

United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Summary Records of the 18th Plenary Meeting

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

wording of the first paragraph of the preamble, and suggested that it should be redrafted to read: "States Parties to any of the conventions on the Law of the Sea, signed..." Not all States represented at the Conference would become parties to the conventions. It was possible, however, that States not represented might become parties. The protocol of signature should be capable of being signed by all States which became parties to the conventions. In that respect, article V was correctly worded.

The United Kingdom amendment was approved.

64. Mr. CAICEDO CASTILLA (Colombia) pointed out that, under article 73 of the International Law Commission's draft, States were not necessarily bound to submit their disputes to the International Court of Justice but had the right to agree on other methods of peaceful settlement. The Latin American States had agreed to resort to certain methods of peaceful settlement of disputes under certain treaties and conventions; Article 1 of the Charter of the United Nations also called for the settlement of international disputes by peaceful means. Article III of the protocol should therefore be amended accordingly, and the reference to an arbitral tribunal deleted.

65. Mr. THOMAS (Austria) suggested that a clause relating to accession should be inserted in the protocol.

66. Sir Gerald FITZMAURICE (United Kingdom) pointed out that such a clause was unnecessary since article V provided that the protocol should remain open for signature by all States which became parties to any convention on the law of the sea.

67. He considered that the point raised by the representative of Colombia was covered by the second paragraph of the preamble.

68. Mr. CAICEDO CASTILLA (Colombia) said he would still prefer his point to be taken into account by an amendment to article III, since the preamble would have no legal force.

69. The PRESIDENT put to the vote the optional protocol of signature (A/CONF.13/L.40), as amended.

The optional protocol of signature, as amended, was adopted by 52 votes to none, with 13 abstentions.

Consideration of the report of the Fourth Committee A/CONF.13/L.12) (continued)¹

70. Mr. JHIRAD (India), speaking on a point of order, said that it was his understanding that, at its 13th plenary meeting, the Conference, when taking decisions on the report of the Drafting Committee regarding proposals for the judicial settlement of disputes (A/CONF.13/L.24), had rejected the principle of article 74 as submitted by the Fourth Committee (A/CONF.13/L.12, annex). It would therefore not be in order for the Conference to take up that article again.

71. Mr. CORREA (Ecuador), Chairman of the Drafting Committee of the Conference, drew attention

in that connexion to the final sentence of paragraph 5 of the Drafting Committee's fourth report (A/CONF.13/L.24).

72. Mr. CARMONA (Venezuela) said that the adoption of the optional protocol on the settlement of disputes (A/CONF.13/L.40) had rendered article 74 completely unnecessary.

73. The PRESIDENT said that all doubts would be removed if article 74 was put to the vote. He therefore called for a vote on that article.

The result of the vote was 38 in favour and 20 against, with 7 abstentions. Article 74 was not adopted, having failed to obtain the required two-thirds majority.

The meeting rose at 6.35 p.m.

EIGHTEENTH PLENARY MEETING

Saturday, 26 April 1958, at 8.50 p.m.

President: Prince WAN WAITHAYAKON (Thailand)

Consideration of the report of the Fourth Committee (A/CONF.13/L.12, L.32) (concluded)

ADOPTION OF THE CONVENTION ON THE CONTINENTAL SHELF

Clause relating to entry into force

1. Mr. WERSHOF (Canada) said that more than twenty-two ratifications might be necessary in the case of some of the conventions adopted by the Conference, but not in the case of the convention on the continental shelf. He therefore proposed that the word "twenty-second" should be entered in the appropriate space in the clause relating to entry into force (A/CONF.13/L.32).

2. Mr. MÜNCH (Federal Republic of Germany) said that, in adopting the convention on the continental shelf, the international community was disposing of common property in favour of the coastal States, and hence a larger number of ratifications should be stipulated. For that reason he proposed that the word "fiftieth" should be inserted in the appropriate space in the clause in question.

3. Mr. WALL (United Kingdom) said that although the number of twenty-two ratifications suggested by the Drafting Committee was too low for some conventions, the number proposed by the German representative was too high for the convention on the continental shelf.

4. Mr. JHIRAD (India) said that his delegation supported the Canadian proposal, since the number proposed by the German representative was so high that the convention might never enter into force.

5. Mr. TUNKIN (Union of Soviet Socialist Republics) said that to the best of his knowledge no convention had ever required a minimum of fifty ratifications. For that reason, his delegation opposed the German proposal, and supported the Canadian proposal.

¹ Resumed from the 9th plenary meeting.

6. Mr. MÜNCH (Federal Republic of Germany) amended his delegation's proposal to read "fortieth" instead of "fiftieth". He said that he was, on principle, unable to reduce the number further.

7. The PRESIDENT put the amended proposal of the Federal Republic of Germany to the vote.

The proposal was rejected by 49 votes to 6, with 6 abstentions.

Reservations clause

8. Mr. TUNKIN (Union of Soviet Socialist Republics) proposed that, in conformity with the decisions taken by the Conference at its 9th plenary meeting, alternative II of the reservations clause (A/CONF.13/L.32), with the insertion of "67 to 69" in the appropriate space, should be adopted.

9. Mr. BOCOBO (Philippines) said that his delegation was opposed to a clause which would disallow reservations to any article; such a clause would make States wonder why some articles could form the subject of reservations whereas others could not, and in any case the conclusions of the Conference were not infallible. In view of the separation of powers in his country, the President of the Republic could do no more than propose a convention to the Senate, which was entitled to make reservations if it decided to ratify it.

10. Mr. AGUERREVERE (Venezuela) agreed with the views of the representative of the Philippines.

11. Mr. DEAN (United States of America) said that articles 67 to 69 contained definitions relating to the continental shelf on which the other articles depended. It was thus logically impossible to allow reservations to those articles.

12. The PRESIDENT put the Soviet Union proposal to the vote.

The proposal was adopted by 43 votes to 5, with 19 abstentions.

13. Mr. AYCINENA SALAZAR (Guatemala) said that his delegation had abstained, because it opposed the exclusion of reservations to article 69 for the reasons given by his delegation at the time when that article had been adopted by the Fourth Committee (27th meeting).

14. Mr. BOCOBO (Philippines) said that his delegation had voted against the Soviet Union proposal.

Revision clause

15. Mr. ROSENNE (Israel) proposed the adoption of the revision clause as recommended by the Drafting Committee (A/CONF.13/L.32).

16. The PRESIDENT put the Israel proposal to the vote.

The proposal was adopted by 57 votes to 2, with 9 abstentions.

Denunciation clause

17. Mr. GOMEZ ROBLEDO (Mexico) proposed that the Conference should decide in principle that a denunciation clause should be adopted, the wording to be left to the Drafting Committee.

18. Mr. SOLE (Union of South Africa) supported the Mexican proposal. The Drafting Committee's report (A/CONF.13/L.32) said that the inclusion of the revision clause made any clause on denunciation unnecessary, but no reasons were given.

19. Mr. GROS (France) explained that the reason for the position taken by the Drafting Committee regarding a denunciation clause was that, to a very large extent, the task of the Conference was to codify customary law; by its nature, such law could not be denounced. Where new law had been made, it had been adopted by general consent, and there would be no point in providing for its denunciation.

20. Mr. LIMA (El Salvador) agreed with the statement of the French representative.

21. Mr. RIGAL (Haiti) agreed with the representatives of France and El Salvador. Denunciation was only practicable in the case of instruments intended to be effective for a specified term but made no sense in the case of an instrument intended to be permanent.

22. Mr. JHIRAD (India) said that there were two different reasons for a denunciation clause: firstly, it would enable a State to denounce the convention if it wished; secondly, it would prevent any State from denouncing the convention without due notice. His delegation did not think that a denunciation clause was necessary, but if such a clause was adopted, the period before denunciation took effect should be at least fifty years.

23. Mr. GAETANO DE ROSSI (Italy) agreed with the French representative that it was absurd to have a denunciation clause in an instrument which was giving written form to existing law. New law was being added, with a view to making it as generally applicable as the existing rules. The convention was not merely a treaty based on reciprocal rights; as the Drafting Committee had pointed out, the nature of the convention was incompatible with unilateral withdrawal.

24. Mr. BARTOS (Yugoslavia) thought it was dangerous, in scientific and political matters, to take a rigid position on a complex question. The Conference was concerned not only with a restatement of existing law, but also with much incidental matter which had arisen during its deliberations. True, the convention was a law-making treaty, but it also included some technical rules which could not yet be regarded as principles of international law. While he agreed with those who argued that the right to denounce could not be absolutely unqualified, he thought that their views conflicted with those of representatives who wanted reservations admitted, since unless reservations were made at a specific time, there would be no possibility of denouncing the convention in respect of the provisions to which reservations have been made.

25. It was in no way incompatible with the spirit of a

law-making treaty to provide for denunciation. In the convention, rules of customary law would be linked with provisions which did not belong to customary law — for example, it could not be said that such matters as the composition of the arbitral body, the competent organ in questions of fishing rights and the settlement of disputes, had been formulated in accordance with customary law.

26. Moreover, if all the rules laid down in the convention were sacrosanct and obligatory, what need was there for States to sign? Signature was obviously a voluntary act evidencing the will to accede, and some provision should be made for cases in which States no longer wished to accede. The obligatory and customary rules of the convention would naturally remain in force, but the contractual obligations must depend on the willingness of States to sign. A denunciation clause would not give the States licence to ignore the rules of international law; States could be counted on to observe customary law on the basis of goodwill. But all treaties, whether law-making or not, remained subject to the same rules. Denunciation was an institution which remained applicable even if not specific provision for it was made. No court in the world could declare denunciation illegal, unless the withdrawal took place before the expiry of the period specified in the instrument in question. His delegation was convinced that the Conference had no right to lay down obligations binding *in perpetuo*.

27. Mr. GOMEZ ROBLEDO (Mexico) said he could not agree that there was anything absurd about proposing a denunciation clause. Although no definite provision had been made for denunciation in the United Nations Charter, any State might withdraw from its obligations; the main point, as the Yugoslav representative had said, was whether or not a State signed a convention. Moreover, an instrument could not be said to be based on customary law if there were no denunciation clause, for denunciation itself was a recognized institution of customary law, and in addition some provision should be made for withdrawal from provisions which had not yet become principles of international law. The convention should be an instrument entered into freely, not under compulsion.

28. Mr. AGUERREVERE (Venezuela) said that the revision clause was a compromise formula, but it did not compensate for the absence of a denunciation clause. It was unwise to provide for permanent commitment, or for commitments for as long as thirty years, for circumstances might change radically. He therefore considered that the revision clause should be replaced by the denunciation formula consecrated by United Nations practice.

29. Mr. GAETANO DE ROSSI (Italy) pointed out that the United Nations Charter contained no denunciation clause, but only provisions for revision.

30. The PRESIDENT put to the vote the Mexican proposal concerning the inclusion of a denunciation clause.

The proposal was rejected by 32 votes to 12, with 23 abstentions.

31. The PRESIDENT put to the vote, as a whole, the convention on the continental shelf, as adopted in the course of the meeting and during the 8th, 9th and 17th plenary meetings.

The convention was adopted by 57 votes to 3, with 8 abstentions.

32. Mr. GIHL (Sweden) said he had abstained from voting on the convention because article 74 had not been adopted. In his delegation's opinion the rights of coastal States should be subject to international control.

33. Mr. AGUERREVERE (Venezuela) said he had voted in favour of the convention, which was probably the most constructive instrument that would emerge from the Conference. His delegation had been unable to accept the restrictions of article 74. It was opposed to the division of the continental shelf laid down in article 72, and would make reservations to that article at the appropriate time.

34. Mr. GROS (France) and Mr. SEYERSTED (Norway) said they had abstained from voting on the convention for the same reasons at those given by the Swedish representative.

35. Mr. VAN DER ESSEN (Belgium) and Mr. MÜNCH (Federal Republic of Germany) said they had voted against the convention because they considered that the criterion of exploitability in article 67 was incorrect and because they could not support the convention without article 74.

36. Mr. TSURUOKA (Japan) said he had voted against the convention because no reservations were admitted to articles 67 and 68 and because article 74 had been rejected.

Consideration of the report of the Third Committee (A/CONF.13/L.21, L.32, L.33, L.45) (concluded)¹

ADOPTION OF THE CONVENTION ON FISHING AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS

Clause on entry into force

37. Mr. SEYERSTED (Norway) proposed that the number of ratifications required for entry into force should be thirty.

38. Mr. GARCIA AMADOR (Cuba) pointed out that some United Nations conventions required only twenty ratifications, and proposed that that figure should be applied to the fishing convention.

39. Mr. LIU (China) said there was no valid reason for requiring different numbers of ratifications for the various conventions. Twenty-two represented approximately one-quarter of the participants in the Conference, and seemed to be a reasonable figure. He proposed that the number of ratifications required for the fishing convention should be twenty-two.

40. The PRESIDENT put the Norwegian proposal to the vote.

¹ Resumed from the 16th plenary meeting.

The proposal was rejected by 25 votes to 14, with 26 abstentions.

41. The PRESIDENT put the Cuban proposal to the vote.

The result of the vote was 22 in favour and 12 against, with 36 abstentions. The proposal was not adopted, having failed to obtain the required two-thirds majority.

42. The PRESIDENT put the Chinese proposal to the vote.

The proposal was adopted by 49 votes to 2, with 16 abstentions.

Reservations clause

43. The PRESIDENT drew attention to the question of reservations, recalling that the German proposal that no reservations should be admissible had not been adopted when it had been submitted at the 15th plenary meeting.

44. Mr. GANDJI (Iran) said that his delegation had been in favour of the German proposal, but now wished to achieve a compromise solution, in view of the importance attached by many delegations to certain articles of the convention. He therefore proposed that alternative II of the reservations clauses recommended by the Drafting Committee in its report (A/CONF.13/L.32) should be used and that articles 54, 55, 57, 58, 59 and 59 A, should be inserted in the blank space.

45. Mr. LAZAREANU (Romania), speaking on a point of order, considered that the rejection of the German proposal and the discussion at the 16th plenary meeting of the Cuban motion to reconsider that proposal had disposed of the problem. Reservations to the convention must be admissible.

46. The PRESIDENT pointed out that the Conference's deliberation on reservations had only excluded further consideration of a motion for the absolute inadmissibility of reservations. A proposal on reservations to specific articles was still in order.

47. Mr. LETTS (Peru) and Mr. GARCIA AMADOR (Cuba) supported the Iranian proposal.

48. Mr. JHIRAD (India) also supported the Iranian proposal. The Third Committee had been mainly concerned with articles 54 and 55, and 57 to 59 A. Articles 54 and 55 established the rights of coastal States, which represented an essential step in the development of international law. Those rights were further strengthened by the procedure set forth in articles 57 to 59 A. If those articles were separated at the time of ratification, the convention would be rendered ineffective.

49. Mr. ROSENNE (Israel) said that, since the German proposal that no reservations should be allowed had been rejected, his delegation would support the Iranian proposal.

50. Mr. DEAN (United States of America) said that his delegation supported the Iranian proposal.

51. Mr. TUNKIN (Union of Soviet Socialist Republics) said that any limitation placed on the right to formulate reservations was wrong in principle, because it put governments in the position either of not accepting the convention or of abandoning their principles. It would not be in the interests of the international community if some States with large fishing fleets were prevented from accepting the convention because they were not able to make reservations to it, and were thus not bound by it.

52. Mr. WALL (United Kingdom) said that his delegation had voted against article 55 in the Third Committee, but had supported it in the plenary Conference because a satisfactory balance had been achieved by the adoption of the articles on arbitral procedure. His delegation therefore supported the Iranian proposal, which maintained that balance.

53. Mr. GAETANO DE ROSSI (Italy) agreed with the statement made by the United Kingdom representative.

54. The PRESIDENT put the Iranian proposal to the vote.

The proposal was adopted by 49 votes to 13, with 10 abstentions.

55. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the convention contained a series of provisions which his delegation could not support, and it had therefore abstained.

56. Mr. AGUERREVERE (Venezuela) said that his delegation was instructed by its government not to accept any clause which would exclude the possibility of reservations to any article. For that reason his delegation had voted against the Iranian proposal.

Revision clause

57. The PRESIDENT proposed that the revision clause suggested by the Drafting Committee (A/CONF.13/L.32) should be adopted.

It was so agreed.

Denunciation clause

58. Mr. VERZIJL (Netherlands) observed that the convention on fishing and conservation of the living resources of the high seas dealt with new matters of such importance that a denunciation clause was necessary. For that reason he proposed the adoption of the denunciation clause suggested by the Secretariat (A/CONF.13/L.7), with the insertion of the word "three" in the appropriate space.

59. Mr. WALL (United Kingdom) said that his delegation did not oppose the Netherlands proposal, but considered that a period of ten years would be more suitable, since three years would not give States sufficient experience of the practical application of the convention.

60. Mr. BARTOS (Yugoslavia) said that the convention established new law; denunciation should not therefore be allowed.

61. Mr. GROS (France) said that the convention was based on a system of negotiation between States, which should be compulsory. That system would be undermined if States were able to denounce the convention. For that reason his delegation opposed the Netherlands proposal.

62. Mr. GAETANO DE ROSSI (Italy) said that his delegation opposed the Netherlands proposal for the reasons given by the French representative.

63. Mr. SEYERSTED (Norway) said that his delegation supported the Netherlands proposal because the convention established new rights and new duties which would have to be tried out in practice. He proposed an amendment to the proposal to the effect that a period of five years instead of three should be required to elapse before denunciation.

It was so agreed.

64. The PRESIDENT put the amended Netherlands proposal to the vote.

The proposal was rejected by 25 votes to 6, with 35 abstentions.

65. The PRESIDENT reminded the Conference that the Cuban proposal (A/CONF.13/L.33) to add a preamble to the convention had been referred to the Drafting Committee at the 15th plenary meeting. That committee had now submitted its report (A/CONF.13/L.45), which also contained certain recommendations relating to the convention.

66. Mr. GARCIA AMADOR (Cuba) asked why the Drafting Committee had deleted paragraphs 2, 3 and 4 of the preamble proposed by his delegation.

67. Mr. GROS (France) said that the Drafting Committee had felt that since a preamble was not an absolute necessity, it should be brief. Moreover, the preamble proposed by Cuba repeated provisions that were already contained in the articles.

68. Mr. GARCIA AMADOR (Cuba) said that he did not think the Drafting Committee should take decisions of substance. Nor had it understood the purpose of a preamble, which was to state the principles on which the articles which followed were based. That was the case with the preamble proposed by the International Law Commission in the report on its seventh session,¹ and with the preamble of the Charter of the United Nations.

69. He proposed that in the first preambular paragraph recommended by the Drafting Committee the words "has not only increased" should be replaced by the words "by increasing" and that the phrase "but has also exposed" should read "has exposed".

It was so agreed.

70. The PRESIDENT put to the vote the recommendations of the Drafting Committee contained in document A/CONF.13/L.45, as amended.

The Drafting Committee's recommendations were adopted by 58 votes to 1, with 7 abstentions.

71. The PRESIDENT put to the vote, as a whole, the convention on fishing and conservation of the living resources of the high seas, as adopted in the course of the meeting and during the 15th and 16th plenary meetings.

The convention was adopted by 45 votes to 1, with 18 abstentions.

72. Mr. LAZAREANU (Romania) reiterated his earlier objection to a procedure whereby his delegation and others had been prevented from expressing views on the highly important issues raised in the convention. He had been obliged to abstain from voting on the convention as a whole for that reason, and also because the Conference had disallowed reservations to some disputable articles.

73. Mr. TUNKIN (Union of Soviet Socialist Republics) said he had abstained from voting on the convention as a whole because he was unable to support several of its provisions and had been obliged to withdraw an amendment which his delegation had proposed to article 55 (A/CONF.13/L.22). Furthermore, he could not agree to the Conference's decision concerning the reservations clause.

74. Mr. PFEIFFER (Federal Republic of Germany) explained that his delegation was unable to agree to certain features of the preamble of the convention. The living resources of the sea were not, generally speaking, in danger of being exhausted. On the contrary, those resources could contribute on an ever-increasing scale to the nourishment of the human race and should be developed, to a much greater extent than they had been in the past, by well-found fisheries.

75. He had no objection to the coastal State being granted certain rights over the conservation of the living resources of the sea, provided that those rights were clearly defined, limited in extent, and did not discriminate against other nations. Moreover, his delegation, true to the principle of the freedom of the high seas, had opposed any tendency to place unnecessary restrictions on their use, for the benefit of the coastal State. It was in that spirit that it had taken an active part in the preparation of the convention on fishing and conservation of the living resources of the high seas.

76. In its opinion, however, the meaning and purpose of the convention had been impaired by the Conference's failure to reach an agreement on the breadth of the territorial seas. As a result, the rights accorded to the coastal State were not precisely defined and there was insufficient restraint on monopolistic tendencies.

77. In consequence, his delegation had been reluctantly obliged to vote against the convention.

Consideration of the report of the Second Committee (A/CONF.13/L.17, L.37) (concluded)²

ADOPTION OF THE CONVENTION ON THE HIGH SEAS

78. Mr. ZOUREK (Czechoslovakia) observed that the term "generally declaratory" in the preamble recom-

¹ Official Records of the General Assembly, Tenth Session, Supplement No. 9 (A/2934), p. 13.

² Resumed from the 11th plenary meeting.

mended by the Drafting Committee (A/CONF.13/L.37, para. 2) was inaccurate, since some of the articles could not be described as declaratory of established principles of international law. He suggested that the phrase "for the most part" should be used instead of "generally".

79. Mr. TUNKIN (Union of Soviet Socialist Republics), referring to the same passage in the preamble, thought it would be better to use the words "which are" instead of "as". The text as drafted suggested that the Conference had adopted the articles because they were declaratory, whereas the real intention was merely to describe the articles.

80. Mr. DEAN (United States of America) said that the text suggested by the Czechoslovak representative would change the whole meaning of the paragraph, for the suggested phrase would make it doubtful which part of the convention was declaratory. The USSR suggestion, too, would weaken the idea that the articles in the Second Committee's report were in fact generally declaratory.

81. Mr. SOLE (Union of South Africa) agreed with the United States representative's comments on the USSR suggestion. As drafted, the preamble clearly stated that it was the Conference which recognized the provisions based on existing law as generally declaratory. If the USSR suggestion were carried, however, only the States parties to the convention would recognize the articles as declaratory, and no account would be taken of the fact that the Conference had thus qualified them.

82. Mr. GLASER (Romania) pointed out that the word "essentiellement" used in the French text of the preamble did not correspond with the English "generally".

83. He could not agree with the South African representative that all the articles considered by the Second Committee were based on existing law. For example, article 48 on the pollution of the high seas could not be said to be formulated in accordance with traditional principles. Accordingly, some of the articles would be obligatory only for the signatory States.

84. Mr. MELO LECAROS (Chile) thought that there was some confusion of principle between the two paragraphs of the preamble. The Conference was not solely concerned with codification; under General Assembly resolution 1105 (XI) it was to examine the law of the sea, taking account not only of the legal but also of technical, biological, economic and political aspects. One of its essential objectives was to lay down new rules, and reference to established principles should therefore be avoided.

85. Mr. GROS (France) thought that the Drafting Committee could be left to deal with the language point raised by the Romanian representative.

86. He could not agree with the Chilean representative that the preamble was contradictory, since the essential purpose of the Conference should, in fact, be described as codification.

87. Mr. LETTS (Peru) observed that, when the report

of the Second Committee had been referred to the Drafting Committee, the Conference had implied that the intention was to secure agreement on the type of instrument to be adopted. However, no such agreement had been reached and there had been some opposition to including new articles in a separate instrument. It had been urged that the results of the Second Committee's work should be included in a single instrument together with the articles adopted by the First and Third Committees. His delegation considered that the concept of the high seas was closely linked with that of the territorial sea. Moreover, article 27, defining the "high seas", referred to freedom of fishing in absolute terms, in conformity with which the Third Committee had drafted its articles on fishing. A separate instrument on the high seas would therefore be injudicious. The Conference should not prejudge the question of the final form of the articles considered by the Second Committee.

88. The PRESIDENT endorsed the Peruvian representative's views. The only other decision that the Conference had to take in connexion with the Drafting Committee's report was that concerning the new article in paragraph 5 of that report.

89. Mr. GROS (France) observed that the fact that the new article had been submitted in connexion with the articles adopted by the Second Committee did not imply that it should not be added to other conventions emerging from the Conference. The article was needed as a safeguard against unnecessary confusion in the application of parallel provisions.

90. Mr. BOCOBO (Philippines) considered the new article quite unnecessary, since it merely complicated the text.

91. Mr. DEAN (United States of America) observed that some of the States which would become parties to the convention might not be parties to other agreements. However, about thirty-five other international agreements were involved and, in order to avoid complications, it was only logical to insert a new article such as that recommended by the Drafting Committee.

92. The PRESIDENT put to the vote the new article contained in paragraph 5 of the seventh report of the Drafting Committee's report (A/CONF.13/L.37).

The new article was adopted by 58 votes to 1, with 5 abstentions.

93. Mr. JHIRAD (India) recalled that, when the Conference had considered the report of the Second Committee (A/CONF.13/L.17) at the 11th plenary meeting, it had been suggested, as a compromise proposal, that the work of the Second Committee should be embodied in a convention which would include a declaratory clause as suggested by the Drafting Committee. It had also been decided to defer the question whether the results of the Second Committee's work should be embodied in a separate convention or whether a combined convention covering the work of several committees should be adopted. It might, for example, be possible to embody the work of the First and Second Committees in a single convention. Subject to that possibility he proposed that the work of the Second Committee should be embodied in a convention.

94. Mr. LETTS (Peru) said that the work of the First, Second and Third Committees was closely interrelated. Accordingly, he proposed that the results of their work should be combined in a single instrument.

95. Mr. SOLE (Union of South Africa) said his delegation considered that the work of the Second Committee should be embodied in a separate single instrument and would therefore vote for the Indian representative's proposal. In view of the absence of agreement on the territorial sea articles, however, it would be undesirable to combine the work of the First and Second Committees in the same convention.

96. Mr. SALAMANCA (Bolivia) suggested that the Conference might embody the work of the First and Second Committees in a single convention and that of the Third Committee in a separate convention.

97. Mr. SEYERSTED (Norway) considered that the work of the Third Committee should appear in a separate instrument and must not be combined with that of the Second. The suggestion that the work of the First and Second Committees should be included in a single separate convention could be examined more profitably when the Conference considered the First Committee's report. He supported the Indian representative's proposal, that the Conference should adopt the preamble suggested by the Drafting Committee (A/CONF.13/L.37) and should then decide to embody the results of the Second Committee's work in a convention.

The preamble was adopted by 52 votes to none, with 2 abstentions.

The proposal that the work of the Second Committee should be embodied in a convention was adopted.

Ratification

98. The PRESIDENT noted that the Canadian representative had proposed that the convention should enter into force after twenty-two ratifications had been received.

The Canadian representative's proposal was adopted by 59 votes to none, with 2 abstentions.

Reservations

99. Mr. JHIRAD (India) observed that, according to the preamble, the Second Committee's articles were generally declaratory of established principles of international law. He therefore proposed that no reservations clause should be included in the convention.

The Indian representative's proposal was adopted by 54 votes to none, with 8 abstentions.

Revision

100. The PRESIDENT suggested a period of five years for purposes of revision.

The President's suggestion was adopted by 59 votes to 2, with 3 abstentions.

101. Mr. THOMAS (Austria), referring to paragraph 5 of the Drafting Committee's seventh report (A/CONF.13/L.37), proposed that the new article adopted by the

Fifth Committee should be inserted after article 27 in the convention embodying the Second Committee's work.

102. Mr. TABIBI (Afghanistan) supported the proposal because, in his view, the work of the Fifth Committee was closely related to that of the Second.

The Austrian representative's proposal was adopted by 61 votes to none, with 2 abstentions.

103. The PRESIDENT put to the vote, as a whole, the convention on the high seas, as adopted in the course of the meeting and during the 11th plenary meeting, on the understanding that if it was decided to adopt a combined convention the preamble and final clauses would be adapted, *mutatis mutandis*.

The convention as a whole was adopted by 65 votes to none, with 1 abstention.

The meeting rose at 12.15 a.m.

NINETEENTH PLENARY MEETING

Sunday, 27 April 1958, at 11.30 a.m.

President: Prince WAN WAITHAYAKON (Thailand)

Consideration of the report of the First Committee (Part II: articles 1, 2, and 4 to 25) (A/CONF.13/L.28/Rev.1, L.38, L.39, L.44, L.46, L.47)

1. Mr. KORETSKY (Ukrainian Soviet Socialist Republic), Rapporteur of the First Committee, introduced part II of the Committee's report (A/CONF.13/L.28/Rev.1). He recalled that some regret had been expressed at the 14th plenary meeting that the report was not to contain a legal analysis of, or comments on, the articles. Such treatment might have been desirable, especially in view of the very thorough work done by the First Committee on the basis of the earlier labours and comments of the International Law Commission, but might equally have entailed fresh discussion of the way in which the material had been organized. When the articles as a whole were finally published in their new form, jurists would be able to examine in detail the official records of the Conference, and would have a clear picture of the position of all delegations.

2. The PRESIDENT invited the Conference to take a decision on articles 1, 2, and 4 to 25 contained in the annex to the report of the First Committee (A/CONF.13/L.28/Rev.1). He drew attention to the report of the Drafting Committee of the Conference (A/CONF.13/L.47); if there were no objection, he would assume that the changes recommended by the Drafting Committee had been adopted together with the articles to which they referred. Finally, he reminded the Conference that four proposals had been submitted in connexion with the articles adopted by the First Committee (A/CONF.13/L.38, L.39, L.44, L.46).

Article 1

Article 1 was adopted by 72 votes to none.