I wish to add the hope that in these final moments of our historic effort, each delegation or group of delegations, each interest group, each side of an existing conflict of interests and views will endeavour to take an over-all stock of our journey. We cannot have a viable convention if many nations participating

at this Conference must find at the end that they have gained nothing from it. This is particularly so with regard to poor young nations who obtained self-determination after generations of subjugation, and must struggle to survive in a cruel and complicated world. In my considered opinion, we are not here merely to write a business arrangement to facilitate exploitation of the sea-bed resources by the industrially rich and powerful nations. We are here to design a new relationship among States and between them and the International Sea-bed Authority we seek to establish to ensure that the declared common heritage benefits all of mankind. History chooses its great and its poor for each generation. It does not leave a permanent seat for any nation. We have an opportunity here to alter the course of history by ensuring that nationalism does not invoke the selfishness and injustices that lead to the fall of great nations. Let us not design a pattern of potential discord and injustices that will aid history on the same part. Ambassador Avid Pardo's words must guide us because he was inspired by the common good. The common heritage demands a common endeavour to ensure sustenance for the common good. While we seek protection of interests, let us not lose sight of the truth and the scope of the varied interests involved here. In the ocean space, and especially in its sea-bed, there is room enough and wealth enough to ensure prosperity for all. At this last cross-roads of our final lap to the tape, let us make the great fellowship of a common need for universal development our mutual aspiration.

I wish, in closing, to thank all who have helped to bring success to our negotiations, the Chairmen of the Negotiating Groups, the Secretariat staff and experts, the interpreters and translators, etc.

EXTRA PAGE "A"

I feel duty bound to refer to one matter which did not emerge from the texts of the Negotiating Groups. It was pointed out by one delegation that the matter fell between two mandates and proved impracticable to be dealt with in either. It concerned Article 148 which deals with the participation of developing countries in the activities in the Area. It was suggested that the words "remoteness from" should be inserted between the words "including" and "access" at the end of Article 148. There was no objection to this and it was so decided. I was duly informed about and encouraged the informal contacts made to attain this.