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Summary record of the 282nd meeting

Topic:
Other topics

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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE SEVENTH SESSION

282nd MEETING

Monday, 2 May 1955, at 4.30 p.m.

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Chairman : Mr. A. E. F. SANDSTRÖM

Rapporteur : Mr. J. P. A. FRANÇOIS

Present :

Members : Mr. Douglas L. EDMONDS, Mr. J. P. A. FRANÇOIS, Mr. F. V. GARCÍA AMADOR, Mr. Shuhsi HSU, Mr. S. B. KRYLOV, Mr. Carlos SALAMANCA, Mr. Georges SCELLE, Mr. Jean SPIROPOULOS, Mr. Jaroslav ZOUREK.

Secretariat : Mr. LIANG, Director of Codification Division, Office of Legal Affairs, Secretary to the Commission.

Opening of the session

1. The CHAIRMAN declared open the seventh session of the International Law Commission and he welcomed the members—and in particular Mr. Krylov, who was attending for the first time.

Statement by Mr. Krylov

2. Mr. KRYLOV thanked the Chairman for his kind words of welcome. He then went on to say that in protesting against the presence at the Commission's table of a person who in no sense could be said to represent China, he was expressing the feeling both of the people and of the Government of the Soviet Union.

3. Mr. ZOUREK, referring to what he had said on the subject at previous sessions, associated himself with Mr. Krylov's statement.

4. Mr. HSU regretted that such a question should have been raised in the Commission, which was a non-political body.

5. The CHAIRMAN explained that, as on previous occasions, the Commission was unable to take note of such a statement. Its members did not represent their countries, but served as individuals in their personal capacity.

Election of officers

6. The CHAIRMAN suggested that, since some members had not yet arrived, the Commission should defer the election of officers until Monday, 9 May.¹ *It was so agreed.*

Adoption of the provisional agenda for the seventh session (A/CN.4/89)²

7. Mr. GARCÍA AMADOR, supported by Mr. ZOUREK, suggested that the reason for which the election of officers had been deferred applied with equal force to item 1 of the agenda: filling of casual vacancies in the Commission. He therefore suggested that consideration of that item too be deferred.

It was so agreed.

8. Mr. GARCÍA AMADOR proposed the inclusion in the agenda of the topic "the responsibility of States", that had been only briefly discussed at the sixth session. The omission of so important a topic might create the impression that the Commission had postponed consideration of it indefinitely.

9. Mr. LIANG (Secretary to the Commission), said that the original intention had been to include that topic under item 6: planning of future work of the Commission. If the Commission so wished, it could either adopt that course, or consider the topic as a new item between items 5 and 6. He would point out, however, that the Commission might not even have time to take up item 5.

10. Mr. GARCÍA AMADOR proposed that the topic be included under item 6.

It was so agreed.

11. Mr. SCELLE suggested that when the Commission came to consider item 2, régime of the high seas, it should again take up the question of the continental shelf, which was its natural corollary.

12. Mr. FRANÇOIS pointed out that the question of the continental shelf had already been extensively dealt with under the subject of the territorial sea. However close the relationship between the continental shelf and

¹ See *infra*, 287th meeting, paras. 1-15.

² Document A/CN.4/89 read as follows:

1. Filling of casual vacancies in the Commission.
2. Régime of the high seas.
3. Régime of the territorial sea.
4. Law of treaties.
5. Diplomatic intercourse and immunities.
6. Planning of future work of the Commission.
7. Question of stating dissenting opinions.
8. Date and place of the eighth session.
9. Other business.

the régime of the high seas, the Commission had always regarded it as a special subject, and the Commission's report to the General Assembly on it had been presented as such.

13. During the present session the Commission would be considering other aspects of the régime of the high seas and the territorial sea. To revert to a subject already disposed of would be both illogical and, from the practical point of view, undesirable, since a final report had been submitted to the General Assembly. Moreover, the Commission would have its time fully occupied with the other aspects of the régime of the high seas.

14. The CHAIRMAN said Mr. Scelle had not meant to suggest that the whole question of the continental shelf should be reopened, but only that its place in the special rapporteur's sixth report on the régime of the high seas (A/CN.4/79) should be considered.

15. Mr. SCELLE said that he had given the matter a great deal of thought, for he was convinced that the Commission should not regard any question as closed merely on the grounds that it had been the subject of a report to the General Assembly. Any question could be re-opened, and there was always the possibility of the Commission having to revise or review an opinion. It had consistently affirmed that the term "continental shelf" referred to areas outside the territorial sea, so that if the subject of the high seas was to be dealt with at the present session he saw no reason why the continental shelf should not also be discussed, as he suggested. Reconsideration was, in his view, indispensable, because the Commission's decisions concerning the continental shelf conflicted with the decision on fisheries.

16. The CHAIRMAN observed that Mr. Scelle could submit his proposal under item 2 or item 3 of the agenda. In the meantime, he saw no necessity for adding an additional item to the provisional agenda, which appeared to be acceptable.

17. Mr. ZOUREK assumed that it would always be possible to modify the order in which items were taken up. He had in mind particularly item 7, which should be discussed well before the end of the session, since debates could be considerably shortened if it were agreed that dissenting opinions should be included in the report. Otherwise, certain members had to expound their views at length in order to ensure their incorporation in the summary records.

18. The CHAIRMAN considered that the adoption of the provisional agenda in no way bound the Commission to a rigid order of discussion; some measure of flexibility was desirable. However, he did not think that item 7 should be taken up first.

The provisional agenda (A/CN.4/89) was adopted on the understanding that consideration of item 1 would be deferred until 9 May.

19. Mr. GARCÍA AMADOR observed that, in accordance with General Assembly resolution 900 (XI), an International Technical Conference on the Conser-

vation of the Living Resources of the Sea was being held at Rome. It would be remembered that the Conference had been requested to present a report and recommendations for consideration by the Commission in connexion with draft articles concerning the international regulation of fisheries. The Conference was to end on 6 May, and he had been informed that the Chairman of the Conference would be prepared to come to Geneva for two days during the following week. It would be useful and appropriate to invite him to make an oral statement before the Commission on the results of the Conference, especially on any aspect of particular interest.

It was so agreed.

The meeting rose at 5.5 p.m.

283rd MEETING

Tuesday, 3 May 1955, at 10 a.m.

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* The number within brackets indicates the article number in the draft contained in Chapter II of the Report of the Commission (A/2934).

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Rapporteur: Mr. J. P. A. FRANÇOIS

Present:

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Secretariat: Mr. LIANG, Director of Codification Division, Office of Legal Affairs, Secretary to the Commission.

Régime of the high seas (item 2 of the agenda) (A/CN.4/79)

1. The CHAIRMAN invited discussion of the Special Rapporteur's sixth report on the régime of the high seas (A/CN.4/79).

2. Mr. FRANÇOIS (Special Rapporteur) introducing his sixth report, said that the question had been before the Commission from the latter's inception, as it had been