

STATEMENT OF AMBASSADOR BEESLEY IN GENERAL COMMITTEE ON APRIL 14, 1981

(taken from the tape)

Thank you, thank you, Mr. President.

Mr. President, it will be noted that whatever my reputation for loquacity elsewhere, I speak very rarely in the General Committee unless it's about the Drafting Committee. On this occasion I'm speaking for two reasons: firstly, because I think we may be on the verge of a very serious misunderstanding; and secondly because it isn't clear to me that I'll have a chance to speak in Plenary, and unless I take my opportunity now, I may lose it.

Mr. President, I may have heard the latest proposal by Peru differently than did the distinguished representatives of the USA, France and Japan. I understood the distinguished representative of Peru as saying simply that since we'd been unable to reach agreement here, let's move the discussion to the real decision-making organ of the Conference. This is a steering committee. When we can reach decisions helpful to the Conference that is our function. We even have broader functions, which we don't fulfill. But that at least is our function. When we cannot reach a decision, it not only may be appropriate but highly desirable to refer the issue to Plenary. But I didn't understand him to say, "Let's have a snap vote in Plenary."

Now I have the feeling, the impression, that it may be that the statement of the distinguished representative of the USA was based on a misunderstanding, and that he was reacting to what he perceived to be a suggestion that we go into Plenary and have a snap vote. If that was the perception, I think it was wrong, but I would like to know if that was the reason for the particular statement made by the distinguished representative of the United States. I think there are a lot of reasons for passing this issue on the Plenary as quickly as possible, but I'm not one of those who would simply like to walk across the hall and then make a snap decision by vote. So before even addressing myself to the essence of the issue now before us, I would like to know whether the USA and France, and as I recall, Japan, were objecting to having the matter considered further in Plenary, or whether they felt they were objecting to having the matter simply passed to Plenary for decision by vote. I would like to know the answer to that before I determine whether to comment further on some of the fundamental issues before us. Thank you, Mr. President.

THE UNITED STATES

Thank you, Mr. President. Mr. President, two points. First, so that the record on this point is clear, I am authorized to state that the United States Government will be in a position to state definitive, substantive views regarding the Convention next year. So that there is no problem there.

PRESIDENT

I think, Professor Oxman, our colleague was trying merely to request you to specify which month of the year.

UNITED STATES

By "problem" of course, I meant that there was no doubt on that particular point. I don't have a precise time-table of course, because of the General Assembly. My anticipation is that the process would reach a state of completion in the autumn and the Chairman of the United States Delegation has indicated that any time convenient after the regular session of the General Assembly, that is early next year. And I simply would like to repeat that statement so that the record is clear. As to the proposal to move to Plenary, it is reasonably clear if we go to Plenary that the situation in terms of obtaining consensus will be no different in Plenary from the situation as it exists now. For my part, and I am not invoking any particular rule, but simply making a statement, it is not at all clear that all efforts at consensus have been exhausted. Now, therefore what happens in Plenary? Do we simply repeat the debate here, or are we going to Plenary to take a decision? If we are going to Plenary to take a decision, whether it's a snap decision or not, one can imagine we'll have a two-hour debate first. Then, I think the questions involved are apparent to all of us and those questions are serious ones. Now, it's not a question of interpretation of what was intended by the distinguished representative of Peru but rather what is the objective situation if we do move to Plenary at this stage. And it does seem to my Delegation, that given the spread of views that exist now, this Conference has certainly overcome more severe difficulties, including procedural difficulties by consensus when the spread between the viewpoints in question was much greater than it is now. The fact that my Delegation in those earlier situations might have been on the eight or ten-week side of the argument and others on the four-week side of the argument doesn't disprove the fact that we were able to resolve these kinds of questions before and it seems to me that we should be able to resolve these kinds of questions by consensus. Again, thank you, Mr. President.

PRESIDENT

Thank you. I ask Ambassador Beesley to please complete his statement.

AMBASSADOR BEESLEY

Well, I'm disappointed in the answer as I had hoped that the response was based on the impression that we would be proceeding to a snap vote, because we don't have many options before us here otherwise, unless we assume that we are unable to move to Plenary until we make a decision. That takes us back, I suppose, to the original Peruvian proposal, but I want to first just offer a comment which I may or may not develop in Plenary, if and when we get there.

I recall when we first settled on the gentlemen's agreement on consensus. I was personally involved in the negotiations and I recall how I expressed it. And, as I recall again, it was accepted by others on the following basis - that consensus should mean neither the tyranny of the majority nor the veto of the minority.

Now we meant that to apply primarily to substance and normally -- normally -- we would not invoke it in this kind of situation. Ideally, we should always decide by consensus, whether on substance or procedure. However, this, I suggest, is an unusual situation in which the underlying issues are as much substantive as procedural, if only -- if only -- because the USA has been extremely candid with us, in stating that in the course of the review process no decision has even been made as yet as to whether the USA favours a Convention or does not. Now, although that position may be subject to criticism, on substance, I think it does merit some recognition for its candor.

There has been no suggestion throughout this session, not in the discussions in the General Committee or in Plenary, certainly not in the Drafting Committee, that that same Delegation is attempting to achieve its ends by indirection, by stalling or other devices which have occasionally been used, or at least alleged, with respect to various groups at various times in this Conference. Now, to my mind, some conclusions have to be drawn from this.

The fundamental conclusion that I draw personally -- and I'm not purporting to speak now as Chairman of the Drafting Committee and I'm not purporting to speak for the Canadian Government -- the Canadian Government has made its views known publicly: namely its very strong support for early conclusion of the Draft Convention; -- the comment I wish to make is as follows.

It behooves us, in my view, as representatives of governments, as diplomats, and in the case of some of us of course as officers of the Conference, to be aware that whereas in Geneva we did appear to have a consensus, or a virtual consensus, we do not now have that consensus on substance, for whatever reasons, or however the decision may have been made known -- communicated to us -- we do not now have that consensus. That is the fundamental fact of life facing us. So we have to decide what do we do in the light of that fact. Now, that doesn't mean that we have to decide what we do now in this Committee on what appears to be a procedural issue by consensus, but because of this underlying issue, it does suggest, to me at least, that we would be well advised to try and reach our decision on this extremely important decision by consensus if at all possible.

I don't invoke the rule saying we must exhaust every effort on consensus; I think we are all pretty well exhausted as it is. I do say that if we can decide by consensus, let's do so. Now, thus far we've been able to make important decisions by consensus, and we have never had a vote on substance. I don't say that this would be a vote on substance if we decided now by vote or in Plenary; I just suggest that the procedural vote would have substantive implications, or could have substantive implications. So for that reason, I would urge that every effort be made to reach a decision by agreement.

Sitting up here, we sometimes have delusions of insignificance, but it does at least give us the opportunity to see people's faces and watch them as they speak, as well as hear them. Perhaps I'm misunderstanding the debate. I recognize the deep division, but I do agree with the President in his appraisal that one proposal seems to contain possibilities of bridging the divisions. And that's the proposal - the Australian-Chilean proposal -- as expressed by the President.

I heard reservations expressed by the USA Delegation in the form of questions which have not been answered -- which have not even been addressed perhaps. But I did not hear an outright rejection of the four-plus-one formula and I for one would like to either hear a little more discussion of it, or have a break in order to have informal consultations concerning that proposal -- not necessarily formal geographical group consultations, but some opportunity to take soundings on that particular proposal and whether it still might prove acceptable by consensus.

Let's be frank -- it would represent a major concession by the Group of 77 and presumably by the Eastern Europeans, and perhaps by some others, but it still might give us the possibility of reaching a decision that would enable us to all proceed on the same framework. Now, I believe that one of the difficulties for the USA on such a proposal is that it would leave open the possibility, dear to the heart of many delegations, of making the next session the last one. But no one -- no one -- can prejudge what will occur at such a session, and it at least leaves open the possibility that the Conference could decide of its own that it might not be timely to make final decisions. It leaves many options open. To my mind, it would be better for the USA and others of the same viewpoint not to press the question of how we would reach the decision concerning the last week. To my mind, that kind of decision can be left until the day when it must be made, because we do prefer to reach these conclusions by consensus.

I only make a plea that the USA, and Japan on its side, and the Group of 77 and others sharing their view, at least give a fair hearing and very thoughtful consideration to this proposal -- the proposal I would call the four-plus-one, because I think, as the President has suggested, that it does provide the basis for a common accord. That's all I would say. I don't say it's the best proposal from the functional point of view. I do think it gives us the possibility of avoiding a deep split in the Conference. I would have preferred that I not take the chair behind the plaque of the Chairman of the Drafting Committee but the way the discussion has gone I felt it better to make these comments now rather than later. Thank you, Mr. President.

PRESIDENT

I thank Ambassador Beesley for his statement.