

Second United Nations Conference on the Law of the Sea

Geneva, Switzerland
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Second Plenary Meeting

Extract from the *Official Records of the Second United Nations Conference on the Law of the Sea (Summary Records of Plenary Meetings and of Meetings of the Committee of the Whole, Annexes and Final Act)*

of expressing their views on the important issues before the Conference and of taking part in its deliberations.

22. Mr. LAMANI (Albania) noted with indignation the absence of representatives of the People's Republic of China. The presence of the envoys of Chiang Kai-shek who had usurped their place was contrary to law and prejudicial to the work of the Conference. It was also abnormal that the German Democratic Republic, the Democratic People's Republic of Korea, the Democratic Republic of Viet-Nam and the Mongolian People's Republic were not represented.

Election of the President

[Agenda item 2]

23. The ACTING PRESIDENT invited nominations for the office of President of the Conference.

24. Mr. SEN (India) proposed Prince Wan Waithayakon (Thailand), who had presided over the first United Nations Conference on the Law of the Sea in 1958; the remarkable, though not complete, success of the first Conference was attributable in large measure to Prince Wan's guidance.

Prince Wan Waithayakon (Thailand) was elected President by acclamation and took the Chair.

25. The PRESIDENT thanked the Conference for the honour it had bestowed on him, and paid a tribute to the hospitality and courtesy of the Swiss Government.

26. Much progress had been made towards the codification of the law of the sea and he was proud to have co-operated in bringing that progress about. Nothing would give him greater satisfaction than to see the present Conference achieve complete success. Failure to reach agreement would serve neither the interests of the participating States nor those of the peoples of the world. Time was limited but should be adequate, if all the participants mobilized their resources of wisdom, skill, patience and conciliation to reach a solution based on justice and logic which would satisfy the practical needs of the situation. Fortified by the continued goodwill and patience of all, and assisted by the Secretariat, he would endeavour to facilitate deliberations and bring them to a successful conclusion.

Adoption of the agenda

[Agenda item 3]

The provisional agenda (A/CONF.19/1) was adopted.

Adoption of the rules of procedure (A/CONF.19/2, A/CONF.19/L.1)

[Agenda item 4]

27. The PRESIDENT drew attention to the provisional rules of procedure prepared by the Secretariat (A/CONF.19/2) and to the amendments proposed by the delegation of Mexico (A/CONF.19/L.1) to rules 20, 41, 49 and 54. He suggested that the provisional rules of procedure should be adopted with the exception of those to which amendments had been proposed, and their

consideration of the amendments should be postponed to the following meeting.

It was so agreed.

The provisional rules of procedure, with the exception of rules 20, 41, 49 and 54 were adopted.

Election of the Chairman of the Committee of the Whole

[Agenda item 6]

28. The PRESIDENT invited nominations for the office of Chairman of the Committee of the Whole.

29. Sir Kenneth BAILEY (Australia) proposed Mr. Correa (Ecuador), whose knowledge of international law and extensive experience of international affairs had been appreciated at the first United Nations Conference on the Law of the Sea.

30. Mr. GARCIA ROBLES (Mexico) seconded the proposal.

Mr. Correa (Ecuador) was unanimously elected Chairman of the Committee of the Whole.

31. Mr. CORREA (Ecuador) thanked the Conference for the honour done to his country and to himself.

Organization of work (A/CONF.19/3)

[Agenda item 8]

32. The PRESIDENT drew attention to the memorandum of the Secretary-General (A/CONF.19/3), and in particular to the advice contained in sections III and IV of that memorandum. He suggested that the Conference should follow that advice.

It was so agreed.

The meeting rose at 4.30 p.m.

SECOND PLENARY MEETING

Friday, 18 March 1960, at 10.50 a.m.

President: Prince WAN WAITHAYAKON (Thailand)

Adoption of the rules of procedure (A/CONF.19/2, A/CONF.19/L.1) (concluded)

[Agenda item 4]

1. Mr. GARCIA ROBLES (Mexico) said that the commentaries appended to the amendments proposed by his delegation (A/CONF.19/L.1) to rules 20, 41, 49 and 54 of the provisional rules of procedure of the Conference (A/CONF.19/2) were self-explanatory.

2. The PRESIDENT invited the Conference to consider the Mexican amendment to rule 20 of the provisional rules of procedure. The amendment would insert before the last sentence of rule 20 the following sentence: "The Secretariat shall be in charge of drawing up a list of such speakers."

3. Mr. DEAN (United States of America) asked the representative of Mexico why his delegation felt the amendment was necessary. The list of speakers was prepared by the President and Secretariat jointly, a procedure which had always worked satisfactorily.

4. Sir Gerald FITZMAURICE (United Kingdom) said that he too would be glad to have some further explanation of the Mexican amendment. The commentary stated that the object was to bring the Conference's procedure into line with that of the General Assembly, but rules 70 and 111 of the rules of procedure of the General Assembly corresponded exactly with the proposed rule 20. The preparation of the list of speakers had always been a presidential function, with the assistance of the Secretariat and the representative of the Secretary-General; to make any change would be undesirable and invidious.

5. Mr. GARCIA ROBLES (Mexico) said the Mexican amendment did not claim to make any innovation in the procedure followed in the United Nations. Its sole purpose was to make quite clear that the practice invariably followed by the General Assembly should be likewise applied at the Conference. Since the Conference had not yet been able to work out a stable procedure, his delegation had thought that what was implicit in General Assembly procedure should now be made explicit.

6. The PRESIDENT put to the vote the Mexican amendment to rule 20 of the provisional rules of procedure.

The amendment was adopted by 45 votes to 10, with 20 abstentions.

7. The President invited the Conference to consider the Mexican amendment to rule 41 of the provisional rules of procedure. The amendment would delete the last sentence reading: "The Conference may, after each vote on a proposal, decide whether to vote on the next proposal."

8. Mr. DEAN (United States of America) supported the amendment. The rule as amended would give the members of the Conference an opportunity to express their views on all the proposals and provide for the flexibility essential in a conference of that kind.

The amendment was adopted by 72 votes to none, with 2 abstentions.

9. The PRESIDENT invited the Conference to consider the amendments submitted by Mexico to rule 49 of the provisional rules of procedure. The amendments consisted in adding after the word "above" the phrase "except paragraph 2 of rule 38", and in adding at the end of the rule the phrase "but not in the case of a reconsideration of proposals or amendments in which the majority required shall be that established by rule 32."

10. Mr. DEAN (United States of America) regretted that he found the amendments to rule 49 unacceptable. A vote might be taken in the Committee of the Whole on a series of amendments, and some delegation might wish to point out the possible effect that the vote on one amendment might have on the disposal of the re-

mainder. The first Mexican amendment would hamper the proceedings. The second amendment was unnecessarily restrictive; to require a two-thirds majority for the reconsideration of a proposal in the Committee of the Whole would be to transfer to the work of that Committee the atmosphere of a plenary meeting. The Conference had been convened to seek a solution to two very important problems, to exchange and explore ideas and to obtain workable results. The requirement of a two-thirds majority for reconsideration in the Committee of the Whole would hamper the negotiation of the compromises that would be needed to achieve those ends.

11. Sir Gerald FITZMAURICE (United Kingdom) supported the United States representative. It was not clear why the Secretariat had introduced into the rules paragraph 2 of rule 38, which had not been included in the rules of procedure of the first Conference, but the addition in the particular circumstances of the present Conference was to be welcomed. Since the Conference had voted for the Mexican amendment to rule 41, it should, logically, reject the first amendment to rule 49, because it would introduce precisely that element of rigidity which the amendment to rule 41 had removed. Paragraph 2 of rule 38 had probably been inserted in order to obtain such flexibility and should be equally applicable to the debates in the Committee of the Whole and to those in the plenary.

12. As stated in the commentary to the second amendment to rule 49, a proposal for reconsideration normally required a two-thirds majority, not only in General Assembly plenary meetings, but also in its committees, even where only a simple majority was required for a vote on the substance. That rule had, however, been altered at the first Conference, and the requirement of only a simple majority for reconsideration even in committee had worked perfectly well, even though there had been a number of points of detail which it had been undesirable to re-open. It should work even better at the second Conference, because little detail was involved, and only two large questions were at issue. As the whole purpose of the Committee of the Whole would be to test what support there was for proposals, the greatest possible flexibility would be needed. Proposals for reconsideration should therefore be voted by simple majority in the Committee of the Whole, while the two-thirds majority rule should naturally be retained for the plenary meetings.

13. Mr. LIANG (Executive Secretary) explained that although the substance of the new paragraph 2 of rule 38 was not explicitly stated in rules 90 and 129 of the General Assembly's rules of procedure — on conduct during voting — the Secretariat's intention had been to stress the importance of completing the voting on individual proposals or amendments. At the General Assembly and at international conferences held under United Nations auspices, a delegation often submitted a document described as a proposal, which might in fact consist of a series of proposals or amendments. Such composite proposals had sometimes been regarded as a single proposal for the purpose of voting, and difficulties had arisen when a number of separate amendments or proposals were not intimately linked and the

process of voting could not be finished until the series had been exhausted. The real purpose of rule 38 had been to prevent interruptions in the conduct of voting except on a point of order in connexion with it. The Mexican delegation might be correct in stating that the new paragraph was praiseworthy since it would facilitate the adoption of decisions, but the Secretariat's main intention in proposing the addition had merely been to ensure that the voting was undisturbed.

14. Mr. GARCIA ROBLES (Mexico) said that his delegation had submitted two amendments to article 49. Both were consistent with the other Mexican amendments; the second, however, was more important than the first.

15. The reasons for the first amendment were clearly explained in the commentary to that amendment (A/CONF.19/L.1). Essentially his delegation wished the same procedure to be followed as in the Main Committees of the General Assembly of the United Nations, in order to avoid the unnecessary loss of time which would be caused if the voting were interrupted and the debate reopened each time a vote was taken on a proposal or an amendment.

16. With regard to the second and more important amendment, he considered that it was sufficiently explained in the commentary to that amendment (A/CONF.19/L.1). He only wished to add that he could not agree with the United Kingdom representative that the application of the simple majority rule for the reconsideration of proposals in committee had worked well at the first Conference; experience at the 62nd meeting of the First Committee of that Conference¹ was proof positive to the contrary. It would be a very serious mistake to fail to correct an obviously inadvertent omission in the rules of procedure of the first Conference, as otherwise there was a danger that the debates in the Committee of the Whole would be endless.

17. Sir Claude COREA (Ceylon) observed that the second Mexican amendment was acceptable, since great difficulties would arise at a conference such as the present if the requirement of a two-thirds majority for a proposal for reconsideration in committee were not adopted. Just as there was a difference between the first discussion and the reconsideration of a proposal, so should there be a difference between the requirement of a simple majority and of a two-thirds majority. He could imagine situations in which a proposal might be carried by a very small majority, and the subsequent shift of only a very few votes might entitle a delegation to press for reconsideration. Such a process might continue interminably. Narrow majorities would, in fact, tempt delegations to propose reconsideration. The amendment might bring some degree of rigidity into the proceedings, but the prospects of orderly debate should not be sacrificed. The two-thirds majority for reconsideration should be required both in plenary meetings and in committee.

18. Mr. DREW (Canada) saw some merit in the Mexican representative's argument, but the present Conference differed greatly from the first Conference, when the law

of the sea had been discussed in its entirety. At the first Conference there had been good reasons for restricting discussion. Now all delegations had a common desire to find a basis for agreement that would give the world for the first time a comprehensive code of international law relating to the sea. The purpose in setting up a Committee of the Whole was to provide the flexibility that would make possible a merging of ideas before final proposals were submitted to the plenary meeting. The greatest possible flexibility was therefore needed in committee proceedings.

19. Mr. TUNKIN (Union of Soviet Socialist Republics) observed that since the conference was confronted with the task of establishing a code of norms of international law relating to the sea, it must discourage any attempts of manoeuvre by the use of a few votes. The Ceylonese representative had correctly intimated that the experience of the first Conference had shown that such attempts might be made. To solve weighty problems by the manipulation of a few votes might actually make the situation worse. The first Mexican amendment was acceptable, since no difficulties had been experienced in committee at the first Conference with the original rule 38. Experience also suggested that the second amendment was acceptable. Those who had attended the meetings of the First Committee would remember how the situation had deteriorated when an attempt had been made to reconsider a proposal. That had happened because the rules of procedure of the first Conference had not provided for the requirement now embodied in the second Mexican proposal.

20. Mr. GARCIA ROBLES (Mexico) asked that the vote be taken separately on each of the Mexican amendments.

21. The PRESIDENT put to the vote the two Mexican amendments to rule 49 of the provisional rules of procedure.

The first amendment was adopted by 36 votes to 23, with 14 abstentions.

The second amendment was adopted by 41 votes to 30, with 7 abstentions.

22. The PRESIDENT asked the Conference to consider the Mexican amendment to rule 54 of the provisional rules of procedure. The amendment would replace the word "summary" by the word "verbatim".

23. Mr. STAVROPOULOS (Legal Counsel, representing the Secretary-General) said that, while he appreciated the considerations which had inspired the Mexican amendment, he must draw attention to the serious budgetary and administrative difficulties which acceptance of that amendment would provoke. The plans for the second Conference had been based on the arrangements made for the first Conference, and the budget estimates submitted to the General Assembly at its thirteenth session had provided only for the cost of keeping summary records of the meetings, as at the first Conference. If any delegation had felt that summary records were not sufficient, the question should have been raised during the discussion of the budget for the conference in the General Assembly. The question had not been raised, however, and the budget as adopted by the

¹ *Official Records of the United Nations Conference on the Law of the Sea*, vol. III, p. 194.

General Assembly included funds only for summary records. He regretted therefore that the Secretariat did not have either the trained personnel or the financial means for providing verbatim records. Indeed, the Conference of the Ten-Nation Committee on Disarmament and the Conference on the Discontinuance of Nuclear Weapon Tests at present sitting in the Palais des Nations were both working with a reduced number of verbatim reporters, owing to the lack of staff. There was thus no possibility of finding verbatim reporters for the present conference.

24. As the Mexican delegation had pointed out, verbatim records of the Sixth Committee had been made available to the first United Nations Conference on the Law of the Sea.² Those records had been prepared, however, from tape-recordings, and had not been available till two months after the end of the General Assembly's session. That method, therefore, would be of little use to the present Conference. A trilingual record with no translation, produced from a tape-recording, would cost approximately \$5,000 and would involve no additional expenditure in view of the saving on précis-writers, but verbatim records in the three working languages would cost \$52,000, which was approximately \$46,000 more than had been budgeted for. In either case, no records would be available till approximately two months after the close of the Conference.

25. The general practice at conferences held under the auspices of the United Nations was to provide summary records only, and verbatim records had so far as he was aware been provided only at the two Conferences on the peaceful uses of atomic energy. Those records had consisted mainly of scientific papers, and the funds for their reproduction in full had been budgeted for in advance. He understood the general concern that the records of the Conference should represent fairly and accurately the views expressed, but hoped that that aim could be achieved by taking advantage of the right enjoyed by all delegations of submitting corrections for incorporation in the final record.

26. Mr. DEAN (United States of America) said that, although he recognized the cogency of some of the arguments adduced by the Mexican delegation, in the light of the information just given he felt that it might now wish to withdraw its amendment to rule 54 of the provisional rules of procedure.

27. Mr. FATTAL (Lebanon) said the Conference should defer to the arguments advanced by the representative of the Secretary-General. He would like, however, to suggest that it might be of advantage to use the services of French and Spanish précis-writers for reporting speeches made in those languages. The fact was that, however experienced translators might be, successive translation tended to distort the meaning of a speech. That was merely a suggestion to help the Conference, however, and must not be regarded as a formal proposal.

28. Mr. TUNKIN (Union of Soviet Socialist Republics) said that no one would deny the desirability of keeping full and accurate records of the Conference, and his

delegation therefore supported the Mexican proposal in principle. The statement by the representative of the Secretary-General, however, made it clear that that was quite impracticable for both financial and technical reasons. He accordingly hoped that the Mexican delegation would take those reasons into account.

29. Mr. GARCIA-ROBLES (Mexico) agreed that it would have been more appropriate to raise the question of substituting verbatim records for summary records at the thirteenth session of the General Assembly, but pointed out that at that time an opportunity to do so had not arisen, as the convening of the Conference had itself then been at issue. He hoped the arrangements for future conferences of that nature might receive fuller consideration.

30. In the light of the statement by the representative of the Secretary-General, his delegation was prepared to withdraw its amendment to rule 54, provided that the period of three working days allowed for the submission of corrections to summary records was extended to five working days and that the trilingual verbatim record mentioned by the Secretary-General's representative was made available in due course for consultation. His delegation would submit a resolution on the subject of the provision of verbatim records of the Conference.

31. Mr. STAVROPOULOS (Legal Counsel, representing the Secretary-General) said that the time allowed for the submission of corrections to summary records would be extended to five working days, as requested by the Mexican delegation; he could give an assurance that every effort would be made to provide very accurate summary records.

32. The PRESIDENT suggested that, as the Secretariat had agreed to extend the period allowed for the submission of corrections to summary records to five working days, the Conference could now adopt rule 54 of the provisional rules of procedure as amended.

It was so agreed.

The provisional rules of procedure (A/CONF.19/2), as amended, were adopted.

The meeting rose at 12.35 p.m.

THIRD PLENARY MEETING

Friday, 18 March 1960, at 3.15 p.m.

President: Prince WAN WAITHAYAKON (Thailand)

Election of Vice-Presidents

[Agenda item 5]

1. The PRESIDENT invited the Conference to elect seventeen Vice-Presidents, in accordance with rule 6 of the rules of procedure.

2. The representatives of the following seventeen States had been nominated for the office of Vice-President: Albania, Argentina, Canada, China, France, Ghana, Guatemala, Italy, Iran, Mexico, Norway, Poland,

² A/CONF.13/19.