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Summary record of the 332nd meeting

Topic:
Other topics

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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE EIGHTH SESSION

331st MEETING

Monday, 23 April 1956, at 3 p.m.

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Chairman: Mr. S. B. KRYLOV, First Vice-Chairman.

Present:

Members: Mr. Gilberto AMADO, Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Mr. F. V. GARCÍA-AMADOR, Faris Bey el-KHOURI, Mr. Radhabinod PAL, Mr. A. E. F. SANDSTRÖM, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Opening of the session

1. The CHAIRMAN, welcoming the members of the International Law Commission, said that they were meeting in an era of peaceful co-existence marked by a welcome relaxation of international tension. It was their duty as jurists to stress the role of international law, which provided the most effective means of solving many of the outstanding problems facing the international community. The Commission's agenda was a heavy one, and items 1 and 2—Regime of the high seas and Regime of the territorial sea respectively—were of particular importance.

2. He wished to pay a tribute to Mr. Amado for his outstanding contribution, which had led to some measure of agreement on the subject of the breadth of the territorial sea. He was, moreover, not unmindful of the contribution of the Latin-American members of the Commission generally, who had played such an active part in its work. It should not be forgotten that any progress achieved in the codification of international law had been largely due to the efforts of Latin-American jurists.

3. Expressing the hope that the Commission's work would be fruitful, he *declared the eighth session of the International Law Commission open.*

4. He then said that, in view of the absence of the Chairman, of Mr. Spiropoulos, and of several other members, it might be advisable to defer the election of officers till their arrival.

It was so agreed.

5. Mr. AMADO, speaking on behalf of himself and his Latin-American colleagues, thanked the Chairman for his kind words.

Adoption of the provisional agenda (A/CN.4/95)

6. The CHAIRMAN said that, since the Commission was not at full strength, it would be inadvisable to take any

decision on the order in which the items of the provisional agenda should be considered. He would, however, welcome any comments.

7. Sir Gerald FITZMAURICE suggested that, in view of the necessity for submitting to the General Assembly, at its eleventh session, a report on items 1 and 2 of the provisional agenda, those items should be taken first. Moreover, until they had been disposed of, it might be advisable to defer a decision on the remaining items.

Further consideration of the provisional agenda was deferred.

The meeting rose at 3.25 p.m.

332nd MEETING

Tuesday, 24 April 1956, at 4 p.m.

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Chairman: Mr. S. B. KRYLOV, First Vice-Chairman; later Mr. F. V. GARCÍA-AMADOR.

Rapporteur: Mr. J. P. A. FRANÇOIS.

Present:

Members: Mr. Gilberto AMADO, Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Faris Bey el-KHOURI, Mr. Radhabinod PAL, Mr. A. E. F. SANDSTRÖM, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Election of Chairman and Rapporteur

1. The CHAIRMAN called for nominations for the office of Chairman.

2. Mr. SANDSTRÖM proposed Mr. García-Amador.

Mr. García-Amador was elected Chairman by acclamation and took the Chair.

3. The CHAIRMAN thanked the Commission for the honour done to him.

4. At the previous session it had been agreed that Mr. François, the Special Rapporteur on the topics to which the greater part of the session would be devoted—namely, the regime of the high seas and the regime of the territorial sea—should also act as Rapporteur for the session. He suggested that that procedure be followed again, and that Mr. François accordingly be elected Rapporteur.

It was so agreed.

Order of business

5. The CHAIRMAN asked for members' views on the order in which the items on the provisional agenda (A/CN.4/95) should be taken up. It was essential to allow enough time for the preparation of the final report on the regime of the high seas and the regime of the territorial sea, which had to be submitted to the General Assembly at its forthcoming eleventh session.

6. Mr. FRANÇOIS said that he had already prepared a report (A/CN.4/97) on certain aspects of the final report to be presented by the Commission on the regime of the high seas and the regime of the territorial sea. He also proposed to prepare a supplementary report dealing with the comments from governments, which had been received in considerable numbers. The work would take approximately one week, and he hoped that consideration of items 1 and 2 could be deferred until it had been completed.

7. Sir Gerald FITZMAURICE wondered whether, in the meantime, the Commission might not consider Mr. François' report (A/CN.4/97).

8. Mr. FRANÇOIS suggested that the Commission might start with item 7, "Arbitral procedure: General Assembly resolution 989 (X)".

9. Mr. LIANG, Secretary to the Commission, explained that in its resolution 989 (X) the General Assembly had invited the Commission to consider the comments of governments and the discussions in the Sixth Committee concerning the draft on arbitral procedure and to report to the General Assembly at its thirteenth session. It had also decided to place on the agenda for the thirteenth session the question of arbitral procedure, including the problem of the desirability of convening an international conference of plenipotentiaries to conclude a convention on the subject. As Mr. Scelle, formerly the Special Rapporteur on arbitral procedure, had not yet arrived, it would be difficult to take up that item forthwith.

10. Mr. AMADO considered that the Commission should apply itself without delay to the paramount task of completing the work on items 1 and 2, and saw no reason why a preliminary exchange of views should not be held on Mr. François' report (A/CN.4/97), which was ready, while he was preparing the supplementary report. There was no great hurry to take up item 7, since the Commission had to report on it only in 1958.

11. Mr. ZOUREK, while agreeing with Mr. Amado that the Commission should take up items 1 and 2 as soon as possible, believed that during the coming few days a useful start might be made on items 7, 8 and 9, which in any event would have to be considered some time during the session. Certain matters of general importance raised in the first part of Mr. François' report, such as those listed in paragraph 23, could then be considered, particularly as that could be done without direct reference to the texts of the draft articles themselves, on which governments had submitted their comments.

12. Mr. SANDSTRÖM agreed with Mr. Zourek.

13. Mr. LIANG, Secretary to the Commission, explained that the Secretariat's note on item 9, which involved the examination of certain technical questions, would not be ready until the beginning of the week. It would therefore be desirable to start with item 8, thus giving Mr. Scelle an opportunity to prepare himself for the discussion on item 7.

14. The CHAIRMAN suggested, in the light of the discussion, that the Commission should start with item 8, consult Mr. Scelle on his arrival about taking up item 7, and then pass on to item 9. As soon as Mr. François' supplementary report was ready, the Commission should interrupt its discussions and decide how to proceed with items 1 and 2.

The Chairman's suggestions were adopted.

The meeting rose at 4.40 p.m.

333rd MEETING

Wednesday, 25 April 1956, at 10 a.m.

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Chairman: Mr. F. V. GARCÍA-AMADOR.

Rapporteur: Mr. J. P. A. FRANÇOIS.

Present:

Members: Mr. Gilberto AMADO, Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. Radhabinod PAL, Mr. A. E. F. SANDSTRÖM, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Election of First and Second Vice-Chairmen

1. The CHAIRMAN called for nominations for the offices of First and Second Vice-Chairmen.

2. On the proposal of Sir Gerald FITZMAURICE, seconded by Mr. PAL,

Mr. Zourek and Mr. Edmonds were elected by acclamation First and Second Vice-Chairman respectively.

Question of amending article 11 of the Statute of the Commission: General Assembly resolution 986 (X) (item 8 of the provisional agenda) (A/3028, A/CN.4/L.65)

3. The CHAIRMAN invited the Commission to take up item 8 of the provisional agenda: Question of amend-