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Tenth Plenary Meeting

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TENTH PLENARY MEETING

Monday, 25 April 1960, at 10.45 a.m.

President: Prince WAN WAITHAYAKON (Thailand)

Report of the Credentials Committee (A/CONF.19/L.7)

1. At the invitation of the PRESIDENT, Mr. BARNES (Liberia), the Chairman of the Credentials Committee, introduced the Committee's report (A/CONF.19/L.7). In its report the Committee stated that, out of the eighty-eight delegations attending the Conference, full powers in respect of the representatives of eighty-six delegations had been received; where Paraguay and Yemen were concerned, the credentials had consisted of telegrams. The Committee also reported that it had adopted by 5 votes to 3 with 1 abstention a proposal by the United States delegation that no decision be taken regarding the credentials submitted on behalf of the representative of Hungary.

2. Mr. USTOR (Hungary) said that Hungary would vote against the acceptance of the report of the Credentials Committee. The illegality and absurdity of the Committee's decision with regard to the Hungarian credentials, taken on the proposal of the United States representative, were abundantly clear. The examination of credentials was solely a legal act and should be performed independently and impartially. It was outrageous that the Committee had abandoned every consideration of law and justice and had yielded to the " cold war " propaganda put out by the State Department of the United States. Had the Committee conducted itself properly, it would certainly have found the Hungarian credentials in order. At the 17th plenary meeting of the first United Nations Conference on the Law of the Sea [1] a similar motion by the United States delegation had been rejected. If the Hungarian credentials had been found in good and due form in 1958, it was hard to see why precisely identical credentials were not good in 1960. Furthermore, at the 856th plenary meeting of the General Assembly [2] the United States delegation had itself sponsored the proposal in which Hungary would be a member of the Committee on the Peaceful Uses of Outer Space, when it must have been fully aware that Hungary would be represented on that Committee by a delegation of the same Government, the credentials of whose representative it was now impugning. For a country enjoying diplomatic relations with another country such conduct was most invidious, and it was equally invidious that other countries should support it.

3. The explanation of the apparent inconsistency of the United States delegation's attitude was that, despite the tremendous efforts being made to rid the world of the " cold war " — a trend discernible even in some policies of the United States — there were still strong forces in the United States which wished to continue the " cold war ", and the issue before the Conference was one particularly suited to their purposes. Those circles deliberately ignored the elections held in Hungary in 1958 and the recently promulgated political amnesty. Their aim was simply to achieve a propaganda effect; but even if they succeeded, that could not impair the standing of the Hungarian delegation at the Conference in accordance with the rules of procedure. Hungary was a firm believer in peaceful co-existence, and participated in international co-operation through the United Nations and many other international institutions. The Hungarian delegation had every right to attend the Conference and any effort to cast doubt on that right would conflict with the Charter and with the principles of international co-operation, and would be a disturbing element in the international atmosphere which was otherwise happily improving.

4. Sir Claude COREA (Ceylon) explained that his delegation would accept the report of the Credentials Committee, subject to two reservations. First, his delegation wished to state, as it had done on earlier occasions, with regard to the question of the representation of China, that the Government of Ceylon had recognized the Central People's Government of the People's Republic of China and maintained diplomatic relations with that Government and could not, therefore, accept the situation set out in paragraphs 5 to 8 of the report. Secondly, with regard to the credentials of the Hungarian delegation, he must reiterate the Ceylonese delegation's opinion that as delegations had been sent by Governments invited to the Conference by the United Nations it would be impossible to refuse to recognize their credentials, provided that they were in order. The Government of Hungary had received an invitation and the only valid question was therefore whether its representative's credentials were in order; the report made clear that they were in good and due form.

5. Mr. BARTOS (Yugoslavia) said that his delegation would vote in favour of the adoption of the Credentials Committee's report, subject, however, to an express reservation regarding the question of the representation of China. So far as Yugoslavia was concerned, the Government having authority to represent a country should be regarded as the lawful representative of that country; and that authority was conferred upon the Government which exercised sovereign rights and effective power in the territory of the country concerned. The Yugoslav delegation disagreed with the Credentials Committee's decision on China, as it believed that the Conference was a sovereign body competent to judge the validity of the credentials of its participants.

6. Secondly, he said his delegation had to formulate a reservation concerning the Committee's decision on the credentials of the Hungarian delegation, a decision which was the regrettable result of a misguided compromise between politics and law. The Yugoslav delegation considered that the representative of the People's Republic of Hungary had the same right to sign the instruments of the Conference as the representatives of other countries.

7. Mr. DEAN (United States of America) said that he would vote for the Credentials Committee's report. In view of the continuing disregard by the present Hungarian authorities of all United Nations decisions

[1] *Official Records of the United Nations Conference on the Law of the Sea*, vol. II.

[2] *Official Records of the General Assembly, Fourteenth Session, Plenary Meetings.*

concerning Hungary, the Conference should take the same position as the General Assembly. Since 1956 the General Assembly had consistently voted to take no decision regarding the credentials submitted on behalf of the representatives of Hungary. The effect of that action was to place Hungary in a provisional status. At the thirteenth session of the General Assembly, which had adopted resolution 1307 (XIII) convening the Conference, the decision on the Hungarian credentials had been repeated, as indeed it had been at the fourteenth session. Hungary's status had therefore been provisional when the invitation had been issued. It was true that the first Conference had accepted the Hungarian credentials, but that had occurred before the executions of Imre Nagy and General Maleter in cynical disregard of United Nations decisions. The General Assembly had only recently been informed that executions and other repressive measures were continuing in Hungary.

8. Mr. NIKOLAEV (Union of Soviet Socialist Republics) said that his delegation's views, expressed in the Credentials Committee, concerning the representation of China and the question of the credentials of the Hungarian delegation, remained unchanged. The Soviet Union could not admit that the great country of China should be represented at the Conference by a small clique of emigré reactionaries who had fled to a small island off the Chinese mainland and had no longer any communication with the Chinese people. The People's Republic of China had been in existence for ten years and had made great strides in its economic development. It was now a great Power, with a legitimate Government which enjoyed the support of the country's 600 million inhabitants. Accordingly, only the representatives of that Government could speak on behalf of China at the Conference.

9. Furthermore, the decision to leave open the question of the credentials of representatives of the Hungarian People's Republic was absolutely unfounded. Hungary was participating in the Conference as a Member of the United Nations, under General Assembly resolution 1307 (XIII); the Secretary-General of the United Nations had sent the invitation to Budapest and the legitimate Government of the country had appointed a delegation. The credentials had been issued by the Presidium of the People's Assembly and signed by the President, fully in accordance with the rules of procedure of the Conference. It was obvious that the United States delegation had raised the question because certain circles in the United States were maintaining the " cold war ", despite the recently created favourable conditions for peaceful co-existence.

10. Subject to those two reservations, his delegation would vote in favour of the report of the Credentials Committee.

11. Mr. WANG Hua-cheng (China) expressed regret that the question of the representation of China had again been injected into the debate, particularly at that stage of the Conference's deliberations. His Government was the only constitutionally established Government of China which maintained relations with the overwhelming majority of free nations and was a loyal Member of the United Nations and the specialized agencies. The General Assembly, in resolution 1307 (XIII), had specified that all States Members of the United Nations and the specialized agencies should be invited to participate in the Conference, and his Government had represented China in all United Nations organs and conferences, including the first United Nations Conference on the Law of the Sea. He deplored the language used by the Soviet representative in his statement; while not wishing to reply in like terms he would point out that his Government had nothing to be ashamed of so far as support of the people, both on the mainland and abroad, was concerned. While the Republic of China did not claim to be an earthly paradise, its inhabitants did not try to escape and seek political asylum abroad.

12. Mr. NAE (Romania) said that his delegation would vote in favour of the report, subject to reservations concerning the absence of the People's Republic of China, which had the right to be represented at the Conference, and concerning the representation of the People's Republic of Hungary.

13. The PRESIDENT put the report of the Credentials Committee (A/CONF.19/L.7) to the vote.

The report of the Credentials Committee was adopted by 78 votes to 1, with 4 abstentions.

14. Mr. EL ERIAN (United Arab Republic) said that the fact that he had voted for the report did not affect his country's firm conviction that the People's Republic of China should be duly represented in the United Nations and its view that the credentials of the Hungarian representatives were in order.

15. Mr. RADOUILSKY (Bulgaria) explained that his delegation, which had voted in favour of the report, nevertheless did not recognize the legitimacy of the delegation which claimed to represent China. Secondly, it considered the credentials exhibited by the Hungarian delegation to be in good and proper form.

16. Mr. YASSEEN (Iraq) said that, although his delegation had voted in favour of the Credential Committee's report, the fact that it had done so did not change in any way the position taken by Iraq in the United Nations of the question of the representation of China and that of Hungary.

17. Mr. SEN (India) explained that his delegation's vote in favour of the report did not prejudice its well-known position with respect to the credentials of the delegations of China and Hungary.

18. Mr. POVETIEV (Byelorussian Soviet Socialist Republic) said that his delegation's vote in favour of the report did not indicate any change in its position concerning the representation of China and the credentials of the Hungarian delegation. It was inadmissible that one of the largest countries in the world should not be represented by its rightful representative and that his place should be taken by persons who represented no one but themselves. In his delegation's opinion, China's international relations could not be conducted by anybody other than the representatives of the Government of the People's Republic of China. Furthermore, his delegation vigorously objected to attempts to cast doubt on the credentials of the Hungarian delegation,

which had been issued strictly in accordance with General Assembly resolution 1307 (XIII); those attempts had obviously been motivated by the wish of certain circles in the United States to continue the cold war.

19. Mr. KORETSKY (Ukrainian Soviet Socialist Republic) said that, although he had voted for the report, his delegation considered the passages concerning the representation of China and the credentials of the Hungarian delegation to be inadmissible. It was both regrettable and anomalous that no real representatives of the Chinese people were able to attend United Nations conferences. Furthermore, the recommendation concerning the Hungarian credentials was absolutely unfounded, and motivated by a spirit contrary to that of the United Nations Charter.

20. Mr. EL BAKRI (Sudan), confirming his Government's position as expressed in the Credentials Committee, said that Sudan recognized the People's Republic of China and had voted against the United States motion concerning the Hungarian credentials. Accordingly, he had voted for the report with those two reservations.

21. Mr. CHHAT PHLEK (Cambodia) said that his delegation had voted in favour of the report but that its position with respect to the People's Republic of China had in no way changed.

22. Mr. QUARSHIE (Ghana) said that, although his delegation had voted in favour of the report, it had done so with reservations concerning the representation of China and the question of the Hungarian credentials. Ghana recognized the People's Republic of China and considered that China was not properly represented at the Conference. It also believed that the only lawful Government of Hungary was represented at the Conference.

23. Mr. CUADROS QUIROGA (Bolivia) said his delegation wished to make a reservation concerning the passage in the report relating to the credentials of the Hungarian delegation, for the reasons expressed by other speakers.

24. Mr. MELLER-CONRAD (Poland) said that, though his delegation had voted in favour of the report, it wished to formulate express reservations concerning the Committee's decisions on the representation of China and the credentials of the Hungarian delegation. The decisions of the majority in the Credentials Committee were wrong in ruling that the present representation of China was lawful because it had been invited whereas that of the Hungarian Government was not, although that Government had also received an invitation.

25. Mr. PECHOTA (Czechoslovakia) said that his delegation's vote in favour of the report should not be construed as approval of the passages relating to the representation of China and the credentials of the Hungarian delegation, which were illegal decisions imposed by a small majority. His delegation considered that the only legitimate representatives of the Chinese people could be those appointed by the People's Republic of China, and it protested against attempts to cast doubt on the validity of the credentials of Hungarian representatives.

26. Mr. DEAN (United States of America) drew attention to the fact that, under General Assembly resolution 1307 (XIII), the General Assembly had invited to the Conference all States Members of the United Nations and the specialized agencies. The Republic of China was a Member State and hence its Government alone was qualified to represent China at the Conference. The communist Chinese Government, on the other hand, departed from the normal rules of international conduct and had shown nothing but contempt for the principles of the United Nations.

Consideration of the questions of the breadth of the territorial sea and fishery limits in accordance with resolution 1307 (XIII) adopted by the General Assembly on 10 December 1958 (A/CONF.19/L.4, L.5/Rev.1, L.6, L.8 to L.13) *(continued)*

[Agenda item 9]

27. Mr. ASAFU-ADJAYE (Ghana) said that his delegation's attitude throughout the debates had been marked by its concern for the general success of the Conference. Accordingly, it had endeavoured to find a solution that would be acceptable to the advocates of both the twelve-mile and the six-mile limit. With that aim in view, it had submitted some amendments (A/CONF. 19/L.10) to the second proposal adopted by the Committee of the Whole (A/CONF.19/L.4, annex). It had since ascertained that the amendments in their present form would not achieve their purpose; he therefore withdrew his delegation's text, in the hope that that action would pave the way to a satisfactory solution. In that same spirit, and in the belief that the success of the Conference was more important than its own interests, Ghana would not obstruct the possibility of reaching agreement by voting for or against the main proposals.

28. Mr. GARCIA ROBLES (Mexico) said that in a last attempt at compromise to prevent the Conference from ending in failure, ten delegations had submitted a new proposal in the form of a draft resolution (A/CONF. 19/L.9). Although only ten delegations had put their names to the draft resolution, he expected it to receive the support of nearly all the eighteen sponsors of the earlier proposal (A/CONF.19/C.1/L.2/Rev.1) submitted to the Committee of the Whole. The draft resolution attempted to reflect the existing situation, since only a proposal which did so had any prospect of success.

29. There were two facts which were so real as to be axiomatic with regard to the fundamental question of the breadth of the territorial sea and the secondary question of fishery limits. The first fact was that, unfortunately, there was still a wide divergence of views on the breadth of the territorial sea, as had been emphasized by the voting at the 28th meeting of the Committee of the Whole on the joint Canadian and United States proposal (A/CONF.19/C.1/L.10), which had received 43 votes in favour, 33 against, with 12 abstentions. The second fact was that there was general agreement that the coastal State should be permitted to exercise the same fishing rights and rights to exploit the living resources of the sea in the sea adjoining its coast up to the limit of twelve nautical miles measured from the

applicable baseline as it did in its territorial sea. In a booklet entitled *The Law of the Sea: The Canadian Position on the Breadth of the Territorial Sea and Fishing Limits*, issued by the Canadian Government in December 1959, it had been pointed out that all the relevant proposals submitted to the first Conference recognized, implicitly or explicitly, that a State could properly claim jurisdiction over fishing in an area of twelve miles contiguous to the shoreline.

30. Those two facts had provided the basis for the ten-Power draft resolution. It had become evident that no agreement could be reached on the breadth of the territorial sea before the close of the Conference. The sponsors had therefore come to the conclusion that the best that could be done would be to take note of the existence of that disagreement and to make it possible for the General Assembly to consider the advisability of convening another United Nations conference within a reasonable time — perhaps five years — in which the necessary preparatory work could be carried out, so that premature and over-hasty decisions would be avoided.

31. Since there was general agreement about fishery limits, the sponsors had concluded that there would be no objection to recognizing those limits immediately, without prejudging the question of the breadth of the territorial sea until the General Assembly had again considered the question. At the same time, in order to give satisfaction to those States which refused to take any decision on fishery limits unless it was bound up with the question of the breadth of the territorial sea, the draft resolution requested all States participating in the Conference which had declared their independence prior to 24 October 1945 (the date of the establishment of the United Nations) to abstain from extending the present breadth of their territorial sea for five years or, in other words, until the twentieth regular session of the General Assembly. The maintenance of the *status quo* might well help to dispel the maritime Powers' fears that States might take advantage of the five-year interval to extend their territorial sea up to twelve miles. Since the draft resolution dealt only with the principal question, it was silent concerning the special or exceptional cases, but the proposal would not prejudice any arrangement for them.

32. Since, unfortunately, circumstances stood in the way of any ambitious solution, the ten-Power draft resolution, despite its limited scope, or perhaps even because of it, seemed to offer the best means of achieving a positive result at the Conference. It was an incontrovertible fact that the time was not yet ripe for a general and freely accepted agreement on the breadth of the territorial sea. Since the law on that subject had varied so greatly and for so many centuries, it should be regarded as a considerable step forward that the question had now been narrowed down to the issue: should the breadth of the territorial sea be twelve or six miles ? The question was still so thorny that excessive haste would be sterile and even self-defeating.

33. Mr. MATINE-DAFTARY (Iran) said that although the majority — incidentally, a small majority — had voted in favour of the Canadian and United States compromise proposal (A/CONF.19/C.1/L.10) in the Committee of the Whole, the success of that compromise did not depend on the total length of the coastline of the States supporting it. By a narrow margin, the proposal of the eighteen delegations (A/CONF.19/C.1/L.2/Rev.1) had received only a minority of the votes, but the States forming that minority had, in the aggregate, a very long coastline. In a Conference such as the present decisions were made by vote, but the vote did not necessarily create law. Accordingly, whatever codification might result from the vote would not be binding on the States unless they signed and ratified the instrument embodying the codification.

34. After careful reflection the delegation of Iran had decided not to obstruct those delegations which were hoping to save the prestige of the Conference and to produce some tangible result, even though the result might not be worth more than the paper it was written on. His delegation had taken that decision while fully realizing that those delegations had paid little heed to the needs of many of the States of Asia, Africa and Latin America, and even though as a consequence a compromise having a general validity had not materialized. At the same time, however, he wished to state, on the instructions of his Government, that his delegation's decision did not constitute a reversal of Iran's position. So far as the twelve-mile rule was concerned, he referred to his statement at the 17th meeting of the Committee of the Whole in which he had cited the Iranian law of 1959. He added that, if the Canadian and United States proposal received a two-thirds majority, Iran would be unable to sign or to ratify the convention embodying that proposal so long as a general agreement had not materialized and so long as the majority of the States which continued to support the twelve-mile rule (and above all Iran's neighbours) did not acquiesce in it.

35. Mr. GARCIA AMADOR (Cuba) said that he had the impression that the Conference was approaching an agreement which might muster the assent of the great majority of participating States and at the same time go a long way towards satisfying the economic interests of those who might have preferred to solve the problems examined by the Conference in some other way. The amendments submitted jointly by Brazil, Cuba and Uruguay (A/CONF.19/L.12) to the second proposal adopted by the Committee of the Whole (A/CONF.19/L.4, annex) might go some way towards stimulating such agreement. The purpose of the amendments was to make it easier for those who believed that the proposal did not go far enough towards meeting the needs and special interests of all coastal States in the conservation and exploitation of the resources of the sea to accept that proposal, without disregarding the legitimate interests of other States and the international community in general in areas of the high seas. In order to harmonize those two sets of needs and interests, the amendments established a system of preferential fishing rights for the coastal State in an area of the high seas adjacent to the area in which that State enjoyed exclusive fishing rights and which was provided for in the proposal adopted by the Committee of the Whole.

36. The first amendment, dealing with possible bilateral, multilateral or regional agreements, simply stated expressly what was in any case implicit in any instrument of the kind under consideration by the Conference.

37. The other amendments confirmed preferential fishing rights explicitly, and unequivocally. There should be no doubt whatever about their intent, even if the wording of the amendments might be thought inadequate or not categorical enough. The coastal State could properly claim preferential fishing rights vis-à-vis all other States. Indeed, the very limitations or conditions by which the exercise of such rights was qualified in the amendments reasserted and demonstrated their recognition. The only crucial question in that connexion was what was the nature or extent of those limitations or conditions—in other words, in what circumstances could the coastal State legitimately exercise preferential fishing rights in areas of the high seas. Those limitations were defined in the proposed new paragraph 6, in which the phrase "when it is scientifically established" appeared. It would, of course, be necessary also to limit the total catch of a stock or stocks of fish in such areas in accordance with the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas—in other words, if it should become necessary to reduce intensive fishing in order to maintain or restore the optimum sustainable yield from that stock or those stocks. In the absence of the circumstances described, the coastal State could not claim preferential rights; indeed, in that case the coastal State would manifestly not need to claim such rights. Nor could it be argued that the rights to be conferred were being conferred gratuitously and unjustifiably, and might be exercised or claimed for purposes incompatible with their true purpose.

38. In the system proposed in the amendments there was in fact a stricter limitation on the exercise of preferential fishing rights than there was, for example, in the Cuban draft resolution (A/CONF.19/L.6). That was the faculty of any other State concerned to request that the propriety of exercising preferential fishing rights should be determined by the special commission provided for in article 9 of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas. If such a State considered that the circumstances justifying the exercise of preferential rights did not exist, it could act to prevent the total catch of a stock or stocks of fish from being reserved to the coastal State until the special commission had made its decision, after hearing both parties and with due regard to all the interests involved, as set out in the new paragraph 9 proposed in the amendments. The substantive difference between the amendments and the original Cuban draft resolution lay solely in the convenience with which the coastal State could exercise its preferential rights, since under the Cuban draft resolution, the propriety of exercising such rights would also be subject to examination by the special commission and to its decision.

39. Another aspect of the amendments was that relating to the criteria to guide the special commission in determining the propriety of preferential fishing rights and the manner in which it would so determine when it considered that the exercise of those rights was in fact justified. The phrase "is greatly dependent" should not be construed in the same way as, for example, the expression "is overwhelmingly dependent" used in the Icelandic amendment (E/CONF.19/L.13). As stated explicitly in the new paragraph 6, the expression should be construed to mean that it would be sufficient if the living resources were of fundamental importance to the economic development of the coastal State or the feeding of its population. It was therefore obvious that the amendments covered not only very special situations, such as that of Iceland, but also any others in which one of the two sets of circumstances referred to existed. For that reason, the amendments allowed for differences in the extent to which various coastal States depended on the fisheries in question. At the same time, the interests of other States were also taken into account.

40. The amendments implied a more flexible system which had been conceived to meet the interests and claims of a large number of non-coastal States, the legitimacy of which the Conference could not disregard. It would be obvious to all that the amendments were the outcome of a lengthy exchange of views among delegations representing differing and often opposing interests. Experience had shown that it was necessary to obtain a rule of law which would not only muster majority support, but would also be accepted by all those whom the rule would affect. A majority would, of course, be sufficient to give it validity, but without general acceptance it would undoubtedly lack that effectiveness which every rule of law should have.

41. All those considerations had prompted the Cuban delegation to co-sponsor a system of preferential fishing rights less favourable to coastal States than that set out in the Cuban draft resolution. What the Cuban delegation regarded as fundamental from the point of view of the special needs and interests of the coastal State, the recognition of its preferential rights, had remained intact, and none of the conditions to which their exercise was not to be subjected entailed any substantial restriction on their enjoyment.

42. He fully concurred with the view expressed by the Brazilian representative during the Conference, who had drawn attention to the significant progress achieved within so short a time by the idea and principle of the interests and special rights of coastal States with regard to the conservation and exploitation of resources of the sea. Hardly five years previously, at the International Technical Conference on the Conservation of the Living Resources of the Sea, held at Rome in 1955, the very notion of the special interest of coastal States had not been considered compatible with the concept then held of freedom of fishing. The International Law Commission and, subsequently, the 1958 United Nations Conference on the Law of the Sea, had substantially revised that concept, and had recognized that coastal States had exclusive rights with regard to the natural resources of their submarine areas and were empowered unilaterally to take conservation measures beyond the territorial sea. The recognition of preferential fishing rights in a form both effective and equitable, as formulated in the amendments, should be the next step forward to be taken by the Conference.

43. Mr. AMADO (Brazil) said that his delegation's purpose in co-sponsoring the amendments contained in document A/CONF.19/L.12 had been to repair the omission from the second proposal adopted by the Committee of the Whole of provisions safeguarding the special position of certain countries for which the exploitation of the living resources of the high seas was of vital

importance. The sponsors had been very careful to limit the recognition of such special situations to cases in which there could be no possible doubt. Accordingly, it would be necessary to establish scientifically the relationship between the requirements and resources of a coastal State seeking priority fishing rights in a zone of the high seas adjacent to the exclusive fishing zones. The proposed text also provided an effective guarantee for other interested States by prescribing appeal to the special commission referred to in article 9 of the Convention on Fishing and Conservation of the Living Resources of the High Seas. Neither the coastal State nor the special commission would be entirely free to assess the actual special situation or special circumstances, since whether the latter existed or not depended on the two basic conditions set out in the proposed paragraph 8.

44. Moreover, the provision concerning " historic " rights contained in the first amendment had the advantage of making such rights more flexible in application.

45. The intention behind the amendments proposed was to satisfy as many countries as possible. His own delegation was very well aware of the absolute necessity of reaching a general agreement, even at the cost of legitimate and important interests, and, at the same time, of the almost insurmountable obstacles in the way of such an agreement because of special cases which did not fit into general formulae. After a month's discussion, which had brought out the practical and imperious realities that participating countries had to consider, it had become obvious that a last attempt must be made to obtain a substantial majority and achieve the result generally expected of the Conference. That was the aim of the amendments. While he knew that the amendments would not win unanimous support, he also knew that many countries intended to support them.

The meeting rose at 1 p.m.

ELEVENTH PLENARY MEETING

Monday, 25 April 1960, at 4 p.m.

President: Prince WAN WAITHAYAKON (Thailand)

Consideration of the questions of the breadth of the territorial sea and fishery limits in accordance with resolution 1307 (XIII) adopted by the General Assembly on 10 December 1958 (A/CONF.19/L.4, L.5/Rev.1, L.6, L.8, L.9, L.11 to L.13) *(continued)*

[Agenda item 9]

1. Mr. VELAZQUEZ (Uruguay) said that his delegation had joined those of Brazil and Cuba in sponsoring amendments (E/CONF.19/L.12) to the second proposal adopted by the Committee of the Whole (A/CONF.19/L.4, annex) because it recognized, albeit with qualifications, the coastal State's faculty of claiming preferential fishing rights in any area of the high seas adjacent to its exclusive fishing zone where the exploitation of the living resources of the high seas was of fundamental importance to it. Acceptance of that principle by the Conference would constitute its most important contribution to the progressive development of the international law of the sea.

2. The fishery resources of the sea areas in question pertained in all justice to the economy of the coastal State. The principle embodied in the three-Power amendments would no doubt require development in the future, but it was important that it be recognized forthwith.

3. The Uruguayan delegation also believed that the adoption of the three-Power amendments would facilitate the Conference's work of formulating a generally acceptable rule on the two questions of the breadth of the territorial sea and fishery limits.

4. Sir Kenneth BAILEY (Australia) said that representatives would have to consider whether it was better to have some rule, even if that rule was not altogether satisfactory, rather than no rule at all, or a disputed or uncertain rule.

5. The Australian delegation supported the joint Canadian and United States proposal because it safeguarded the freedom of the seas and that of the air above the high seas, in which freedoms, as time passed, an increasing number of States would have an interest. Many small States, which at present had no shipping or aircraft of their own, were developing national merchant navies and air services, and they could not fail to appreciate that the greater the area of sea subjected to national sovereignty, the less freedom there would be for their ships and aircraft.

6. It was apparent that, for a great many States, the major interest in extending their maritime jurisdiction lay in securing more extensive fishing rights. If those rights were secured, as the joint proposal sought to do, it made little practical difference to those States whether the territorial sea itself was twelve, six or even three miles broad. If a convention were adopted along the lines proposed by Canada and the United States of America, he believed that the ranks of the parties to it would by no means be limited to those States which supported the joint proposal at the Conference. If a coastal State did not subscribe to such a convention, it would be able to secure a twelve-mile exclusive fishing zone only by the highly contentious, uncertain and costly method of asserting a unilateral claim and then endeavouring to enforce it if it could. He was sure that States would prefer to subscribe to a convention along the lines of the proposal adopted by the Committee of the Whole that would offer them secure rights according to law.

7. The Australian delegation would support the three-Power amendments on preferential fishing rights (A/CONF.19/L.12).

8. With regard to the ten-Power draft resolution (A/CONF.19/L.9), his delegation rejected the assumption therein that it was possible to secure an exclusive fishing zone twelve miles broad without settling the question of the breadth of the territorial sea. Such a hypothesis was both unrealistic and inequitable. Paragraph 3 of the second proposal adopted by the Committee of the Whole represented a very great concession on the part of States whose nationals fished in distant waters off the coasts of other States — a concession