

United Nations Conference on the Law of Treaties

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Fourth plenary meeting

Extract from the *Official Records of the United Nations Conference on the Law of Treaties, First Session (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

Appointment of the Credentials Committee

[Agenda item 8]

10. The PRESIDENT reminded the Conference that under rule 4 of the rules of procedure the Credentials Committee had to consist of nine members appointed by the Conference on the proposal of the President. He understood it had been agreed that the Committee should have the same membership as the Credentials Committee of the General Assembly at its last session; he therefore proposed the following countries: Ceylon, Dominican Republic, Ireland, Japan, Madagascar, Mali, Mexico, Union of Soviet Socialist Republics and United States of America.

11. Mr. HAYES (Ireland) said he regretted that he was unable to serve on the Credentials Committee as he was the only representative of his country at the Conference and he would not be able to remain until the end of its proceedings.

12. The PRESIDENT suggested that the other eight members of the Credentials Committee should be appointed and that the ninth member should be nominated at a subsequent meeting, after consultation with the States participating in the Conference.

It was so decided.

The meeting rose at 1.10 p.m.

THIRD PLENARY MEETING

Wednesday, 27 March 1968, at 5.45 p.m.

President: Mr. AGO (Italy)

Appointment of the Credentials Committee

[Agenda item 8]

(continued)

1. The PRESIDENT said that eight of the nine members of the Credentials Committee had already been appointed at the previous meeting; he now suggested that the remaining vacancy be filled by Switzerland, whose representative had consented to serve. If there were no objection, he would therefore take it that the Conference agreed that the Credentials Committee consist of those nine delegations.

It was so agreed.

Appointment of other members of the Drafting Committee

[Agenda item 9]

2. The PRESIDENT said that the Conference was now called upon to appoint thirteen members of the Drafting Committee in addition to the Chairman of that Committee, who had already been elected by the Conference at its previous meeting, and the Rapporteur of the Committee of the Whole, who similarly had been elected by the Committee of the Whole at its first meeting.

3. The General Committee had decided to recommend that the following thirteen countries be appointed:

Argentina, China, Congo (Brazzaville), France, Ghana, Japan, Kenya, Netherlands, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America. If there were no objection, he would consider that the Conference agreed to adopt that recommendation.

It was so agreed.

Organization of work

[Agenda item 10]

4. The PRESIDENT said that the General Committee had decided to recommend that the Conference endorse the suggestions contained in the excellent Secretariat memorandum on "Methods of work and procedures of the first session of the Conference" (A/CONF.39/3), which was based on the experience of previous codification Conferences. The General Committee had nevertheless considered that the Conference and its organs should feel free at all times to adapt those methods and procedures to their needs.

5. Since the real success of the Conference would be measured not by the adoption of the various draft articles by the appropriate majorities, first by the Committee of the Whole and later by the Conference itself, but rather by the ratifications and accessions which the future instrument on the law of treaties would attract, he would urge all participants to co-operate in ensuring that the final outcome of the Conference was calculated to gain the broadest possible measure of support on the part of States.

6. If there were no comments, he would consider that the Conference agreed to endorse the Secretary-General's memorandum (A/CONF.39/3) on the understanding already indicated.

It was so agreed.

7. The PRESIDENT suggested that, in accordance with the satisfactory experience of the 1961 and 1963 Conferences, the Drafting Committee be entrusted with the task of preparing a draft preamble.

It was so agreed.

The meeting rose at 6 p.m.

FOURTH PLENARY MEETING

Wednesday, 8 May 1968, at 12 noon

President: Mr. AGO (Italy)

Tributes to the memory of Mr. Antonio de Luna

1. The PRESIDENT said that the meeting had been convened to pay a tribute to the late Mr. Antonio de Luna.

2. Mr. de CASTRO (Spain) said he was grateful to the President of the Conference for his initiative in convening a meeting for the purpose of paying a tribute to the late Mr. de Luna. The death of Mr. de Luna had left a gap in the international community. He personally had known him for very many years, since they had been colleagues at the universities of La Laguna, Salamanca

and Madrid and had worked together in connexion with the founding of the Instituto de Estudios Internacionales y Económicos and on the *Revista española de Derecho Internacional*. Mr. de Luna was a brilliant lawyer and a vital dynamic person, a true humanist with a multiplicity of interests. Much of his time had been spent at conferences, discussions and seminars. Born at Granada and a member of an Andalusian family of French ancestry, he spoke many languages and was at home in several universities in Europe and America. Latterly he had been Ambassador to Colombia and Austria. He had always taken a great interest in the controversy over legal positivism. He had stressed the need to be methodical in international law, maintaining that it was not a creation of the will of States, but was based on a natural law founded on the principles of *pacta sunt servanda* and *jus cogens*. He had maintained most emphatically that the power of great States did not entitle them to use force in violation of the sovereignty of other States and he had spoken very decidedly against unequal treaties. As a jurist and an internationalist he had considered that international law must also be rooted in reality.

3. Mr. AMADO (Brazil) said that he had had a profound respect for Mr. de Luna, a most amiable and energetic man who combined Castilian discipline with Andalusian charm. Greatly beloved by members of the International Law Commission, his absence from the present Conference and from the Sixth Committee of the General Assembly was a great loss to them all. His learning had been immense and varied, reaching back to the roots of international law, both theory and practice, and embracing a detailed knowledge of jurisprudence. He had been an incomparable teacher and a firm friend of his students. His opinions on a wide range of topics could be read in the *Yearbooks* recording the International Law Commission's discussions. In some ways his intellect was perhaps too far-ranging for him to be interested in conclusions. It now remained for the Conference to complete the work to which Mr. de Luna had contributed so much.

4. Mr. YASSEEN (Iraq) said that the international community had suffered a great loss in the death of an eminent internationalist and humanist. In his opinions and actions he represented the tolerance and understanding of his great country, where Islam and Christianity mingled. He cared profoundly for the aspirations of peoples and human dignity and had an encyclopaedic culture. He felt a deep personal grief at Mr. de Luna's death.

5. Mr. BRIGGS (United States of America) said it was very fitting that the Conference should pay a tribute to Mr. de Luna. He himself had worked with him for five years in the Commission, preparing the draft articles on the law of treaties, and had been able to witness the contribution made by him to that work. Mr. de Luna represented the proud Spanish tradition of Vitoria and Suárez. He had been keenly conscious that the law existed for the benefit of all men. He had been untiring in helping to formulate the draft articles on the law of treaties, taking full account of existing international law and adapting it to the modern temper and the emerging needs of an expanding world community. His learning was great but he was no pedant. He had been a warm

friend and would have been anxious for the Conference's success in producing a convention capable of wide acceptance.

6. Mr. ELIAS (Nigeria) said that Mr. de Luna had been elected to the International Law Commission in 1961 and had endeared himself to all its members. He was a scholar, jurist and statesman with warm, friendly and urbane manners. He had a zest for the good life, in the Aristotelian sense, and was a man of universal culture.

7. Mr. REUTER (France) said that Mr. de Luna had a generous, energetic and hopeful nature. He had excelled in many things and performed numerous functions. His place was assured among eminent Spaniards.

8. Mr. SECARIN (Romania) said that Mr. de Luna had made a valuable contribution to the progressive development of international law, undertaken by the International Law Commission. He had been a true realist and had been convinced that account must be taken of reality if the common values were to be safeguarded. He had declared that international law had become universal and that it must foster peaceful co-existence between States, without which there could be no future. Mr. de Luna had been active in many spheres and had been devoted to the codification of international law. It would be a tribute to his memory if the Conference were to succeed in its task.

9. Mr. TABIBI (Afghanistan), speaking on behalf of the Asian delegations, said that they felt keenly the loss of Mr. de Luna, who, like one of his contemporaries in the International Law Commission, the late Judge Radhabinod Pal, had done so much towards preparing the draft articles on the law of treaties. Mr. de Luna had been a warm and sincere friend and a true humanist, with a progressive mind and a real understanding of the changing world and present-day needs. For that reason he had been respected and liked by Asian and African jurists. He had been born in the proud line of Spanish lawyers who claimed that Vitoria was the true father of international law, rather than Grotius.

10. The PRESIDENT said that he had always thought of Mr. de Luna as almost an Italian because of his extraordinary knowledge of that language and of Italian culture. One of the most striking things about him had been his faith and dynamic enthusiasm for ideals. A man of the widest culture, he had always sought to work for generous and progressive solutions. He had been a brilliant lawyer, scholar and writer on legal theory as well as a man of action. Later in life he had become a diplomat, serving his country as its ambassador in Bogota and Vienna, but he had always wanted to return to the service of international law and had aspired to become a judge of the International Court of Justice. In the work of the International Law Commission, his contribution had often been decisive in the formulation of the draft articles on the law of treaties. With his example in mind, he hoped that the Conference would succeed in its task.

The Conference observed a minute's silence in tribute to the memory of Mr. de Luna.

The meeting rose at 1 p.m.