

STATEMENT IN PLENARY

BY THE CHAIRMAN OF THE DRAFTING COMMITTEE

HIS EXCELLENCY MR. J. ALAN BEESLEY, Q.C.

Tuesday, August 26, 1980

The Drafting Committee is not yet in a position to give a final report for obvious reasons, as indicated by today's Journal. The language groups are still meeting and, indeed, we hope to be able to still do further work this week. We are grateful to you, Mr. President, and to the Conference, for allowing us to continue to meet while the Plenary is also in session. We hope to have meetings of the co-ordinators tomorrow and Wednesday, and of the Drafting Committee Plenary on Thursday. However, even so, I must make some information known to all delegations to assist them in their consideration of the documentation before them.

The first point that I think I should make is that the Drafting Committee has refrained from addressing the text still emanating from Committee I and from Plenary for the self-evident reason that it is premature for us to attempt to carry forward our work on harmonization and the preliminary work on textual review until documents emerge from those negotiations in more or less final form.

I should explain also that the Drafting Committee is in a transitional period in that it is trying to complete its work on harmonization, while proceeding simultaneously in the language groups with the beginning of the textual review. But, of course, because some questions on harmonization depend on what comes out of this very session, we can't even complete the harmonization process as yet.

Thus, while in the case of Committee I and Plenary we are deferring action for the time being, in the case of Committee II, the situation is relatively clear-cut because the Chairman of Committee II presented the Drafting Committee recommendations to the Committee and the results do not create problems for the Drafting Committee.

The case of Committee III is a special one, as has been quite properly pointed out by the Chairman of Committee III, who has, I think, been well known as one of the strongest supporters of the Drafting Committee in the past. He has explained how Committee III has gone through a long list of some 200 drafting points, and reached conclusions, which I assume will prove to be very helpful to the Drafting Committee and to the Conference as a whole.

There are, of course, potential questions of harmonization, however, that arise from any Committee or Plenary itself addressing itself to drafting points rather than questions of substance, and I want to clarify the situation so that delegations will be under no misunderstanding concerning this matter. I particularly want to lay to rest any worries that there are parallel drafting exercises going on.

There was a Collegium decision on the procedural issues on July 30, and at my request the Chairman of the Third Committee made a statement explaining that decision to the Drafting Committee, which was extremely helpful. I'll quote only briefly from that statement. One part of that statement reads: "The next stage after scrutinizing is the presentation of the report to the Third Committee which will send its proposal to the Drafting Committee." At a later stage the Chairman of the Third Committee said, "Whatever is discussed in the Third Committee will go to the Drafting Committee because it is time to avoid changes of a drastic nature."

Finally, the Third Committee chairman said again "Therefore the proposal will go from the Third Committee to the Drafting Committee, and sometimes to the co-ordinators, though problems of a substantive nature could be referred to the Collegium of the Conference by the Chairmen of the other Committees." This Collegium position stated by the Chairman of the Third Committee was reflected, to some measure, in the letter of August 1 addressed to me as Chairman of the Drafting Committee by the Chairman of the Third Committee, and I would only mention briefly, that it was confirmed in that letter that the Chairman of the Third Committee would "submit a report to the Third Committee and inform the Drafting Committee, with appropriate recommendations."

Now, I think it would be inadvisable for the Drafting Committee to attempt, in a sense, to anticipate its intended work of an article-by-article nature by going over every proposal from the Third Committee or any other Committee for that purpose. However, I think it essential, particularly because these are many new drafting suggestions from the Third Committee, that they be looked at by the Drafting Committee, albeit relatively briefly, to see if they present any harmonization problems - for the simple reason that that, of course, is the main function of the Drafting Committee - to ensure that whatever comes out of any Committee, or Plenary, does not solve one drafting problem by creating another.

My information to date is that we don't expect many such problems, if any, because one language group has already processed the work of the Third Committee and, I think, we're well under way in carrying out our task, but it would help us if we had proper documentation. The Secretariat, of course, is under very great pressure, but we do need it, even at this late stage, in order to do that part of our work that we hope to complete at this session. For that reason I will take this opportunity of addressing myself, through the Bulgarian delegation, to the Chairman of the Third Committee to say that we need his report as soon as possible so that we are certain that we are processing his actual report. I wish to reiterate that the Drafting Committee will confine itself to questions of harmonization, leaving aside the textual review of the Committee III recommendations for a later stage.

There is one other point that I think is worth mentioning. I would like to express my thanks for the work of the Secretariat, who have been so helpful, and to urge at this stage, this very key stage in the Conference, that the Secretariat exert its maximum effort between now and the next session, which we hope will be the final one, to clear up any translation problems which remain, because as you all know, all languages

are equally authentic. We cannot have 3 or 4 or 5 or 6 different treaties. It is a very difficult problem, and I have been asked by a number of members of the Drafting Committee to make this point, without any criticism, of course, intended, on any side.

Thank you Mr. President.