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Summary record of the 350th meeting

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80. The CHAIRMAN put to the vote Sir Gerald Fitzmaurice's amendment to delete the third sentence of article 22, paragraph 1.

The amendment was rejected by 7 votes to 3, with 4 abstentions.

81. Mr. ZOUREK believed that those who had opposed the amendment had done so on the understanding that the right of hot pursuit could be invoked only for infringements of the laws and regulations of the coastal State committed in its territorial sea or inland waters. Perhaps that should be stated more explicitly in the text in order to obviate the possibility of misunderstanding.

82. Mr. SANDSTRÖM, pointing out the need for consistency, observed that in the draft articles on conservation the term "contiguous" was used in a different sense.

83. Mr. PAL observed that the term "contiguous zone" should be confined to its technical sense and should not be used in any other.

84. Mr. ZOUREK agreed with Mr. Sandström, but said that the term "contiguous zone" had now acquired a technical connotation and should be maintained. Some other term should be used in the draft articles on conservation so as to eliminate all possibility of confusion.

The meeting rose at 1 p.m.

350th MEETING

Tuesday, 22 May 1956, at 3 p.m.

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Chairman: Mr. F. V. GARCÍA-AMADOR.

Rapporteur: Mr. J. P. A. FRANÇOIS.

Present:

Members: Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Mr. Shuhsi HSU, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. L. PADILLA-NERVO, Mr. Radhabinod PAL, Mr. Carlos SALAMANCA, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. Jean SPIROPOULOS, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Also present: Mr. M. CANYES, representative of the Pan-American Union.

Welcome to the representative of the Pan-American Union

1. The CHAIRMAN welcomed Mr. Canyes, who was to attend the Commission's meetings as representative of the Pan-American Union. He said that members would be interested to hear that the Inter-American Council of Jurists, at its third meeting, held in Mexico City in January-February 1956, had reached a decision very similar to that of the Commission itself concerning co-operation with inter-American bodies in the interests of better co-ordination on matters of common interest.

2. Mr. LIANG, Secretary to the Commission, speaking on behalf of the Secretary-General of the United Nations, associated himself with the Chairman's welcome. In accordance with the Commission's decision at its previous session he had attended the third meeting of the Inter-American Council of Jurists and had enjoyed various facilities accorded him by the Secretariat of the Organization of American States as well as by the host Government.

3. Mr. CANYES, thanking the Chairman for his kind words, said that he was honoured to have the opportunity of attending the discussions of such an eminent group of lawyers presided over by a man who had played an important part in promoting co-operation amongst inter-regional organizations. He would be pleased to furnish any information members might wish to have.

Appointment of a drafting committee

4. The CHAIRMAN proposed that a drafting committee be appointed consisting of Sir Gerald Fitzmaurice, Mr. François, Mr. Padilla-Nervo and Mr. Scelle, with Mr. Zourek as Chairman.

It was so agreed.

5. Mr. SCELLE said that for reasons of health he might be unable to attend all the meetings of the Committee.

6. The CHAIRMAN replied that in that eventuality certain questions, particularly those affecting the French text, could be referred to Mr. Scelle privately.

Regime of the high seas (item 1 of the agenda) (A/2934, A/CN.4/97/Add.3, A/CN.4/99 and Add. 1-6) (*continued*)

Conservation of the living resources of the high seas (resumed from the 338th meeting)

7. The CHAIRMAN invited the Commission to revert to the draft articles relating to conservation of the living resources of the high seas (A/2934). Most members had already expressed their views in the general discussion, and he believed that the Commission could now proceed with the detailed examination of each article. The proposals of some governments would entirely alter the whole nature of the scheme; others were directed to points of detail.

Article 24: Right to fish

8. Mr. FRANÇOIS, Special Rapporteur, said that both the United States and the United Kingdom Government

had proposed a definition of conservation for insertion in article 24. The two texts, which were substantially on the lines of the definition adopted at the International Technical Conference on the Conservation of the Living Resources of the Sea,¹ had been reproduced in paragraphs 4 and 6 respectively of the addendum to his report (A/CN.4/97/Add.3). Perhaps the Commission might reach agreement on the principle and refer the drafting of the definition to the Drafting Committee.

9. Mr. EDMONDS, observing that the Commission's text of article 24 had not been challenged by any government, said that at the 338th meeting² he had proposed another text. He had done that first, in order to have the draft explicitly recognize a right, rather than a claim to a right; a claim to a right might not be capable of enforcement or might have no legal foundation. His second purpose was to make clear, by the insertion of the words "to applicable principles of international law", that the right to fish was subject to principles of international law not mentioned in the draft articles.

10. He would now also propose the addition of a paragraph 2 reading:

For the purpose of these articles, conservation of the living resources of the sea is defined as making possible the optimum sustainable yield from these resources so as to secure a maximum supply of food and other marine products.

11. The CHAIRMAN wondered whether, in the interests of orderly discussion, it might not be preferable to postpone consideration of article 24, which was in the nature of an introduction, until the end.

12. Mr. SALAMANCA said that, as Mr. Edmonds' first amendment to the existing article had entailed no change in the Spanish text, it was presumably one of drafting only and could be referred to the Drafting Committee.

13. Mr. SANDSTRÖM agreed that the amendment related solely to a matter of interpretation. The French version of the text adopted the previous year was perfectly clear. He noted that Mr. Edmonds had departed somewhat from that text by referring to the right of States to engage in fishing, instead of to the right of their nationals.

14. Mr. SCALLE endorsed Mr. Sandström's remarks.

15. Mr. ZOUREK preferred the French text adopted at the previous session after a prolonged and detailed discussion on wording. Mr. Edmonds' text was misleading in suggesting that it was only States which had the right to engage in fishing.

16. The CHAIRMAN suggested that the Drafting Committee was competent to decide whether any change of substance was involved in Mr. Edmonds' first amendment. If it decided in the affirmative, the question could be referred back to the Commission.

17. Mr. SPIROPOULOS considered that article 24, as adopted at the previous session, the text of which in all three languages was identical, should be retained, because the reasons for the particular wording chosen still held good.

18. Sir Gerald FITZMAURICE pointed out that there was a real difference between the English text, which contained the word "claim", and the French and Spanish texts; but that inconsistency could be removed by the Drafting Committee.

19. Mr. PADILLA-NERVO observed that the Spanish translation of Mr. Edmonds' proposal still referred to nationals of States.

20. Mr. LIANG, Secretary to the Commission, said that—unlike the French translation—the Spanish was incorrect.

21. Personally he considered that Mr. Edmonds' first amendment was not merely one of wording, because, if the Commission retained the phrase "All States may claim for their nationals", adopted the previous year, that implied that States would protect the rights of their nationals.

22. Mr. SCALLE observed that he had always interpreted article 24 to mean that States could claim for their nationals and for themselves the right to engage in fishing on the high seas.

23. The CHAIRMAN inferred from the discussion that it was the general view that Mr. Edmonds' first amendment, substituting the words "All States have the right" for the words "All States may claim for their nationals the right", was a matter of drafting which, he suggested, should be referred to the Drafting Committee.

It was so agreed.

24. Mr. SALAMANCA did not consider that Mr. Edmonds' second amendment inserting the words "to applicable principles of international law" after the words "treaty obligations" was a drafting matter. He preferred the original text, because all rules concerning fishing rights were matters *de lege ferenda*.

25. The CHAIRMAN reiterated his opinion that consideration of that amendment, together with the United States and United Kingdom proposals for the insertion of a definition in article 24, should be postponed until consideration of the chapter on fishing had been completed.

26. Sir Gerald FITZMAURICE said that while he would not oppose that procedure, he must make the reservation that the final decision on the definition might affect the attitude of certain members to the remaining articles in the draft, so that if the definitions proposed by the United States and the United Kingdom Governments were substantially altered or rejected, some members might find it necessary to modify the stand they had already taken on the subsequent provisions and to ask for the discussion to be reopened.

27. Mr. SPIROPOULOS had serious doubts about the wisdom of deferring the decision on the definition and

¹ Hereinafter referred to as the "Rome Conference".

² A/CN.4/SR.338, para. 3.

said that he would deplore the Commission's having to reopen discussion on the other articles.

28. The CHAIRMAN suggested that the Commission defer consideration of Mr. Edmonds' second amendment, for the insertion of the words "to applicable principles of international law", until the end of the discussion on the other draft articles, and as regards his proposed second paragraph, approve for the time being a definition of conservation on the lines of that adopted at the Rome Conference.

It was so agreed.

Article 25

29. Mr. FRANÇOIS, Special Rapporteur, said that by inadvertence he had omitted to mention in the addendum to his report the Chinese Government's comment (A/CN.4/99) that articles 25 and 26 appeared to favour States whose nationals were already engaged in fishing in certain areas, and took no account of the interests of States whose nationals might start fishing in those areas at some future time. The Government of India had also raised the same objection, but he felt, in view of the safeguards provided in article 27, which had perhaps been overlooked, there was no need to modify the existing text.

30. The Indian Government had not made it clear whether its proposal that for the purposes of article 26 the coastal State should be recognized to have special rights in an area contiguous to its coast 100 miles in breadth, also applied to article 25.

31. The Yugoslav Government had proposed that the zone in which the coastal State was entitled to exercise certain rights for the protection of living resources should be restricted to twelve miles; but that was unlikely to obtain support, since it was generally agreed that conservation measures within such a limited belt would be totally inadequate.

32. In order to meet the objection by the Executive Secretary of the International Commission for the Northwest Atlantic Fisheries³ that the word "conservation" might inhibit efforts to develop fisheries, which was the aim of certain international organizations, he would suggest that the necessary clarification be inserted in the comment, while retaining the term in the draft articles since it had already gained currency in technical discussions.

33. Mr. PAL said that, as he understood it, the purpose of the Indian Government's proposal was twofold: to confer on the coastal State the right to take conservation measures in the area contiguous to its coast, and to exclude other States from taking such measures in that area. Article 25, as amended by the Indian Government's proposal, if read together with article 27 and article 29, would serve that twofold purpose. The proposal was very moderate—namely, that when only nationals of the coastal State were engaged in fishing in the area contiguous to its coast, that State alone should be entitled to initiate conservation measures which would be

binding on the nationals of other States should they come to fish there.

34. He then observed that the scheme of the articles as they now stood disclosed an anxiety to raise the principle of vested interest to one of definitive justice. Articles 25, 26 and 29, paragraph 1, equally affected the freedom of fishing in the high seas. Under article 25, certain States were empowered to make regulations rendered binding on others by article 27, without such regulations being expressly subjected to any of the conditions laid down in article 29, paragraph 2. That seemed also to affect the principle of freedom of fishing in the high seas, but the interference with that freedom was by developed States having acquired, as it were, some sort of vested interest, whereas article 29 contemplated interference by a coastal State perhaps still undeveloped with regard to fishing. In short, under articles 25 and 26, certain States having vested interests could take unilateral action to the prejudice of others, unhampered by the provisions of article 29, whereas under that article itself, a coastal State contemplating such action, perhaps in view of its own pressing need, had to comply with the conditions laid down in paragraph 2. He failed to understand why the safeguards of article 29, paragraph 2, if they were necessary safeguards, should not be made expressly applicable to all conservation measures by whomsoever taken, unless and until they were taken in co-operation by all concerned. While making that comment, he was not overlooking the provisions of article 32, paragraph 1; but those provisions were made applicable only for the purposes of that article. In any case, if the intention was to make them generally applicable to all cases, why should it not be clearly and explicitly stated?

35. He then proposed that articles 25 and 29 be combined into three paragraphs, to read as follows:

1. A State whose nationals are engaged in fishing in any area of the high seas contiguous to its coasts where the nationals of other States are not thus engaged may adopt measures for regulating and controlling fishing activities in such areas for the purpose of the conservation of the living resources of the high seas.

2. A State whose nationals are engaged in fishing in any area of the high seas other than the area contiguous to its coast or to the coast of any other State where the nationals of other States are not thus engaged, may adopt measures for regulating and controlling fishing activities in such areas for the purpose of the conservation of the living resources of the high seas.

3. In any area of the high seas contiguous to its coast a State may adopt unilaterally whatever measures of conservation are deemed appropriate, irrespective of the question whether it is or is not engaged in fishing in that area or whether any other State is or is not engaged in fishing in such an area, provided only that a State whose nationals are engaged or may hereafter be engaged in that area may request the coastal State to enter into negotiations with it in respect of these measures.

36. With regard to paragraphs 1 and 2, however, he admitted that a simpler solution would perhaps be to add to article 25 as it stood the words "unless the area in question is contiguous to the coast of another State", as suggested in the Special Rapporteur's comment (A/CN.4/97/Add.3, para. 3).

³ A/CN.4/100.

37. Mr. SANDSTRÖM pointed out the close relationship between article 25 and articles 28 and 29. Under the provisions of the last two articles, the coastal State was given every right that it could reasonably claim. It might be possible to apply the conditions of article 29, paragraph 2, to article 25, but they would inevitably be restricted by the fact that the nationals of only one State would be affected. Taking the articles as a whole, they were a satisfactory solution of the problem, for they gave full weight to the fundamental conception that fishing should be regulated in the interests of conservation of the living resources of the high seas. If the nationals of one State only were engaged in fishing in a certain area, it was only logical that conservation measures should be taken by that State. It would be quite unjustifiable to give the coastal State an exaggerated prerogative in the matter.

38. Mr. PAL, in reply to Mr. FRANÇOIS, Special Rapporteur, who had suggested that there was a contradiction between paragraphs 1 and 3 of his (Mr. Pal's) proposal, observed that there was no contradiction, though there was overlapping. He explained that in so drafting his paragraphs he had intended to place paragraph 1 on the same footing as article 25 of the present draft—that was to say, to make it exempt from the conditions laid down in article 25, paragraph 2, whereas his paragraph 3 might be made subject to those conditions.

39. Sir Gerald FITZMAURICE said that he might be prepared to accept Mr. Pal's suggestion that the same criteria as were prescribed in article 29, paragraph 2, be inserted in article 25. They would have to take a different form, however, and certain incidental points would call for clarification.

40. As he saw it, the proposals of the Government of India were based on a misunderstanding of both the purpose and the effect of the draft articles. The criteria in article 29, paragraph 2, would apply only in the case of a coastal State finding it necessary and imperative to put into immediate force certain measures of conservation, as was made clear by sub-paragraph (a), and those measures would be subject to the conditions in sub-paragraph (c). The case envisaged in article 25 was quite different, for one State alone was involved and, *prima facie*, there was no reason to subject it to any particular provisions, because any measures it would take would, in the first place, apply only to its own nationals. The Commission had realized that other States might subsequently engage in fishing in the same area; article 27 had been drafted, therefore, to cover such a case, with the provision in paragraph 2 for arbitration in cases of disagreement. Mr. Pal would doubtless agree that, although article 25 did not actually specify criteria, as did article 29, the ultimate effect would be the same. But it was reasonable to draw an initial distinction between a State making regulations applicable to its own nationals and a coastal State adopting unilateral measures of conservation applicable also to non-nationals. That had been the basis of the Commission's decision, and he considered that a fair balance had been struck by the provision in article 27, paragraph 2.

41. If criteria having the same effect as those in article 29, paragraph 2, were to be inserted in article 25, certain points would have to be borne in mind. In article 25, the State in question was legislating *prima facie* for its own nationals, and such legislation could therefore not be restricted; nor could the State be bound to restrict its legislation to measures of conservation. It must therefore be made clear that the provisions of the article did not limit the right of the State to legislate in other respects for its own nationals.

42. It would also be necessary to amend the texts of article 29, sub-paragraphs (a), (b) and (c) because of the different circumstances that might prevail—e.g., there would be no need for the requirement of urgency in the case of measures applicable to nationals. Subject to those drafting considerations, however, such a proposal might be acceptable.

43. He assumed that, if adopted, such amendments would meet Mr. Pal's point and that he would not press for the extensive re-drafting he had proposed. He (Sir Gerald Fitzmaurice) would deprecate the re-casting of the article in such a form, because he was convinced that Mr. Pal's proposal and that of the Indian Government were based on an erroneous conception of conservation, in that they introduced the idea of zones. Conservation, in fact, as he had previously pointed out,⁴ was concerned only with the behaviour of fish, which were no respecters of the concept of geographical limitation.

44. Mr. Pal's suggestion of a hundred-mile belt and the point made in his proposal were covered by the provisions of article 29. In fact, they went further than Mr. Pal's paragraphs 1 and 3, since it was not even required that nationals of the coastal State should be actively engaged in fishing in the area. But Mr. Pal's paragraph 2 would prevent a non-coastal State from taking measures of conservation within a hundred-mile belt. That would not be in the interests of conservation. Under the present text, the coastal State would have the right to take such measures. If it did not do so, what possible reason could there be for its seeking to prevent other States whose nationals were engaged in fishing in that area from adopting measures for regulating and controlling such fishing? In any event, those States could not be prevented from fishing in that zone, which was *ex hypothesi* high seas, and the only effect of the Indian proposal would be to prevent them from taking measures of conservation. That could benefit no one, least of all the coastal State.

45. Mr. PAL said that he appreciated Sir Gerald Fitzmaurice's point that the insertion in article 25 of the provisions of article 29, paragraph 2, would call for some re-drafting. His aim had been simply to establish a point of principle. A possible solution might be to introduce the provisions of article 29, paragraph 2, into article 27. Articles 25 and 26, as they might be adopted by the Commission with or without the proposed amendments, would, by themselves, remain applicable only to the nationals of the regulating States, and, if subsequently, nationals of other States took to fishing in the same area, the provisions of article 29, paragraph 2, as thus trans-

⁴ A/CN.4/SR.349, para. 37.

ferred to article 27, would come into effect to test the validity of the measures taken before they would bind such newcomers. If that solution were adopted, he would accept, as he had already stated, instead of his redraft of article 25, simply the addition of the words suggested by the Special Rapporteur: "unless the area in question is contiguous to the coast of another State".

46. The reasons for the concern felt by the Government of India were fully set forth on page 25 of document A/CN.4/99.

47. He would reserve his comments on the question of the special interests of the coastal State, pending consideration of articles 28 and 29.

48. The CHAIRMAN said that the six hypothetical cases posited in articles 25 to 30 should be taken separately, starting with the simplest case—that in article 25—and proceeding towards the more complex ones. Questions of formulation should be deferred until agreement had been reached on the substantive issues.

49. Sir Gerald FITZMAURICE pointed out that Mr. Pal had adhered to his proposal to amend article 25 without, however, attempting to reply to his (Sir Gerald Fitzmaurice's) criticisms. He wondered whether underlying Mr. Pal's and the Indian Government's proposal was the idea that prohibition of measures of conservation would imply prohibition of fishing in the areas also. If so, that idea was entirely erroneous. Under existing law, the nationals of any State could engage in fishing in any area of the high seas. The Indian proposal would effectively prohibit States from taking measures which would apply to their own nationals for the regulation of fishing. Was it not obviously in the interests both of conservation and of the coastal State itself that that should not be done? If it were done, a very serious gap might be left; for if the coastal State took no steps in the matter and other States were prohibited from doing so, no conservation measures whatever would be taken. He pointed out that there was nothing to prevent the coastal State from challenging any measures taken by another State, in which case the arbitration procedure laid down would come into operation.

50. Mr. PAL replied that he could add nothing by way of explanation of the attitude of the Government of India, which was clearly expressed on page 25 of document A/CN.4/99. Neither he nor the Government of India, however, proposed to exclude anyone from fishing, except when conservation itself required prohibition of fishing.

51. Mr. PADILLA-NERVO said that he had already stressed the desirability of recognizing the special interest of a coastal State in the maintenance of the productivity of the living resources in any area of the high seas contiguous to its coasts.⁵ The anxiety of a coastal State at the prospect of another State's regulating fishing activities in areas off its coast was perfectly justifiable. In view of the necessity for regulating the situation between the coastal State and other States—and it could not be denied

that the interests of the former were predominant—and of the fact that the Indian Government's view aroused great interest in many other States, he could not see any possible objection to accepting the addition to article 25 proposed by Mr. Pal.

52. The CHAIRMAN pointed out that, if a coastal State had a special interest in the area—irrespective of whether its own nationals were engaged in fishing there—its rights were safeguarded under article 29. There was no reason, if a coastal State had no special interest or adopted an attitude of indifference, why it should be entitled to prevent other States whose nationals were engaged in fishing in that area from applying conservation measures. Such a course could serve only the interests of the coastal State itself. That issue, however, was covered by articles 28 and 29. It would be advisable to restrict the discussion to article 25.

53. Mr. SPIROPOULOS said that Mr. Padilla-Nervo had referred to the anxiety felt by a coastal State at the measures of conservation taken by another State in areas off its coast. That contingency, however, precisely reflected the existing legal situation. It should not be overlooked by those who were stressing the disadvantageous position given to the coastal State in the draft articles that the Commission, far from discriminating against the coastal State, was in fact aiming to extend its existing rights.

54. Mr. PAL said that the "existing legal situation" referred to by Mr. Spiropoulos would not help the Commission much. Existing international law would make the regulations contemplated in articles 25 and 26 binding only on the nationals of the regulating States. As had been pointed out in several government comments, there was no question of a State in such a position enacting legislation which could bind the nationals of another State. He would suggest that the Commission should take first the question of conservation in the high seas other than in the area contiguous to the coastal State and, subsequently, under articles 28 and 29, conservation in that area itself.

55. Mr. ZOUREK pointed out that, under article 25, a State had the option, but not the duty, of adopting measures for regulating and controlling fishing activities in certain areas of the high seas. Bearing in mind the powerful resources of modern, industrialized fishing fleets, it was clear that that formula was inadequate. The threat to the living resources of the high seas was a real one. He proposed the substitution of the word "shall" for the word "may" in the third line.

56. With regard to the interests of the coastal State, there was much force in the argument for adding the phrase proposed by Mr. Pal. The case of a coastal State being so indifferent as to take no conservation measures whatever, although possible, was surely rare. In any event, a formula could be devised to cover the point.

57. After Mr. SANDSTRÖM had drawn attention to the reference in article 32, paragraph 1, to the criteria listed in article 29, paragraph 2, Mr. PAL recalled that, in that connexion, he had stressed that it was only logical to apply those criteria also to article 25.

⁵ A/CN.4/SR.338, paras. 8-16.

58. Sir Gerald FITZMAURICE said that Mr. Zourek's first point was much more in harmony with the spirit of conservation than Mr. Pal's proposal. His second point, however, seemed hardly consistent with his first.

59. He still failed to follow Mr. Padilla-Nervo's argument as to the anxiety of the coastal State regarding conservation measures taken by another State in an area of the high seas contiguous to its coasts. If the coastal State had any special interest, its rights were fully safeguarded under articles 28 and 29. If, on the other hand, it professed no interest—and, *pace* Mr. Zourek's comments, it was a fact that many coastal States had not displayed any interest whatever in areas outside their own territorial sea—other States, whose nationals were engaged in fishing in that area, did have such an interest. No real case had been made out for a principle which would prevent the taking of measures of conservation merely because an area happened to be somewhere near the coast of a coastal State.

60. Mr. PAL, in reply to Sir Gerald Fitzmaurice, said that the anxiety of certain coastal States might not be that foreign fishermen would operate near their coasts, but that conservation measures instituted by countries with powerful and well-established fishing fleets might exclude coastal nationals from fishing in areas near their coasts.

61. Mr. PADILLA-NERVO pointed out that, in spite of the remedies available, coastal States felt concern at being obliged to submit to conservation measures adopted by distant States. It must be borne in mind that many coastal States did not yet possess large fishing fleets, or for one reason or another had been prevented hitherto from exploiting the resources of the sea contiguous to their coasts. Accordingly, the Commission must recognize their special interest, and that could be done without prejudice to the general aim, which was conservation.

62. In that connexion, he agreed with Mr. Zourek that conservation measures should be made obligatory for States.

63. The CHAIRMAN observed that article 25 referred to a very limited case, and that any measures taken under that article would not affect the coastal State, even if it had a special interest. The Commission had not yet come to grips with the crucial issue, which was the special interest of the coastal State. In framing the present articles, it must look to the future, while not disregarding the interests of those States which had a long-established fishing industry.

The meeting rose at 6.10 p.m.

351st MEETING

Wednesday, 23 May 1956, at 9.30 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, Mr. Shuhsi HSU, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. L. PADILLA-NERVO, Mr. Radhabinod PAL, Mr. Carlos SALAMANCA, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. Jean SPIROPOULOS, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Also present: Mr. M. CANYES, representative of the Pan-American Union.

Regime of the high seas (item 1 of the agenda) (A/2934, A/CN.4/97/Add.3, A/CN.4/99 and Add.1-7) (*continued*).

Conservation of the living resources of the high seas (continued)

Article 25 (continued)

1. The CHAIRMAN, inviting the Commission to continue its consideration of the draft articles relating to the conservation of the living resources of the high seas, recalled the amendment to articles 25-29 proposed at the previous meeting by Mr. Pal¹ and the amendment to article 25 proposed by Mr. Zourek.² With regard to the latter, he would point out that the exercise of the right recognized in article 30 carried a mandatory implication in respect of article 25.

2. Mr. SPIROPOULOS said he was convinced that the differences of opinion revealed by the discussion were not as profound as they might seem, and that by a determined effort agreement could be reached. Those differences reflected the two opposing points of view expressed, on the one hand, in article 25, covering States' rights of regulating fishing in the high seas, and, on the other hand, in the proposals of some members—in particular Mr. Pal and Mr. Padilla-Nervo—who had urged that priority be given to the coastal State in the regulation of fishing. He was sure that, if the order were reversed—i.e., if the rights of the coastal State were established first, everything else would fall into place.

¹ A/CN.4/SR.350, para. 35.

² *Ibid.*, para. 55.