

United Nations Conference on the Law of Treaties

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Second session
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Sixth plenary meeting

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

SUMMARY RECORDS OF THE PLENARY MEETINGS

SIXTH PLENARY MEETING

Wednesday, 9 April 1969, at. 3.25 p.m.

President : Mr. AGO (Italy)

Opening of the second session of the Conference

1. The PRESIDENT declared open the second session of the United Nations Conference on the Law of Treaties.

2. He welcomed all the participants and wished them success in their work.

3. He said that the Conference was about to take up the most difficult part of its task. In 1968, delegations had known that at the end of first session they would have a long pause for reflection: hence the discussions could be of an exploratory character, particularly on the more controversial points, and the positions adopted could be more or less provisional. That approach was no longer possible and it would be necessary to adopt definitive positions.

4. As the first servant of the Conference, he felt bound to remind participants that, although they were naturally responsible for protecting the legitimate interests of their countries, they also had a responsibility towards the international community as a whole; for it had to be remembered that the Conference was a kind of legislative body for the international community.

5. To a casual observer, the draft before the Conference might give the appearance of being a draft convention like any other. But in fact a convention on treaties was bound to have a very special character. Its purpose would not be to regulate transient interests relating to a specific situation, but rather to define and reformulate the general rules by which the conclusion and the life of treaties would be governed in the future. To use a metaphor, the Conference was called upon to lay down the rules of the game rather than to play the game itself. The task before it was therefore much too vital to the future of all for any participant to allow his special interests to influence his course of action. Particular problems would be examined at the appropriate time and place, and it was quite natural that everyone should then endeavour to solve them in the manner he found most appropriate. But the Conference's sole concern must be to settle general problems that were vital to the orderly development of international affairs. The intention was that treaty rules should replace the customary rules which for centuries had

governed the legal relations of the international community; that rules established by general agreement should define, clarify and supplement the old rules and adapt them to the new requirements of the community of States. It was essential that the new rules, because they brought greater certainty and corresponded more closely to contemporary opinion, should contribute to the security of international legal relations.

6. Participants should therefore realize that the purpose was not to cause one point of view to triumph at the expense of another, to obtain majorities or to seek victories that would only be apparent. Every effort must be made at the appropriate moment to reach agreement. What the Conference had to do was to secure a universal consensus for the rules which were being formulated and, if possible, for each of those rules individually.

7. The Conference should therefore arm itself with patience, goodwill, and a determination to go as far as possible in making concessions in order to meet the views of others. Above all, it should be borne in mind that it was essential that the Conference should succeed. Great harm would be done to the international community if so many years of preparation, discussion and effort were to lead to nothing and if the result of the Conference were to leave the most fundamental rules of international legal relations in an even greater state of uncertainty than before.

8. At the beginning of the session, the Committee of the Whole would meet to consider the articles left pending at the first session; as everyone knew, they were the most difficult ones, but under the skilful leadership of Mr. Elias, its Chairman, the Committee should be able to surmount the obstacles before it. An equally strenuous task awaited the Drafting Committee under the able guidance of its Chairman, Mr. Yasseen. In addition, many informal meetings would be necessary for negotiations, for reconciling different points of view, and to facilitate agreement.

9. When the Committee of the Whole had completed its work, the Conference would consider the draft convention article by article; but it would no longer be possible to postpone decisions, and the Conference would have to assume its ultimate responsibility. Moreover, there was little time at its disposal.

10. He hoped that when the last stage of the Conference's work had been completed, he would be able to congratulate it on the result which could, and indeed must, be a success without parallel in the history of international law.

Methods of Work and procedures of the second session of the Conference

11. The PRESIDENT said that a proposed schedule for the work of the Committee of the Whole had been submitted by the delegations of Ghana and India (A/CONF.39/L.2). If there were no objection, he would take it that the Conference agreed to adopt that proposal.

It was so agreed.

12. The PRESIDENT drew attention to the memorandum by the Secretary-General on methods of work and procedures of the second session (A/CONF.39/12) and in particular to paragraphs 13 and 14, which gave details of the working hours and working days of the Conference. If there were no objection, he would assume that the Conference approved of those arrangements.

It was so agreed.

13. The PRESIDENT said that it was also suggested in the memorandum that the drafting of the preamble should be entrusted to the Drafting Committee, which would submit the text directly to the plenary. If there were no objection, he would take it that the Conference approved of that procedure.

It was so agreed.

14. The PRESIDENT drew attention to the suggestion in the memorandum that, towards the close of the Conference, the Secretariat should submit a text of the Final Act to the Drafting Committee, which would then report on it to the plenary. If there were no objection, he would take it that the Conference approved of that procedure.

It was so agreed.

The meeting rose at 3.40 p.m.

SEVENTH PLENARY MEETING

Monday, 28 April 1969, at 10.45 a.m.

President : Mr. AGO (Italy)

Tribute to the memory of General René Barrientos Ortuño, President of the Republic of Bolivia

On the proposal of the President, representatives observed a minute's silence in tribute to the memory of General René Barrientos Ortuño, President of the Republic of Bolivia, who had met his death in an air crash.

1. Mr. ROMERO LOZA (Bolivia) thanked the Conference for its tribute to the memory of General Barrientos Ortuño. The Bolivian Government would be informed of that gesture of sympathy without delay.

Consideration of the question of the law of treaties in accordance with resolution 2166 (XXI) adopted by the General Assembly on 5 December 1966

REPORTS OF THE COMMITTEE OF THE WHOLE

2. The PRESIDENT suggested that the Conference express by acclamation its gratitude to Mr. Elias, Chairman of the Committee of the Whole, for the firmness, flexibility and courtesy he had shown in carrying out the difficult task entrusted to him.

3. He invited the Conference to take up the various articles of the convention, with a view to producing a convention on the law of treaties which satisfied all as fully as possible. It was not a question of one group triumphing over another, but of ensuring the success of the Conference.

4. Mr. KHLESTOV (Union of Soviet Socialist Republics) referred to the way in which the work of the Committee of the Whole had ended and to the fate of several proposals submitted by certain delegations. Unfortunately, the basic views of some groups had not been taken into consideration. The Conference still had some time left in which to discuss matters and make its work as effective as possible. The Soviet Union delegation was anxious to do all it could to ensure the success of the Conference. It therefore very much hoped that the President would act boldly so as to enable the Conference, with the participation of certain groups, to use what little opportunity remained to bring the task of codification of the law of treaties to fruition. The Conference must above all achieve positive results. He therefore requested the President to attempt, with the participation of the representatives of certain groups, to secure the adoption of certain basic views which had been rejected. The Soviet Union delegation would be understanding and would strive to assist the President in his task.

5. The PRESIDENT assured the representative of the Soviet Union that he would do everything possible to guarantee the success of the Conference.

ARTICLES APPROVED BY THE COMMITTEE OF THE WHOLE

6. The PRESIDENT invited the Chairman of the Drafting Committee to introduce the texts of articles 1 to 6 approved by the Committee of the Whole, the drafting of which had been reviewed by the Drafting Committee.

Statement by the Chairman of the Drafting Committee on articles 1-6

7. Mr. YASSEEN, Chairman of the Drafting Committee, said that the Committee of the Whole had approved the texts of a whole series of articles, but no titles, except for article 1. The Drafting Committee therefore had two tasks: with regard to the texts adopted by the Committee of the Whole, it had to co-ordinate and review their wording under rule 48 of the rules of procedure of the Conference; with regard to the titles, it had to draft them in the light of the amendments concern-