United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Summary Records of the 13th Plenary Meeting

Extract from the *Official Records of the United Nations Conference on the Law of The Sea, Volume II (Plenary Meetings)*

Consideration of the recommendations adopted by the General Committee concerning the procedure to be followed in connection with the articles relating to the breadth of the territorial sea and the contiguous zone (A/CONF.13/L.23/Rev.1)

27. The PRESIDENT drew attention to the undermentioned recommendations (A/CONF.13/L.23/Rev.1) which had been unanimously adopted at the 7th meeting of the General Committee, concerning the procedure to be followed in dealing with article 3 (Breadth of the territorial sea) and article 66 (Contiguous zone):

"1. The order of procedure in relation to voting on articles 3 and 66 in the plenary session is to be decided by the President. Delegations are urged as far as possible not to appeal against the decisions of the President.

"2. All proposals presented in plenary relating to articles 3 and 66 are to be put to the vote at 5 p.m. on Friday, 25 April.

"3. No proposals for postponement of voting on the above proposals relating to these articles shall be considered.

"4. No amendments to, or motions for division of, proposals may be submitted or discussed.

"5. Speeches to be limited to two speakers for and two against each proposal and to ten minutes duration each. Whether or not all speeches are concluded, voting will start at 5 p.m."

28. The procedure was exceptional, the object being to expedite the work of the Conference.

29. Mr. BARTOS (Yugoslavia) said that his delegation was strongly opposed to the General Committee's recommendations, which would deprive delegations of rights to which they were entitled under the rules of procedure.

30. The PRESIDENT explained in answer to questions that paragraph 3 of the General Committee's recommendations meant that any proposal for postponing the final decision of the Conference should not be considered until after the proposals relating to articles 3 and 66 had been put to the vote. Any delegation would be entitled to submit proposals until 1 p.m. on Friday, 25 April. Roll-call votes and explanations of votes would be in order.

31. Mr. DIAZ GONZALEZ (Venezuela) protested against the fact that representatives of sovereign States should be obliged to vote, not only hurriedly, but in the manner decided upon by the General Committee. The recommendations which had been submitted were in conflict with rules 22, 28, 32, 39 and 41 of the rules of procedure. Even if those recommendations were adopted, he requested that the protest of his delegation against such proceedings should be entered in the record.

32. The PRESIDENT explained that, in order to expedite the work of the Conference, the General Committee was merely appealing to representatives to refrain from exercising their rights under the rules of procedure. No contravention of the rules of procedure was involved.

The General Committee's recommendations were adopted.

The meeting rose at 5.15 p.m.

THIRTEENTH PLENARY MEETING

Friday, 25 April 1958, at 10.15 a.m.

President: Prince WAN WAITHAYAKON (Thailand)

Fourth report of the Drafting Committee of the Conference: proposals regarding the judicial settlement of disputes (A/CONF.13/BUR/L.3, L.5, L.6, A/CONF.13/L.24

1. Mr. RUIZ MORENO (Argentina) said that his delegation, in accordance with the views it had expressed in the Fourth Committee, maintained that no provision for compulsory jurisdiction of the International Court of Justice should be embodied in any instrument adopted by the Conference. States could not be forced to accept compulsory jurisdiction, and even under the United Nations Charter they were not required to assume an obligation of that kind.

2. Only about thirty States had made the declaration referred to in Article 36 of the Statute of the International Court of Justice, and even those making it were entitled to specify matters which would not be subject to the Court's compulsory jurisdiction. Certain States at the Conference had already stipulated that they could not agree to the submission to compulsory jurisdiction of disputes arising out of certain articles, and in those circumstances it was difficult to see how compulsory jurisdiction could be accepted. Hence, a better procedure would be to include any compulsory jurisdiction provisions in a separate protocol. His delegation would oppose any provision that disregarded the principle of the sovereignty of States and deprived them of their choice between different arbitration procedures.

3. Mr. VERZIJL (Netherlands) said that his government was strongly in favour of compulsory jurisdiction, but would be prepared to accept the principle of compulsory arbitration since it understood the objections of certain States to the compulsory jurisdiction of the International Court of Justice. The principle of compulsory arbitration would, in his view, provide an acceptable alternative for such States.

4. The arguments adduced by the Argentine representative seemed to be without legal foundation. There was no question of forcing States to accept compulsory jurisdiction or arbitration; what the advocates of those methods of settlement were trying to do was merely to persuade States to accept the principle voluntarily.

5. Moreover, the argument that only about thirty States had submitted a declaration under Article 36 of the Statute of the International Court of Justice did not carry much weight, since the scope of the articles

before the Conference was well defined and States would know exactly what obligations they would assume in accepting compulsory jurisdiction or arbitration.

6. He requested a roll-call vote on the first recommendation submitted by the Drafting Committee in its report (A/CONF.13/L.24, para. 4, sub-paragraph (*a*)).

7. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the question under consideration should be viewed in the light of the common desire to adopt standards of international law acceptable to all States and to ensure that those standards formed a sound basis for the régime of the seas.

8. The Conference should not, therefore, approach the problem of compulsory jurisdiction or arbitration from a purely academic point of view. For example, it had been argued that the insertion of compulsory jurisdiction provisions in any instrument adopted would increase its value; but such provisions would raise practical problems of paramount importance, for it was common knowledge that a large number of States would be unable to sign and ratify an instrument containing them. Those States were simply not prepared to accept compulsory jurisdiction or arbitration clauses, as had been amply demonstrated in the case of several other international instruments. Where they had subscribed to such clauses, their acceptance had invariably been hedged about by numerous reservations. If, therefore, the Conference really wished to give effect to the rules of international law it had adopted and to ensure that as many States as possible were in a position to adhere to the instrument embodying them, no attempt should be made to insert compulsory jurisdiction or arbitration clauses in the body of the text.

9. He understood the purely legal reasons which led some representatives to press for the insertion of such clauses, but felt that the realities of international relations and the position of States in the matter were being disregarded. It might be theoretically desirable to insert compulsory jurisdiction or arbitration provisions in the text, but the mere fact of doing so would greatly reduce its applicability and value; for unless compulsory jurisdiction were accepted, adherence to the instrument would be impossible. States should not be placed in that dilemma, and he suggested that the Conference should choose between three ways of solving the problem.

10. The first was to omit all reference to the settlement of disputes. Many other international agreements and conventions contained provisions on the matter and any disputes that arose in connexion with the articles on the law of the sea could be settled in accordance with the procedure set forth in existing instruments. The second solution was to include a general provision to the effect that any dispute relating to the interpretation or application of the instrument might, if the parties were unable to reach agreement within a reasonable time, be referred to the International Court of Justice or to arbitration in accordance with the Statute of the International Court of Justice and existing agreements. An explicit reference could in fact be made to article 36 of the Statute. The last solution was to annex a separate protocol to each instrument providing for compulsory jurisdiction of the International Court of Justice or compulsory arbitration. Governments would not, however, be required to sign such protocols.

11. Any one of those three solutions would be acceptable to the overwhelming majority of States and would ensure that the work of the Conference was not placed in jeopardy. The insertion of compulsory jurisdiction or arbitration provisions in the body of the instrument, however, would nullify that work.

12. Mr. QUADROS (Uruguay) said that his delegation in accordance with article 6 of his country's constitution and its traditional policy, favoured the establishment of a system of automatic and compulsory jurisdiction covering any dispute arising out of the application of the instrument adopted by the Conference, but without prejudice to the arbitration procedure set forth in the fisheries articles.

13. Uruguay had already accepted the compulsory jurisdiction of the International Court of Justice; it was prepared to agree to the settlement of disputes by compulsory arbitration, even at the request of only one of the parties, if that solution was favoured by the majority.

14. Mr. GROS (France) said he acknowledged that, for the reasons already advanced by the USSR representative, a number of countries would be unable to sign and ratify an instrument containing a provision for compulsory jurisdiction. He pointed out, however, that the present problem with respect to the settlement of disputes was not academic or theoretical, but related to the regulation and jurisdictional supervision of international relations and the application of international rules and regulations. That practical aspect of the matter, which had been raised in connexion with the new conventions on the law of the sea, should not be overlooked.

15. He noted that the hesitation of some States to commit themselves in advance to compulsory jurisdiction or arbitration was in large measure due to their uncertainty that disputes would always be of a legal nature, which could be settled in accordance with legal principles. However, the convention to be adopted by the Conference would certainly give rise to numerous disputes of a kind already well known, since those of its provisions which reproduced customary law would be more numerous than those containing new law; hence an opportunity of promoting the settlement of legal disputes by arbitration would be lost if the Conference failed to include compulsory jurisdiction or arbitration provisions in the body of its text.

16. The fears expressed by certain countries were, he thought, unfounded; France had referred numerous disputes to arbitration without in any way feeling that it was sacrificing its national sovereignty. His delegation believed that international jurisdictional control was in fact one of the best guarantees of good international relations and would accordingly vote for the principle of compulsory jurisdiction or arbitration.

17. Mr. PETREN (Sweden) said that his government, having always favoured the judicial or arbitral settlement of international disputes, would regret the omission of any clause on that subject from the

instruments prepared by the Conference. The manner in which the question was settled might greatly influence the final decision of certain governments on ratification, especially as many of the provisions adopted by the Conference granted coastal States rights not previously recognized by international law. Some States might think that the exercise of such rights should be subject to international jurisdictional control and that, without such a safeguard, the risks involved would be excessive. The Swedish delegation would therefore cast an affirmative vote on the first question in the report.

18. Mr. TUNKIN (Union of Soviet Socialist Republics) said that he could not accept the French representative's interpretation of Soviet Union doctrine in the matter of arbitration. The Soviet Union view was not that national sovereignty prevailed over the law of nations, but that the basis of any principle of international law was agreement and that States were bound only by rules to which they had subscribed.

19. Mr. DE LA PRADELLE (Monaco) observed that most of the opponents of compulsory jurisdiction pointed to the lack of support which it enjoyed in the actual practice of States, stressing that only 32 governments had accepted the optional clause in the Statute of the International Court of Justice, and that many of them had made far-reaching reservations. But the opponents of compulsory jurisdiction seemed to have overlooked the vast number of arbitration clauses embodied in multilateral treaties. Those clauses, listed in the *Yearbook of the International Court of Justice,* were a particularly common feature of agreements on air transport, where the possible problems were even more delicate than those pertaining to the law of the sea.

20. His delegation agreed wholeheartedly with the Netherlands proposal, which sought to allay the fears of States by giving them a choice between the Court and arbitration. The arbitral solution, which enabled the parties to appoint referees of their own choice — and which had often been accepted by the USSR in such instruments as frontier agreements — should not, in principle, raise the slightest objection. Certain expressions in the conventions, such as the term "sovereign rights" and "exclusive rights", would inevitably give rise to differences of opinion, and there was no better way for a State to reaffirm its respect for the rule of law than to place on record its full confidence in a judge or arbitrator.

21. He said that his delegation would also support the Swiss proposal for a separate protocol. It would deplore, however, the inclusion in the conventions of any provision merely calling on States to seek settlement by negotiation and recognizing their right to submit disputes to arbitration if they so desired. Such a clause would only state the obvious and add nothing of value.

22. Mr. GLASER (Romania) said that the question whether the text adopted by the Conference consisted predominantly of restatements of existing law or of new principles was largely irrelevant. In so far as the provisions created new law, even the most ardent champions of compulsory jurisdiction would agree that there was no case-law to afford international tribunals adequate guidance. The old rules, on the other hand, had been applied by the international community, without any question of compulsion, for several centuries.

23. Some mention had been made of frontier commissions, but those differed from arbitral tribunals in two essential respects. In the first place, an arbitral tribunal consisted not only of the arbitrators, but also of a final umpire, whereas frontier commissions consisted of arbitrators only, chosen in equal numbers by each party. Secondly, when a frontier commission failed to settle a dispute, it was referred back to the governments concerned for diplomatic negotiation.

24. For those reasons, the Romanian delegation supported the third suggestion of the USSR representative. The final text should be acceptable to the greatest possible number of States, and it would be wholly improper to introduce procedural provisions, of an alien character, relating to matters on which views were strongly divided.

25. Mr. GROS (France) hoped that the USSR representative would accept his earlier statement on USSR doctrine as proof of the interest which the legal theories of Soviet Union authors aroused in France. It had been made abundantly clear, however, by authorities as respected as Professor Krylov that USSR doctrine regarded any advance submission to jurisdiction as incompatible with state sovereignty. USSR authorities admittedly affirmed that they accepted the binding force of rules of international law, but apparently that affirmation only referred to the rules of treaty law accepted by the Soviet Union, and perhaps to some aspects of customary law as well; the USSR did not on the other hand accept the interpretation of the rules of international law as binding, unless it had approved that interpretation itself in a specific case. Many passages by Soviet writers made clear that the explanation for a refusal to accept compulsory arbitration was to be found in state sovereignty.

26. Mr. BOCOBO (Philippines) said that his government firmly supported the principle of compulsory jurisdiction and arbitration. All countries admittedly professed a belief in the peaceful settlement of disputes, but for the smaller States, which lacked the power to assert themselves, compulsory jurisdiction clauses afforded the only adequate guarantee of their rights.

27. Mr. DIAZ GONZALES (Venezuela) said that his government fully shared the views of the French representative, but it also realized that a compulsory jurisdiction or arbitration clause would be unacceptable to many States for reasons of municipal law. Those States would be unable to sign the instrument drawn up by the Conference, and two months' work would thus have been wasted.

28. Mr. TUNKIN (Union of Soviet Socialist Republics) thanked the French representative for his interests in the views of USSR authorities. The material fact, however, was that many States did not generally believe in the inclusion of procedural rules in substantive treaties. The instances mentioned by the representative of Monaco, in which the USSR had agreed to compulsory arbitration clauses, were very exceptional.

29. The French representative's argument that there could be no recognition of international law without

advance submission to jurisdiction was wholly unfounded, for the law of nations had never sanctioned the principle of compulsion. Moreover, the States which opposed the inclusion of a compulsory jurisdiction clause in the instruments drawn up by the Conference were prompted primarily by a desire to see the rules as generally accepted and as firmly established as possible.

30. Mr. JHIRAD (India) recalled that his government had always upheld the principle of arbitration and had accepted the compulsory jurisdiction of the International Court of Justice. It could not agree, however, that compulsory settlement clauses were necessary in every context. States which were parties to the convention but which did not otherwise accept the compulsory jurisdiction of the Court should not be permitted to institute proceedings on the sole issue of the convention against a State which had accepted that jurisdiction, without the latter's consent.

31. In the instruments under discussion a compulsory jurisdiction clause might even be totally unnecessary, as the articles consisted largely of statements of existing substantive law and the introduction of adjective rules would merely confuse the issue. One possible exception was the document prepared by the Third Committee, as the new rights recognized therein in the matter of fisheries might give rise to fairly frequent disputes. But outside that one field, conflicts were not so inevitable as to warrant the inclusion of a provision that many States found objectionable.

32. Mr. ZOUREK (Czechoslovakia), after stressing the importance of the Conference's decision on the question of disputes as a precedent for further conferences, urged all delegations to adopt a realistic attitude. It was an undeniable fact that some States supported the principle of compulsory jurisdiction, while others — though equally ardent champions of peaceful settlement — either rejected it or made their acceptance subject to such reservations as would render it nugatory. In each case, the attitude was dictated by reasons which only the government concerned could appreciate. The only solution, therefore, was to maintain a clear distinction between the question of codification and that of settlement of disputes. There already existed numerous multilateral treaties on compulsory settlement, to which any State believing in the principle was free to accede.

33. In those circumstances, the Czechoslovakian delgation would support the suggestions of the Soviet Union representative. If the first two proved unacceptable, the best course would be to follow the third, and adopt a series of protocols, one for each convention, combining the Swiss and Netherlands proposals and providing for recourse either to the International Court of Justice or to arbitration. Minor questions could then be submitted to an *ad hoc* arbitral tribunal set up in conformity with The Hague Convention of 1907 for the Pacific Settlement of International Disputes.

34. In conclusion, he stressed that the protocol might in each case also contain all the other relevant procedural provisions already approved.

35. Mr. PERERA (Ceylon) said that, although the establishment of the Permanent Court of International Justice and of the International Court of Justice had represented milestones in the development of an international judicial system, that system was not yet sufficiently perfect to permit of the solution contemplated in the Drafting Committee's first suggestion. He would therefore support the second suggestion, which the International Law Commission itself had adopted, after due consideration, in the context of the articles on the continental shelf.

36. Mr. MATINE-DAFTARY (Iran) said that, while compulsory jurisdiction in international law represented a noble ideal, the time was not yet ripe for the inclusion of compulsory settlement clauses in all multilateral treaties. The insertion of such clauses in the instruments adopted by the Conference might even discourage many States from acceding. The only acceptable solution, therefore, seemed to be the separate protocol suggested by the delegation of Switzerland.

37. The PRESIDENT put the first suggestion in the Drafting Committee's report (A/CONF.13/L.24, para. 4 (*a*)) to the vote.

A vote was taken by roll-call.

Norway, having been drawn by lot by the President, was called upon to vote first.

In favour: Pakistan, Panama, Paraguay, Philippines, San Marino, Spain, Sweden, Switzerland, Turkey, Uruguay, Republic of Viet-Nam, Belgium, Bolivia, Canada, Colombia, Costa Rica, Cuba, Denmark, Finland, France, Federal Republic of Germany, Greece, Holy See, Honduras, Ireland, Israel, Italy, Japan, Liberia, Monaco, Nepal, Netherlands, New Zealand.

Against: Norway, Peru, Poland, Romania, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, Venezuela, Albania, Argentina, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Chile, Czechoslovakia, Guatemala, Hungary, Iceland, India, Iran, Iraq, Republic of Korea, Libya, Federation of Malaya, Mexico.

Abstaining: Portugal, Saudi Arabia, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Afghanistan, Australia, Austria, Burma, China, Dominican Republic, Ecuador, Ghana, Haiti, Indonesia, Jordan, Lebanon, Morocco.

There voted 33 in favour and 29 against, with 18 abstentions. In the absence of the required two-thirds majority, the suggestion was not adopted.

The PRESIDENT called for comments on the second suggestion by the Drafting Committee (A/CONF.13/L.24, para. 4 (*b*)).

39. Mr. BARTOS (Yugoslavia) said that it was impossible to take a decision on that suggestion until the discussion on all the articles had been concluded. He was therefore prepared to vote on that suggestion only in respect of the articles adopted in the reports of the Second, Fourth and Fifth Committees. He moved that the decision in respect of the articles contained in the reports of the First and Third Committees be deferred.

40. Mr. JHIRAD (India) agreed that the second suggestion must be considered separately in relation to each group of articles. It would be acceptable for his delegation in relation to the articles on fishing and the conservation of the living resources of the sea, but not in relation to all the other groups.

41. Mr. MATINE-DAFTARY (Iran) saw no great difference in substance between suggestions in sub-paragraphs (*a*) and (*b*), and thought that the Conference should proceed with the voting.

The Yugoslav motion was rejected by 33 votes to 20, with 16 abstentions.

42. Mr. PFEIFFER (Federal Republic of Germany) saw some force in the Yugoslav representative's remarks and assumed that a vote on the principle of compulsory jurisdiction would not prejudice the decision on article 57 in the Third Committee's report.

43. The PRESIDENT, referring to paragraph 5 of the Drafting Committee's report, confirmed that that inference was correct.

44. Mr. JHIRAD (India) said that in the light of that explanation his delegation would vote against the suggestion in sub-paragraph (*b*), which amounted to the same thing as the first suggestion.

45. The PRESIDENT put to the vote the second suggestion in the Drafting Committee's report (A/CONF.13/L.24, para. 4 (*b*)).

There voted 32 in favour and 27 against, with 14 abstentions. In the absence of the required two-thirds majority, the suggestion was not adopted.

46. The PRESIDENT called for comments on the third suggestion by the Drafting Committee (A/CONF.13/L.24, para. 4 (*c*)).

47. Mr. RUEGGER (Switzerland) said that far from being complementary, the Colombian and Swiss proposals were mutually exclusive and had quite different objects; he therefore asked that they be put to the vote separately. The Colombian proposal in its greatly weakened new form (A/CONF.13/BUR/L.5) would add nothing and did not constitute a compulsory jurisdiction clause; moreover, the amendment introduced by its author, whereby the words " at the request of any of the parties " had been replaced by the words " in conformity with the Statute of the Court ", might be misconstrued. Its adoption would be a retrograde step in the light of the advance achieved in articles 57 and 74.

48. After the regrettable rejection of the first suggestion made by the Drafting Committee the Swiss proposal (A/CONF.13/BUR/L.3), originally of an essentially subsidiary character, had acquired great importance and now that the Netherlands proposal had been defeated, he believed the Conference should take up the question of an optional clause for compulsory jurisdiction according to the system, *mutatis mutandis*, laid down in Article 36, paragraph 2 of the Statute of the Court. If the Colombian proposal was put to the vote he would have to oppose it, and if it were adopted he would ask for a vote on the principle of the Swiss proposal. The Conference should not jib at accepting a precise provision to enable those States that were anxious to encourage resort to arbitration to sign a protocol providing for compulsory jurisdiction.

49. Mr. SOLE (Union of South Africa) agreed that the two proposals must be treated as entirely separate.

50. Mr. CAICEDO CASTILLA (Colombia) observed that, his country being a convinced partisan of compulsory jurisdiction of the Court, he had voted in favour of the first two suggestions made by the Drafting Committee. He had modified his proposal in an effort at conciliation and with the object of averting the undesirable result of there being no provision on the settlement of disputes. The two previous votes had demonstrated the reluctance of many States to accept the Court's jurisdiction, and clearly a rigid formula would have provoked numerous reservations.

51. He did not agree with the Swiss representative that the two proposals were incompatible, because that submitted by his own delegation would in no way preclude a separate protocol, which he would support. Moreover, Mr. Ruegger's criticism applied equally to the Swiss proposal, since the States which refused to accept the compulsory jurisdiction of the Court would not sign the protocol.

52. Mr. TUNKIN (Union of Soviet Socialist Republics) agreed that the two proposals could not be considered together and while he had no objection to their being put to the vote, he pointed out that in substance they did not differ from the second suggestion which had already been rejected, since they both entailed acceptance of the compulsory jurisdiction of the Court. The proposal for a separate protocol, however, was another issue, and, as he had noted from paragraph 5 of the Drafting Committee's report, it would not affect article 57.

53. Mr. JHIRAD (India) said that the change introduced by the Colombian representative in his proposal failed to achieve its object of rendering the Court's jurisdiction optional, so that in its present form it did not differ from the second suggestion by the Drafting Committee.

54. Mr. WERSHOF (Canada) observed that however defective its drafting, the Colombian proposal was clearly intended as an optional clause.

55. Sir Reginald MANNINGHAM-BULLER (United Kingdom) endorsed the Swiss representative's request for a separate vote; if the two proposals, which were not properly complementary, were put to the vote together, it would be impossible to discern what was the principle at issue. There was great force in the Soviet Union representative's argument that a provision on compulsory jurisdiction should not be inserted in the main convention because it might deter many States from ratifying; but that representative's attention should be drawn to the fact that an optional protocol of the type proposed by the Swiss delegation would only be binding on its signatories, and would in no way impede those States that were reluctant to accept compulsory jurisdiction from ratifying the principal instrument.

56. He did not suppose that the Swiss proposal was intended to replace the special procedure laid down in

article 57. If so, he believed its intention would be more accurately expressed by deleting the full-stop at the end of paragraph 2 and adding to it the text in paragraph 3 with the substitution of the words "except that it shall not replace" for the words "With regard to relations between the signatories of this protocol, the procedure of article 1 hereof shall replace that of" at the beginning of paragraph 3. With that change he could accept the proposal.

57. Mr. RUEGGER (Switzerland), pointing out that the Swiss proposal had been submitted on 9 April, some time before the adoption of article 57 by the Third Committee, confirmed that as he had indicated in his introductory statement at the 7th plenary meeting, it was not intended to impair any article adopted on the settlement of disputes that was constructive and devoid of loopholes.

58. Mr. VERZIJL (Netherlands) observed that there seemed to be some difference of opinion about the exact purport of the Colombian proposal. He had first thought it had been transformed by its author's amendment into an optional clause, but now that it appeared to entail acceptance of compulsory jurisdiction by the Court, whether by means of a unilateral application or a *compromis,* he would support it, particularly as any dispute about jurisdiction would be decided by the Court in accordance with Article 36, paragraph 6, of its Statute.

59. Sir Reginald MANNINGHAM-BULLER (United Kingdom), observing that the Conference would undoubtedly be able to decide whether it was prepared to consider the Colombian and the Swiss proposals, suggested that consideration of the latter be deferred until delegations had received the text amended in the light of the Swiss representative's explicit assurance that it would not prejudice article 57.

60. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the idea of a separate protocol embodying provisions relating to the procedure for the settlement of disputes might be acceptable, but that was not the sense of the Swiss proposal, the effect of which would be to retain in the body of the convention provisions on compulsory jurisdiction by the Court, thus extending their application to all the articles.

61. The PRESIDENT put to the vote the question whether, as a matter of principle, the Conference was prepared to consider the revised Colombian proposal (A/CONF.13/BUR/L.5).

It was decided by 29 votes to 16, with 29 abstentions, that the Colombian proposal should not be considered.

62. The PRESIDENT put to the vote the question whether, as a matter of principle, the Conference was prepared to consider the Swiss proposal (A/CONF.13/BUR/L.3).

It was decided by 51 votes to 7, with 14 abstentions, that the Swiss proposal should be considered.

The meeting rose at 1 p.m.

FOURTEENTH PLENARY MEETING

Friday, 25 April 1958, at 2.45 p.m.

President: Prince WAN WAITHAYAKON (Thailand)

Consideration of the report of the First Committee (Part I: articles 3 and 66) and of proposals relating to articles 3 and 66 (A/CONF.13/L.28/Rev.1, L.29, L.30, L.31, L.34)

1. Mr. DEAN (United States of America), introducing the United States proposal relating to article 3 (A/CONF.13/L.29), wished first to pay a tribute to the untiring and able efforts of the President in presiding over the Conference, to the invaluable work of the Secretariat and to the extremely able work of the Chairman, the Vice-Chairman and the Rapporteur of the First Committee.

2. The United States proposal, which was identical with that in document A/CONF.13/C.1/L.159/Rev.2 submitted to the First Committee, involved the recognition of two main principles: first, that the zone of territorial sea adjacent to the coast over which the coastal State exercised full sovereignty was limited to a maximum breadth of six miles; second, that the coastal State could exercise exclusive fishing rights in the contiguous zone of the high seas to a maximum breadth of twelve miles from the applicable baseline of the coastal State. Such rights were subject to certain limited acquired fishing rights of other States in the outer six miles of that portion of the zone having a continuous baseline and located in the same major body of water. The rights enjoyed in the contiguous zone were further subject to any existing or future applicable agreements, if any, by the coastal State in favour of other States.

3. In order to contribute to the success of the Conference, the United States Government was submitting its proposal (which proposal, because so many delegations had been so helpful with ideas and suggestions, was virtually a joint proposal) for final action with one main objective in view: that of obtaining between nations a fair and reasonable agreement on the matter.

4. The United States Government sincerely believed that its proposal was the only one before the meeting which contained the essential elements of a just, fair and realistic compromise on the paramount issues before the Conference: the breadth of the territorial sea; the nature of the contiguous zone in the high seas; and the rights therein of the coastal States and others.

5. The proposal had slowly evolved during many hours of patient thought and discussion with numerous delegations, including many which had previously opposed it, but which could now support it as meeting their needs.

6. The United States delegation had come to the Conference in an attempt to secure full agreement on the three-mile limit, which it sincerely believed in as a rule of international law, and which, like many other nations, it would have liked to retain.

7. The present proposal was an attempt to meet the desires of many States for a territorial sea in which they