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Summary record of the 133rd meeting

Topic:
<multiple topics>

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"The proposed contiguous zones are strictly limited. They are not intended for purposes of security or of exclusive fishing rights."

115. Mr. AMADO, supported by Mr. CORDOVA, considered that security purposes should not be mentioned and requested a vote on the matter.

It was decided by 6 votes to 4 to retain the reference to security purposes.

The amendment proposed by Mr. Hudson was adopted.

116. Mr. HUDSON proposed the deletion of the word "Even", in the third sentence, and the substitution of the words "offered no prospect" for the words "did not suggest the prospect", in the third sentence.

117. The CHAIRMAN proposed the deletion of the word "appreciably" at the end of the paragraph.

118. Mr. FRANÇOIS accepted the above amendments.

Paragraph 48 was adopted as amended.

Paragraph 49

119. On the proposal of Mr. HUDSON, *it was decided to delete paragraph 49.*

Paragraph 50

120. On the proposal of Mr. FRANÇOIS, supported by Mr. AMADO, *it was decided to delete paragraph 50.*

Paragraph 51 (annex to the "Report", Part II, art. 4, com., para. 5)

121. Mr. HUDSON proposed that the first sentence of paragraph 51 be reworded as follows:

"The recognition of special rights to the coastal State in a zone contiguous to its territorial waters for customs, fiscal and sanitary purposes, will not affect the legal status of the air-space above such a zone."

It was so agreed.

122. The CHAIRMAN proposed the deletion from the second sentence of the words "Possibly" and "at present".

It was so agreed.

123. On an observation by Mr. HUDSON, Mr. LIANG (Secretary to the Commission) proposed the substitution for the words "rules on maritime law", in the last sentence, of the words "the regime of the high seas."

It was so agreed.

124. The CHAIRMAN said that, on the completion of the first reading of Chapter VII of the general report of the Commission, he had to express the Commission's warm thanks to Mr. François for his valuable assistance in preparing the special reports and the draft general report on the régime of the high seas. He paid tribute to the conciliatory spirit displayed by Mr. François during the reading of the draft, the final version of which he had had to produce in particularly difficult working conditions, and assured him of the Commission's whole-hearted gratitude.

125. Mr. SCILLE said that he wished to point out that he would not vote on the report concerning the regime of the high seas owing to the articles which it

contained concerning the continental shelf. The ground for his abstention, which must not be interpreted as a criticism of that chapter of the report, was that he was opposed to the continental shelf doctrine, which was contrary to the freedom of the seas.

The meeting rose at 1.20 p.m.

133rd MEETING

Thursday, 26 July 1951, at 9.45 a.m.

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Chairman: Mr. James L. BRIERLY

Rapporteur: Mr. Roberto CORDOVA

Present:

Members: Mr. Gilberto AMADO, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Mr. Faris EL KHOURY, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCILLE, Mr. Jesús Maria YEPES.

Secretariat: Mr. Yuen-li LIANG, Director of the Division for the Development and Codification of International Law, and Secretary to the Commission.

Appointment of special rapporteurs

1. The CHAIRMAN reminded the Commission that it had still to appoint special rapporteurs "for the questions of nationality, including statelessness", and of the revision of the Commission's statute.

(a) *Appointment of a special rapporteur for the study of nationality, including statelessness*

2. Mr. SANDSTRÖM proposed Mr. Hudson as rapporteur for the question of nationality.

3. Mr. HUDSON observed that the projected study was mainly concerned with the elimination of the problem of statelessness. Although the Commission had decided to undertake a study of nationality as a whole, it was with questions connected with the elimination of statelessness that they were concerned at the moment.

4. The CHAIRMAN remarked that it would be difficult to separate the two parts of that study. He proposed that the projected study be called: "Nationality, with particular reference to the elimination of statelessness". He was, moreover, of the opinion that the rapporteur should be allowed considerable latitude.

The Commission unanimously invited Mr. Hudson to undertake the duties of special rapporteur for that question.

5. Mr. HUDSON accepted the appointment.

6. Mr. LIANG (Secretary to the Commission) read out a communication, dated 5 April 1951, from the High Commissioner for Refugees to the Secretary-General of the United Nations, offering the United Nations his assistance for the purposes of the study of the question of statelessness.

7. Mr. HUDSON said he would get in touch with the High Commissioner for Refugees in regard to the matter.

8. Mr. LIANG (Secretary to the Commission) considered that, in accordance with a decision taken at its last session,¹ the Commission should also take up the question of the nationality of married women.

9. The CHAIRMAN pointed out that the position of married women would naturally be covered in the report on nationality.

(b) *Appointment of a special rapporteur for the study of the revision of the Commission's statute*

10. The CHAIRMAN, supported by Mr. SANDSTRÖM, proposed Mr. Córdova as special rapporteur for the question of revision. Before starting his work, the rapporteur appointed would have to await the decision of the General Assembly on that part of the Commission's general report having reference to the statute.

11. Mr. CORDOVA agreed to act as rapporteur; and asked the other members of the Commission to afford him their assistance.

12. Mr. HUDSON urged that he submit the Commission's existing statute to really critical examination.

The Commission unanimously decided to appoint Mr. Córdova as special rapporteur for the study of the revision of its statute.

Examination of the draft report of the Commission covering its third session (continued)

CHAPTER VII: REGIME OF THE HIGH SEAS (A/CN.4/L.27 AND A/CN.4/L.27.ADD.1) (continued)

Resources of the sea (resumed from the 132nd meeting)

Prevention of the pollution of waters (annex to the "Report", Part II, art. 2, com., para. 4)

13. The CHAIRMAN recalled that, at its last meeting, the Commission had decided to insert after paragraph 37 a text on the protection of waters against pollution.² Mr. François had submitted the following text:

¹ See *Report of the International Law Commission covering its second session, Official records of the General Assembly, fifth session, Supplement No. 12 (A/1316)*, paras. 19–20.

² Summary record of the 132nd meeting, paras. 33–34.

"The problem of the pollution of sea water is another question of great importance, not only with regard to the conservation of the resources of the sea, but also with regard to birds, fires in harbours etc. The Commission noted that the Economic and Social Council has concerned itself with the problem."³

14. Mr. HUDSON proposed that the above text be replaced by the following, which expressed the same concepts in another form;

"The pollution of waters of the high seas presents special problems, not only with regard to the conservation of the resources of the sea but also with regard to the protection of other interests. The Commission noted that the Economic and Social Council has taken an initiative in this matter."⁴

After some discussion, the text submitted by Mr. Hudson was adopted.

Paragraphs for inclusion at the beginning of chapter VII

15. The CHAIRMAN submitted the following drafts for the consideration of the Commission:

"1. At its first session, held in 1949, the International Law Commission included in the provisional list of topics selected for codification, the régime of the high seas; after giving priority to this topic, among others, it elected Mr. J. P. A. François special rapporteur for the régime of the high seas.

2. Mr. François' first report on this subject (A/CN.4/17) was examined at the second session of the Commission in 1950. The Commission had before it also the replies from some governments to a questionnaire circulated by it (A/CN.4/19, part I, C). The special rapporteur was requested to formulate concrete proposals on various subjects coming under the régime of the high seas.

3. At the third session Mr. François submitted a second report on these subjects (A/CN.4/42). It was examined by the Commission at its 113th to 125th meetings and at its 130th to 133rd meetings.

4. The Commission first examined the chapters of the report dealing with the continental shelf and various related subjects, namely, conservation of the resources of the sea, sedentary fisheries and contiguous zones. It reached certain conclusions and it decided to give to its drafts the publicity referred to in Article 16, paragraph (g) of its Statute, and in particular to communicate these drafts to governments so that they could submit their comments as envisaged in paragraph (h) of the same article. The texts of the draft articles and commentaries thereon are reproduced in the Annex to this report."

Paragraphs 1 and 2 (paragraphs 76–77 of the "Report")

Paragraphs 1 and 2 were approved without comment.

³ Resolution 298 C (XI) of 12 July 1950.

⁴ *Ibid.*

Paragraph 3 (paragraph 77 of the "Report")

16. Following a remark by Mr. LIANG (Secretary of the Commission) the CHAIRMAN proposed that paragraph 2 and paragraph 3 be combined.

It was so decided.

Paragraph 4 (paragraph 78 of the "Report")

Paragraph 4 was approved without comment.

Paragraph 52 (A/CN.4/L.27/Add. 1)⁵

17. Mr. HUDSON observed that the paragraphs comprising document A/CN.4/L.27/Add. 1 should follow immediately after those which the Commission had just approved. Document A/CN.4/L.27, less its first five paragraphs, should be included as an annex to the general report.

18. He suggested that the above-mentioned annex be entitled "The Continental Shelf and Related Questions". The draft articles on related questions, such as the conservation of the resources of the sea, sedentary fisheries and contiguous zones, should be numbered consecutively.

19. After a short discussion, Mr. CORDOVA, as general rapporteur, expressed his agreement with the above-mentioned proposals.

20. On a proposal by Mr. HUDSON, supported by Mr. FRANÇOIS, *it was decided to delete paragraph 52.⁶*

Paragraph 53 (paragraph 79 of the "Report") (Nationality of ships)

21. Mr. HUDSON proposed that the heading of the paragraph (Nationality of ships) be deleted and included in the text itself, which would then read: "On the question of the nationality of ships, the Commission approved . . ."; the same thing should be done as regards the following paragraphs.

It was so decided.

22. Mr. HUDSON proposed that the second sentence of the paragraph be deleted.

23. After hearing Mr. FRANÇOIS, *it was decided to retain the sentence.*

Paragraph 53 was adopted as amended.

Paragraph 54 (paragraph 80 of the "Report") (Penal jurisdiction in matters of collision)

The paragraph was adopted without comment.

⁵ Mimeographed document only, the text of which corresponds with drafting changes to paragraphs 79-84 of the *Report of the International Law Commission covering the work of its third session*. (See vol. II of the present publication.) The drafting changes are indicated in the present summary record.

⁶ Paragraph 52 read as follows:

"52. The Commission examined the various other topics coming within the régime of the high seas, which it had decided at its second session to set aside for codification, and asked the special rapporteur to continue his work on them, on the basis of such directives as he was able to deduce from the discussions and tentative decisions taken by the Commission."

Paragraph 55 (paragraph 81 of the "Report") (Safety of life at sea)

24. Mr. HUDSON remarked that the word "principle" was wrongly used. He proposed that the phrase be redrafted to read: "The inclusion, in the codification of the régime of the high seas, or rules . . ."

It was so decided.

Paragraph 55 was adopted as amended.

Paragraph 56 (paragraph 82 of the "Report") (Right of approach, piracy and the slave trade)

25. Mr. HUDSON proposed two alterations in drafting; the addition at the end of the first sentence, after the words "foreign merchant vessels", of the words "on the high seas", and of the word "general", at the beginning of the third sentence, before the word "treaties".

It was so decided.

26. Referring to a remark by the CHAIRMAN in regard to the last sentence of the paragraph, Mr. FRANÇOIS said that he had found it difficult to interpret the Commission's instructions in respect of the study of the question of piracy.

27. Reversing a previous decision,⁷ *it was decided* that the special rapporteur should not deal with the question of piracy, and, that the last sentence of the paragraph be deleted.

Paragraph 56 was adopted as amended.

Paragraph 57 (paragraph 83 of the "Report") (Submarine telegraph cables)

28. Mr. HUDSON proposed that the second part of the paragraph be amended to read: "asked the special rapporteur to deal with the subject in a general way, without going into details".

It was so decided.

Paragraph 57 was adopted as amended.

Paragraph 58 (paragraph 84 of the "Report") (Right of pursuit)

29. Mr. HUDSON proposed that the paragraph begin with the words: "On the subject of hot pursuit, the Commission . . .".

It was so decided.

CHAPTER VI: LAW OF TREATIES (A/CN.4/L.29)⁸*Paragraph 1 (paragraph 72 of the "Report")*

30. On Mr. HUDSON's proposal, *it was decided* to substitute the word "subject" for the word "topic" throughout the draft. *It was also decided* to amend the second sentence of the paragraph to read: "It elected Mr. J. L. Brierly special rapporteur on this subject . . ."

⁷ Summary record of the 124th meeting, paras. 89-94.

⁸ Mimeographed document only, the text of which corresponds, with drafting changes, to chapter VI of the *Report of the International Law Commission covering the work of its third session*. (See vol. II of the present publication.) The drafting changes are indicated in the present summary record.

instead of "It elected one of its members, Mr. J. L. Brierly ...".

Paragraph 4 was adopted as amended.

Paragraphs 2 and 3 (paragraphs 73–74 of the "Report")

Paragraphs 2 and 3 were adopted without comment.

Paragraph 4 (paragraph 75 of the "Report")

31. At Mr. HUDSON's suggestion, it was decided to delete the words "in detail" in line 2.

Paragraph 4 was adopted as amended.

CHAPTER VIII: OTHER DECISIONS OF THE COMMISSION (A/CN.4/L.30)⁹

Paragraph 1 (paragraph 85 of the "Report")

32. In reading out the paragraph, the CHAIRMAN remarked that Mr. Manley O. Hudson's name should be inserted in the blank space. He proposed the insertion of a full stop after the date "1950" in line 10, and the deletion of the rest of the sentence.

It was so decided.

33. Mr. HUDSON proposed that the last sentence be amended to read: "This matter lies within the framework of the subject of 'nationality, including statelessness' instead of 'The Commission decided to study also this question in the framework of the topic of 'nationality including statelessness'".

It was so decided.

Paragraph 1 was adopted as amended.

Paragraph 2 (paragraph 86 of the "Report")

34. The CHAIRMAN remarked that the words "to which it had" should be inserted before "at its second session" in the first sentence.

Paragraph 2 was adopted.

Paragraphs 3, 4 and 5 (paragraphs 87 and 89–90 of the "Report")

Paragraphs 3, 4 and 5 were adopted without amendment.

Paragraph 6 (paragraph 91 of the "Report")

35. On an observation by Mr. HUDSON, Mr. LIANG (Secretary to the Commission) explained that the probable duration of the fourth session had to be mentioned in the message to the Secretary-General, so as to permit the preparation of budget estimates and a timetable of meetings.

36. Mr. HUDSON proposed the substitution of the wording "which will last some ten weeks" for "which will last not longer than ten weeks". He also proposed that the end of the paragraph be amended to read: "the exact date being left to the discretion of the Chairman of the Commission in consultation with the Secretary-General" instead of "to the discretion of the Secretary-

General in consultation with the Chairman of the Commission".

It was so decided.

Paragraph 6 was adopted as amended.

New paragraph (paragraph 88 of the "Report")

37. Mr. HUDSON said that, in spite of a previous decision to the contrary,¹⁰ the Commission should take note of the General Assembly's resolution prolonging the term of office of the existing members. A new paragraph worded as follows could be included in the report for that purpose:

"The Commission took note of General Assembly resolution 486 (V) of 12 December 1950 extending the term of office of its present members until 1953."

The new paragraph was adopted.

Following a remark by the CHAIRMAN, it was decided to insert the new paragraph just before paragraph 4 above.

Second reading of the Report of the Commission covering its third session: Chapters I, II, III and IV (A/CN.4/L.31)¹¹

38. Speaking as general rapporteur, Mr. CORDOVA requested that his name, which appeared on the cover of the document, should not be included in the printed text.

39. Mr. LIANG (Secretary to the Commission) said that the request would be noted; the name of the rapporteur had not, in any case, appeared on the cover of the printed text of previous reports.

CHAPTER I: INTRODUCTION (concluded)

Paragraphs 1–11

Paragraphs 1–11 were adopted without comment.

CHAPTER II: RESERVATIONS TO MULTILATERAL CONVENTIONS (concluded)

Paragraphs 12–16

Paragraphs 12–16 were adopted without comment.

Paragraph 17

40. Mr. FRANÇOIS pointed out that the sentence: "The Court recognized this fact in its advisory opinion, in the following words:" was somewhat ambiguous. The words "this fact" seemed to refer to the invitation to the Commission, to which reference was made in the preceding sentence.

41. In the light of the above, Mr. HUDSON proposed that the two clauses of the first sentence be reversed, and that the above-mentioned sentence be then amended to read: "The Court underlined the nature of its task in the following words".

It was so decided.

¹⁰ Summary record of the 124th meeting, para. 68.

¹¹ Mimeographed document only, the text of which corresponds, with drafting changes, to chapters I–IV of the *Report of the International Law Commission covering the work of its third session*. (See vol. II of the present publication.) The drafting changes are indicated in the present summary record. The paragraph numbers correspond to those of the "Report".

⁹ Mimeographed document only, the text of which corresponds, with drafting changes, to chapter VIII of the *Report of the International Law Commission covering the work of its third session*. (See vol. II of the present publication.) The drafting changes are indicated in the present summary record.

42. Mr. HUDSON proposed that, by way of analogy, the last sub-paragraph of the paragraph be amended to read: "In the second place, while the Commission has been asked to study the question both from the point of view of codification and from that of the progressive development of international law, the Court gave its advisory opinion on the basis of its interpretation of the existing law", instead of "The Commission, on the other hand, has been asked . . . development of international law".

43. He also proposed the substitution of the word "practice" for the word "rules" in the same sub-paragraph.

It was so decided.

Paragraph 17 was adopted as amended.

Paragraphs 18 and 19

Paragraphs 18 and 19 were adopted without comment.

Paragraph 20

44. In the light of an observation by Mr. FRANÇOIS, Mr. HUDSON proposed the substitution of the wording "by making such exceptional provisions for them, as will admit" for "by placing them in such exceptional circumstances as will admit of their".

It was so decided.

Paragraph 20 was adopted as amended.

Paragraph 21

45. Mr. HUDSON, with the support of the CHAIRMAN, proposed that the first part of the first sentence be redrafted to read: "The Organization of American States follows a different system, as described in the Written Statement dated 14 December 1950 of the Pan-American Union," instead of "The Pan-American Union, which is the general secretariat of the Organization of American States follows . . .". He also proposed the deletion, at the beginning of the second sentence, of the words "according to" and the addition, after the word "Peru" of the words "provided that".

It was so decided.

Paragraph 21 was adopted.

Paragraph 22

46. Mr. YEPES thanked the Chairman and the general rapporteur for the manner in which his ideas had been interpreted in the footnote at the bottom of the page.

Paragraph 22 was adopted without comment.

Paragraph 23

Paragraph 23 was adopted without comment.

Paragraph 24

47. On the CHAIRMAN's proposal, it was decided to substitute the words "resorted to" for the word "attempted" in the fifth sentence.

Paragraph 24 was adopted as amended.

Paragraphs 25 to 30

Paragraphs 25 to 30 were adopted without comment.

Paragraphs 31 to 33

Paragraphs 31 to 33 were adopted without comment.

Paragraph 34

Sub-paragraph (4)

48. The CHAIRMAN considered that the wording of the sub-paragraph was not satisfactory. Reference was made to two cases, but the terms used were not the same. In his opinion it would be better to use the phrase "only in the absence of objection" in both cases, instead of the phrase "if no objection is made" in the second case.

It was so decided.

Sub-paragraph (5)

49. Mr. HUDSON thought that the passage commencing with the words "provided, however, . . ." should be indented, so as to form part of sub-paragraph (5b).

It was so decided.

Paragraph 34 was adopted as amended.

CHAPTER III: QUESTION OF DEFINING AGGRESSION (concluded)

50. Mr. HUDSON asked that the footnote at the bottom of the page (footnote 18 in the Report) be redrafted to read:

"Mr. Manley O. Hudson voted against this chapter of the report on the ground that, in resolution 378 (V) B, the General Assembly did not request the Commission to formulate a definition of aggression."¹²

It was so decided.

Paragraphs 35 to 38

Paragraphs 35 to 38 were adopted without comment.

Paragraph 39

51. Mr. HUDSON regretted that Mr. SPIROPOULOS' views had not been better expressed.

52. The CHAIRMAN and Mr. SCHELLE observed that that was what Mr. Spiropoulos had said.

53. Mr. CORDOVA added that Mr. Spiropoulos had drafted the paragraph himself.

Paragraph 39 was adopted.

Paragraphs 40 to 48

Paragraphs 40 to 48 were adopted without comment.

Paragraph 49

54. Mr. LIANG (Secretary to the Commission) supported by the CHAIRMAN, thought it would be preferable to delete the phrase "Besides resolving these main points of substance" and start the paragraph with "The Commission also adopted . . .", as the Commission had not yet reached a definite conclusion on those points.

It was so decided.

Paragraph 49 was adopted as amended.

¹² Instead of "Mr. Manley O. Hudson voted against this chapter of the report as a whole on the ground that resolution 378 (V) B, adopted by the General Assembly on 17 November 1950, did not request the Commission to present to the General Assembly a definition of aggression".

Paragraphs 50 to 53

Paragraphs 50 to 53 were adopted without comment.

CHAPTER IV: DRAFT CODE OF OFFENCES AGAINST THE
PEACE AND SECURITY OF MANKIND (*concluded*)

Paragraph 54

Paragraph 54 was adopted without comment.

Paragraph 55

55. Mr. LIANG (Secretary to the Commission) thought it would be better to substitute "recognised" for "defined" in the last sentence.

It was so decided.

Paragraph 55 was adopted as amended.

Paragraph 56

Paragraph 56 was adopted without comment.

Paragraph 57

56. Mr. HUDSON was of the opinion that the words "on the basis of the draft prepared by Mr. Spiropoulos and" served no useful purpose, the point having already been made; they should be deleted and the third sentence should therefore start with "Taking into account".

It was so decided.

Paragraph 57 was adopted as amended.

Paragraph 58

57. Mr. HUDSON was of opinion that it would be better to say "In submitting . . . the Commission wishes to present the following observations as to some general questions which arose in the course of the preparation of the draft code", instead of "The Commission, in submitting this draft code wishes . . ."

Sub-paragraph (d)

58. Mr. HUDSON considered that the opening words "In the preparation of the draft code" should be omitted.

It was so decided.

Paragraph 58 was adopted as amended.

Paragraph 59

Paragraph 59 was adopted without comment.

*Text of the draft code**Article 1*

Article 1 was adopted without comment.

Article 2

The first ten paragraphs of article 2 were adopted without comment.

Paragraph (11)

59. Mr. HUDSON felt that it would be advisable to alter the order of the commentaries. Sub-paragraphs 3 and 4 should come immediately after sub-paragraph 1.

60. He asked whether the third sub-paragraph was accurate.

61. The CHAIRMAN considered that it represented what the Commission had decided.

62. Mr. HUDSON had been under the impression that the Commission had decided to make it possible for the rank and file to be relieved of that responsibility. But the commentary said "every violation . . .". Account should be taken of the fact that the rank and file sometimes committed petty infringements of the laws and customs of war.

63. Mr. CORDOVA was of opinion that it was a matter for the judges to decide, as the rank and file were obviously capable of committing war crimes. Conspiracy was another matter.

64. He referred to paragraph 11 and the last sub-paragraph of the commentary. He asked how private individuals could violate the laws and customs of war.

65. The CHAIRMAN said that the Commission could not go back on its decision.

66. Mr. SCELLE added that the Commission had discussed the matter in all its aspects. In his opinion the text should stand, all the more as the hypothetical case in question was not impossible.

67. Mr. HUDSON considered that the reference should be given of the document in which the United Nations Educational, Scientific and Cultural Organization made the request mentioned in the second sub-paragraph.

68. Mr. LIANG (Secretary to the Commission) thought the wording of the third sentence of sub-paragraph 2 of the commentary was not satisfactory, since the phrase "In fact, it is a consequence of article 56 . . ." did not actually refer to the preceding sentence.

69. On Mr. HUDSON's proposal *it was decided* that the sentence be redrafted to read "Indeed, to some extent, it is forbidden by article 56 . . ."

It was decided to insert the second sub-paragraph of the commentary after the fourth.

70. Mr. LIANG (Secretary to the Commission) thought that it would be advisable to substitute the words "none of them" for the words "one of them" in the fourth sub-paragraph of the commentary.

It was so decided.

Paragraph 11 was adopted as amended.

Paragraph 12

Paragraph 12 was adopted without comment.

Article 3

Article 3 and its comments were adopted without comment.

Article 4

Article 4 and its comments were adopted without comment.

*Article 5**Comment*

71. Mr. FRANÇOIS thought it would be better to substitute "desirable" for "necessary" in the second sentence.

72. The CHAIRMAN pointed out that no penalty was mentioned and that there could not, therefore, be any question of a law. He added that he had opposed that article, but had deferred to the decision of the majority.

He, also, would prefer "desirable" to "necessary".

Article 5 was adopted and its comment was adopted as amended.

The meeting rose at 12 noon.

134th MEETING

Friday, 27 July 1951, at 11.0 a.m.

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Chairman: Mr. James L. BRIERLY

Rapporteur: Mr. Roberto CORDOVA

Present:

Members: Mr. J. P. A. FRANÇOIS, Mr. Manley O. HUDSON, Mr. Faris EL KHOURY, Mr. A. E. F. SANDSTRÖM, Mr. Jesús Maria YEPES.

Secretariat: Mr. Yuen-li LIANG, Director of the Division for the Development and Codification of International Law, and Secretary to the Commission.

Corrections to summary records

1. The CHAIRMAN explained that a certain period was generally allowed for sending in corrections to the provisional summary records of meetings, but a difficulty arose regarding the records of the final meetings of the session, since members would be leaving Geneva. If the normal procedure were followed it would not be possible to distribute the final records for at least two months, and that would hinder preparations for the work of the General Assembly.

2. He proposed therefore that no corrections should be made to the summary records of the final meetings of the session. That procedure could not give rise to any difficulties; members of the Commission were aware that the first draft of the records was generally very accurate and reliable and, moreover, the discussions at the final meetings did not deal with matters of substance but with mere questions of drafting.

3. Mr. YEPES said that, for his part, he was prepared to place full trust in the Secretariat.

4. In reply to a question by Mr. CORDOVA, the CHAIRMAN explained that the records in question would be those of the final week of the session. He pointed out that members of the Commission in fact made very few corrections.

The Chairman's proposal was adopted.

Second reading of the Report of the Commission covering its third session (continued): Chapters V, VI, VII and VIII and Annex (A/CN.4/L.31 Add.1)¹

CHAPTER V: REVIEW BY THE COMMISSION OF ITS STATUTE (concluded)

5. Mr. HUDSON was not sure that the chapter was appropriately placed, since it dealt with a special task entrusted to the Commission by the General Assembly.

6. The CHAIRMAN pointed out that chapters II, III and IV also dealt with special tasks, which had all been entrusted to the Commission by the General Assembly.

7. Mr. LIANG (Secretary to the Commission) said that he would have preferred the chapter to occupy a different position in the report, not because it dealt with a special task, but because it would be more logical to place it after chapter VII, which concerned the régime of the high seas. If that were done, the review of the Statute would follow all the chapters dealing with questions of substance studied by the Commission. Chapter V dealt with a question of organization, and should be placed near chapter VIII which recorded the other decisions of the Commission. However, the change was of no great importance and he saw no reason why the Review of the Statute should not remain as chapter V.

8. Mr. HUDSON observed that, in the existing order of chapters, reservations to multilateral conventions, which were dealt with in chapter II, were too far away from the law of treaties, which was examined in chapter VI. He thought that the review of the Statute should appear as chapter II and the reservations as chapter V.

9. After an exchange of views it was decided to leave the chapters in their existing order.

Paragraphs 60 to 71

Paragraphs 60 to 71 were adopted without comment.

CHAPTER VI: LAW OF TREATIES (concluded)

Paragraphs 72 to 75

Paragraphs 72 to 75 were adopted subject to the deletion of the words "in detail" in paragraph 75.

CHAPTER VII: REGIME OF THE HIGH SEAS (concluded)

Paragraphs 76 and 77

Paragraphs 76 and 77 were adopted without comment;

¹ Mimeographed document only, the text of which corresponds, with drafting changes to chapters V-VIII and annex of the *Report of the International Law Commission covering the work of its third session*. (See vol. II of the present collection.) The drafting changes are indicated in the present summary record. The paragraph numbers correspond to those of the "Report".