Document:-

A/CN.4/SR.364

Summary record of the 364th meeting

Topic:

<multiple topics>

Extract from the Yearbook of the International Law Commission:-

1956, vol. I

101. The CHAIRMAN put paragraph 1 of Mr. Spiropoulos' proposal to the vote.

Paragraph 1 was adopted by 11 votes to 1, with 3 abstentions.

102. The CHAIRMAN put paragraph 2 of Mr. Spiropoulos' proposal to the vote.

Paragraph 2 was adopted by 9 votes to 3, with 1 abstention.

103. The CHAIRMAN put paragraph 3 of Mr. Spiropoulos' proposal to the vote.

Paragraph 3 was adopted by 9 votes to 3, with 3 abstentions.

104. The CHAIRMAN put paragraph 4 of Mr. Spiropoulos' proposal to the vote.

Paragraph 4 was adopted by 9 votes to 1, with 5 abstentions.

105. The CHAIRMAN put Mr. Spiropoulos' proposal as a whole to the vote.

Mr. Spiropoulos' proposal was adopted by 9 votes to 2, with 4 abstentions.

106. Mr. AMADO said that he had voted for the proposal because it had become clear that the Commission could not frame an article enunciating rules of law, since by doing so it would be running ahead of the times. The only alternative was to return to a simple recommendation.

107. Mr. SALAMANCA said that he had voted against the proposal because it was contradictory and solved nothing.

108. Mr. ZOUREK said that he had voted for paragraph 1 of the proposal. Having then voted against paragraphs 2 and 3, for reasons which he had previously made clear, he had abstained from voting on the proposal as a whole. The statement in paragraph 3, in particular, was not entirely correct.

109. Mr. SCELLE said that he had adopted a negative attitude towards the proposal because its adoption constituted an abandonment by the Commission of the role that it ought to fulfil.

110. Mr. SANDSTRÖM said that he had voted for the proposal because the only course that remained open to the Commission was to acknowledge its inability to recommend any solution.

111. Mr. KRYLOV said that he had voted for the proposal because he believed that when one could not have what one wanted, one had to make the best of what was left.

112. Mr. SPIROPOULOS said that the only merit he could claim as author of the proposal was that of having foreseen the defeat of the other proposals. His text was, in fact, based on Mr. Amado's original proposal at the Commission's seventh session, as adapted by the Special Rapporteur.[24]

113. Faris Bey el-KHOURI said that the Commission's decision confirmed the opinion he had already expressed that it was impossible for the Commission to agree on the text of an article.

114. Mr. EDMONDS said that it was impossible to maintain that a law could not be codified because the prevailing rule was not observed by every jurisdiction or party. He believed that there was a rule of international law on the subject, and that the Commission, by refusing to recognize that law and leaving the breadth of the territorial sea to be fixed by an international conference, had forsaken its duty of codifying international law.

115. Mr. HSU said that he had abstained from voting on the proposal, not because he was opposed to it in substance, but because he regretted that the Commission had to make a confession of failure.

116. The CHAIRMAN, speaking as a member of the Commission, said that he would not explain his vote, as he had not voted on anything affecting the substance of the question.

117. Speaking as CHAIRMAN, he did not feel that the Commission need have any apprehension concerning the general reaction to its failure to reach a final solution after studying the problem of the territorial sea for five years. The responsibility for such failure lay not with the Commission itself, but with the anarchy that reigned on the subject among the various Members of the United Nations. The Commission had, in fact, shown a greater sense of responsibility than other bodies which had made categorical pronouncements on the breadth of the territorial sea that did not correspond to any generally accepted view.

The meeting rose at 2 p.m.

[24] A/CN.4/SR.315, para. 79.

364th MEETING

Monday, 11 June 1956, at 4.50 p.m.

CONTENTS

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. 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.

Date and place of the commission's ninth session (item 11 of the agenda)

1. Mr. LIANG, Secretary to the Commission, announced that the Commission, at a private meeting, had decided to hold its ninth session at Geneva for a period of ten weeks beginning on 23 April 1957.

Representation at the General Assembly

2. On the proposal of the CHAIRMAN, it was *agreed* that Mr. François, the Commission's Rapporteur for the current session, who had been its Special Rapporteur on the regime of the high seas and the regime of the territorial sea since the beginning of its work on those subjects, should attend the eleventh session of the General Assembly and furnish such information on the Commission's draft as might be required in connexion with the Assembly's consideration of the law of the sea.

Regime of the high seas (item 1 of the agenda) (A/2456) (*resumed from the 361st meeting*)

Single article on the contiguous zone (resumed from the 349th meeting)

3. The CHAIRMAN invited the Commission to consider the following amendments submitted by Mr. Hsu to the single article on the contiguous zone adopted by the Commission at its fifth session (A/2456, para. 105):

1. Instead of the words " or sanitary " read " sanitary or anti-subversive " so that the phrase in question will read " of its customs, fiscal, sanitary or anti-subversive regulations ".

2. Add the following paragraph:

Where fishing is the main livelihood of the coastal population, a State may exclude foreign fishermen from fishing within a reasonable limit. In the event of disagreement as to whether such fishing is the main livelihood of the coastal population or as to whether the limit set for exclusion is reasonable, the matter shall be referred to arbitration as provided in article 31.

4. Mr. HSU said that, in view of the adoption by the Commission at its previous meeting of an article on the breadth of the territorial sea, it appeared to be the appropriate moment to reopen the question of the single article on the contiguous zone.

5. As regards his first proposal, he had deliberately selected the term " anti-subversive " in order to avoid the much broader connotation of the term " security ".

6. As regards his second proposal, he said that thus far the Commission had discussed fisheries solely from the standpoint of the conservation of the living resources of the high seas, leaving certain aspects untouched. It was only proper that the numerous States whose coastal population depended for their livelihood mainly on fishing should have the right to exclude foreign fishermen from the contiguous zone. Since, however, such action would involve sacrifices by foreign fishermen, the right must be subject to certain conditions. The exclusion must be based on need, and the coastal State must not prejudice unduly the interests of States which had hitherto fished in the area. In other words, fishing must be the main source of livelihood of the coastal population and the zone must be kept within a reasonable limit. Those were the criteria on which an arbitral commission would base its award in the event of a dispute. The idea of a " reasonable limit " by itself would have been too vague, but, taken in conjunction with the question of need, it should prove a satisfactory criterion. The principle enunciated in the paragraph, though not, of course, an existing rule of international law, was one which he considered that the Commission should recommend. Were the Commission to leave the question open, it would be failing in its duty to codify the law of the high seas and the territorial sea.

7. Mr. FRANÇOIS, Special Rapporteur, referring to Mr. Hsu's first proposal, recalled that the Commission had not seen fit to accept a proposal with similar implications, put forward by Mr. Hsu at the Commission's seventh session.[1] Since the position had not changed since then, he saw no reason to reconsider the proposal, though he would listen with interest to the views of other members.

8. Mr. Hsu's second proposal had very serious implications, and he must point out that the Commission's whole work on the question of the conservation of the living resources of the high seas had been designed to make such a proposal unnecessary. The Commission had always taken the view that the grant of exclusive rights of fishing to the coastal State outside the territorial sea would be a grave encroachment on the freedom of the seas. As Mr. Hsu himself admitted, the requisite conditions for the exercise of the right were rather vague—whence the provision for arbitration. There appeared, however, to be no real criteria on which an arbitral commission could base its award. He did not think that it was at all a good system to grant the coastal State almost unlimited rights and then simply provide that, in the event of disagreement, the matter would be settled by arbitration.

9. Sir Gerald FITZMAURICE regretted that, after giving Mr. Hsu's proposals serious consideration, he was obliged to oppose both of them.

10. The first proposal appeared to be already answered by the Commission's decision not to include immigration regulations in the scope of the article on the contiguous zone.[2] Control over subversive activities was one reason, though not the only reason, for exercising control over immigration, and the view had been taken that there was, in practice, nothing to prevent countries from carrying out the fairly close interrogations to which immigrants were sometimes subjected either at its ports or within the territorial sea.

[1] A/CN.4/SR.308, paras. 43 and 61.

[2] A/CN.4/SR.349, para. 25.

11. With regard to the second proposal, he fully agreed with the Special Rapporteur on the need for criteria. An arbitral tribunal called upon to settle a dispute of the nature envisaged in Mr. Hsu's proposal might find itself in a most invidious position. Whereas measures for the conservation of fisheries were a technical matter on which it was possible for an arbitral tribunal to reach scientific findings, it would be extremely difficult for an arbitral tribunal to determine whether or not fishing was the main livelihood of a coastal population. Very precise criteria would be required and they would not be easy to find.

12. He had, however, a more fundamental objection to the second proposal—namely, that it was quite out of keeping with the concept of the contiguous zone. The Commission was, he thought, agreed that the contiguous zone was a zone in which the coastal State might be given certain rights of control over foreign shipping for specific purposes connected with the maintenance of law and order, but that it was a zone in which it had no sovereign rights such as that of the total exclusion of foreign fishing vessels. According to all legal conceptions, foreign fishermen could be totally excluded by a coastal State, if at all, only from waters over which it enjoyed actual sovereignty. That was the very point which distinguished the concept of the contiguous zone from that of the territorial sea, and Mr. Hsu's second proposal constituted a very dangerous step towards confusion of the two.

13. Mr. SALAMANCA said that he partly agreed with Sir Gerald Fitzmaurice. The term " anti-subversive " in Mr. Hsu's first proposal, having a non-international flavour, could not be used in a text adopted by the Commission. In the case of minor immigration problems, it was unnecessary for the coastal State to exercise control in the contiguous zone, and in the case of major problems of security, as in a veritable invasion, it could invoke the right of legitimate defence under article 51 of the Charter.

14. Referring to Mr. Hsu's second proposal, he recalled that the Commission had taken quite clear decisions on a number of criteria to govern fishery questions. Irrespective of his own attitude towards those criteria, he considered it impossible to reopen the debate on them by considering Mr. Hsu's second proposal.

15. Mr. PAL entirely agreed with Sir Gerald Fitzmaurice and Mr. Salamanca in their opposition to the first amendment proposed by Mr. Hsu. To introduce the word " anti-subversive " would open the door to abuse of the contiguous zone. The very reason which had prevailed with the Commission when it had decided to remove the word " immigration " from the article should deter it from accepting the proposed amendment.

16. He also agreed that the article on the contiguous zone was not the proper place for Mr. Hsu's second proposal. That fact, however, did not affect the merits of the proposal. If it was otherwise acceptable, and in his opinion it was acceptable, it could easily be shifted to its appropriate place. A somewhat similar proposal had been advanced by Mr. Edmonds regarding abstention from fishing in connexion with conservation measures.[3] The Commission had not taken a decision on that proposal but had apparently referred it to the drafting committee. As the two proposals did not differ very greatly in merit, there seemed no reason why Mr. Hsu's proposal should not be given the same treatment. The idea underlying Mr. Edmonds' proposal regarding abstention was that money had been spent for a meritorious purpose and that special consideration should therefore be given to the spender by practically giving him a monopoly of fishing in the area. Mr. Hsu's proposal was prompted by a much more broad-based and humanitarian consideration, dealing as it did with the livelihood of a coastal population. He would be willing to support that proposal in order to show his appreciation of the motive underlying it.

17. Mr. ZOUREK pointed out that the proposal dealing with the principle of abstention had not been sent to the Drafting Committee, but the Special Rapporteur had been asked to prepare a text on the principle for the Commission's consideration.[4]

18. Mr. SANDSTRÖM said that the proviso that the limit set for exclusion should be reasonable was not explicit enough; it was far too vague to be acceptable.

19. Mr. EDMONDS said that since Mr. Hsu had proposed the insertion of the word " security ", he had given it serious consideration. " Security " was a very broad term; " anti-subversive " a very much broader one. No doubt Mr. Hsu was trying to meet a particular problem very close to his heart, but no one knew what " anti-subversive " meant; in modern usage its meaning had been extended to cover any act which one did not approve or condone. But the broad issue involved was whether the use of the contiguous zone should be extended beyond the very narrow purposes laid down for it by the Commission. The reasons which justified the article on the contiguous zone were contrary to the general principle of freedom of the high seas, and accordingly nothing should be added to that rule which was not absolutely necessary or of which the meaning was not absolutely clear. Mr. Hsu's first proposal, therefore, was not acceptable.

20. With regard to Mr. Hsu's second proposal, there was no connexion whatever between it and the proposal dealing with abstention from fishing as one of the measures which had been proposed to conserve the resources of the sea. More broadly, and in general terms, Mr. Hsu's proposal was precisely the reverse of everything the Commission had done about fisheries, and its adoption would require the Commission to reconsider all the articles on that subject. He appreciated the sincerity of Mr. Hsu's motives, but, for the reasons stated, his second proposal also was not acceptable.

21. Faris Bey el-KHOURI suggested that Mr. Hsu should by now be convinced that it would be better to withdraw his first proposal. Infiltration by subversive

[3] A/CN.4/SR.356, para. 41.

[4] *Ibid.*, para. 90.

aliens was better dealt with on a State's territory or even within its territorial sea than in the contiguous zone.

22. Most Middle Eastern States would welcome the first part of Mr. Hsu's second proposal, but he could not accept the reference to arbitration. If a vote could be taken on the two sentences separately, he would support the first sentence; but if the proposal were voted on as a whole, he would have to oppose it.

23. The CHAIRMAN, speaking as a member of the Commission, said that he too had at one time raised the security issue, but as almost the entire Commission had been against it in connexion with the contiguous zone he had decided to withdraw his proposal.[5] He would advise Mr. Hsu to do the same, as the Commission was opposed to the inclusion of such vague terms when the remaining terms were so definite.

24. He agreed with Sir Gerald Fitzmaurice that Mr. Hsu's second proposal was not a concept that could properly be embodied in the principle of the contiguous zone. The interests protected in the contiguous zone should be strictly limited. Mr. Hsu's proposal was inconsistent with the concept of the contiguous zone as the Commission understood it.

25. He suggested that Mr. Hsu should not press for a vote, but leave it to the Rapporteur to decide whether a passage should be included in the Commission's report in connexion with the section on conservation.

26. Mr. HSU accepted the Chairman's suggestion. The Commission might discuss his second proposal again under abstention from fishing in connexion with conservation measures when the Commission reverted to the subject.

27. He could not, however, agree with Sir Gerald Fitzmaurice about the legal position. His proposal differed from the proposal on the contiguous zone that had been accepted and clearly dealt with a new contiguous zone, because it was not limited to twelve or twenty miles, for instance, but was subject to change according to circumstances.

28. As regards his first proposal, in reply to Mr. Edmonds he would say that, as applied to the contiguous zone, the concept of subversion could not be brought within the criterion of security. Subversion implied under-cover activities, whereas action by a State taken against a coastal State would be regarded as in the field of security proper. He would not press his first proposal although none of the arguments members had adduced against it appeared to him convincing.

Regime of the territorial sea (item 2 of the agenda) (A/2934, A/CN.4/97/Add.2, A/CN.4/99 and Add.1-7) (*resumed from the previous meeting*)

Article 4: Normal baseline and *Article 5: Straight baselines*

29. Mr. FRANÇOIS, Special Rapporteur, said that the only comment dealing solely with article 4 was the suggestion of the Government of the Union of South Africa—namely, that the seaward edge of the surf should in certain cases be taken as the point of departure in measuring the breadth of the territorial sea. That method of measuring the territorial sea was apparently completely unknown and had never been proposed from any other source. It might be practical for the South African coast, but it was certainly not so for any other. The South African Government might reintroduce such a proposal at the future diplomatic conference, but the Commission was quite unqualified to discuss it.

30. The Swedish Government's comment dealt with both article 4 and article 5, which might therefore be taken together. Its suggestion that the lines constituting the outer limits of internal waters should serve as the baselines for measuring the territorial sea might fit Scandinavian conditions, but in fact the question was merely one of presentation, and for countries where such conditions were not present the Commission's approach would undoubtedly be more practical.

31. The Belgian, Swedish and United Kingdom Governments considered that the inclusion of the criterion " economic interests " was not justified. In the earliest drafts it had not been included, and the only criteria had been the geographical ones referred to in the judgment of the International Court of Justice in the Anglo-Norwegian Fisheries case.[6] The experts who had met at The Hague in 1953 [7] had thought that criterion somewhat vague and had wished to complete the article by accepting a maximum limit for the straight baselines and a maximum for the distance from the coast. That approach had been criticized by governments as a departure from the Court's decision, because the Commission had accepted neither maximum baselines nor a maximum distance from the coast, but had accepted the criterion of economic interests. The Commission had reconsidered the text and had by a majority decided to follow the Court's judgment more closely.

32. The new draft was again being criticized. Some governments had said that it was wrong to introduce the criterion of economic interests on the same footing as the configuration of the coast, because that had not been the Court's intention; that the Court had only meant that when suitable conditions were present, the system of straight baselines should be accepted; and, in addition, that account might be taken of certain economic interests in drawing the baselines; but it had never meant to place economic interests on the same footing as the other criteria. There might be some good grounds for that view, and the Commission might again decide to delete the criterion of economic interests and to include in the comment a passage to the effect that economic interests were not on the same footing as the other criteria.

33. The United Kingdom Government had again brought up the matter of the right of innocent passage through waters which by the use of straight baselines had newly become internal waters. Sir Gerald Fitzmaurice had made some concessions and had stated that

[5] A/CN.4/SR.349, paras. 28 and 47.

[6] I.C.J. Reports 1951, p. 116.

[7] A/CN.4/61/Add.1.

he would be satisfied if the right of passage were recognized through waters which previously had been open to navigation. The Commission had thought that some compromise might be found.

34. The Norwegian Government had proposed the deletion of the provision concerning drying rocks and drying shoals, as it did not appear in the judgment of the Court. The Commission, not wishing to give an undue extension to the system of straight baselines, had taken the view that only land permanently above high-water level should be taken into account and had therefore discarded drying rocks. It was true that the Court had taken account of them.

35. The United Kingdom had commented that the Commission might consider stating explicitly in the articles the principle that baselines could not be drawn across frontiers between States, by agreement between those States, in a bay or along a coastline in such a way as to be valid against other States. He did not entirely understand the implications of that comment.

36. The Yugoslav Government had submitted a comment which might more appropriately be considered in connexion with article 10: Islands.

37. Mr. SANDSTRÖM said that he did not propose to take up the Swedish Government's suggestion that articles 4 and 5 should be combined, or that the lines constituting the outer limits of internal waters should serve as the baselines for measuring the territorial sea. He could well appreciate the Special Rapporteur's attitude, which had naturally sprung from the particular conditions of the Netherlands coastline. Given a normal coastline, however, and not one broken by numerous bays and fjords and off which there were many small islands, it would be easier to take the ordinary system as a basis. He would, therefore, submit the following amendments to paragraph 1 of article 5:

1. In the first sentence, delete the words " or where this is justified by economic interests peculiar to a region, the reality and importance of which are clearly evidenced by a long usage."
2. In the second sentence, delete the word " special," if necessary.
3. At the end of the third sentence add the following phrase " taking into account, where necessary, certain economic interests peculiar to a region, the reality and importance of which are clearly evidenced by a long usage "
4. Delete the last sentence.

38. Sir Gerald FITZMAURICE said that, in view of Mr. Sandström's statement, he would make no comment on the Swedish Government's observations with regard to articles 4 and 5.

39. On the question of economic interests, he fully endorsed Mr. Sandström's proposal, which would bring the provision of the article into conformity with the finding of the International Court of Justice in the Anglo-Norwegian Fisheries case.[8] Recalling his inability at the previous session to vote for article 5, precisely on account of the reference to economic interests,[9] he said that the Special Rapporteur had correctly explained that the Court's decision had not postulated economic interests as a ground *per se* for establishing a baseline system independently of the low water mark. The Court's view had been that, if a straight baseline system could be justified on other grounds, then economic interests might be taken into account in drawing particular straight baselines.

40. With regard to the right of innocent passage in new internal waters, he would put forward a proposal, which could be adopted either as a new paragraph 3 to article 5 or as a passage in the report, and the text of which was as follows:

> Where the establishment of a straight baseline has the effect of enclosing as internal waters areas which previously consisted of territorial waters or high seas, a right of innocent passage through those waters shall be recognized by the coastal State in all those cases where the waters have normally been used for international traffic or passage.

41. With regard to the question of baselines drawn to and from drying rocks and drying shoals, the criticism that the Court had not mentioned that point was irrelevant; for neither, in not mentioning it, had it condemned the principle formulated in the article. The question had not arisen in the Anglo-Norwegian Fisheries dispute, for to the best of his recollection all the baselines had been drawn between terminal points that were visible at all states of the tide. Drawing a baseline amounted in effect to drawing a line across waters, which was not discernible except by reference to its terminal points. The only indication available to the mariner was a line on the chart, and the indication of terminal points was, therefore, essential. Moreover, they obviously must be visible at all states of the tide. The matter was one of great importance to shipping. There was no question of imposing any restrictions on the rights of the coastal State. In the majority of cases, there would always be a permanently uncovered terminal point near to a drying rock or a drying shoal. If that were not so, the rocks or shoals in question would be at such a distance from the coast as to have no relationship with the land, in which case, as the Court had indicated, such a point could not be chosen as a terminal at all. The principle enshrined in the article was both valid in law and essential in practice.

42. In reply to the Special Rapporteur's observation on the United Kingdom Government's suggestion mentioned in paragraph 43 of document A/CN.4/97/Add.2, although it was not his own suggestion, he thought it was clear that baselines drawn across frontiers between States by an agreement between those States, in a bay or along a coastline, would, as a matter of law, be illegitimate, or at any rate not opposable to other States. A baseline must be drawn off the coast of the State itself. The point, however, could no doubt be clarified in the report.

43. Mr. SANDSTRÖM pointed out that there was in force an international convention between Sweden and

[8] I.C.J. Reports 1951, p. 116.

[9] A/CN.4/SR.316, para. 76.

Norway in which a straight baseline had been drawn between two islands, one being Swedish and the other Norwegian territory. That, however, was a special case which did not affect the essential principle.

44. An article by Sir Gerald Fitzmaurice in the *British Yearbook of International Law for 1954*[10] had convinced him of the Commission's error in inserting the reference to economic interests. It was quite correct that the finding of the International Court of Justice in the Anglo-Norwegian Fisheries Case had not invoked economic considerations, save in respect of the choice of method of drawing straight baselines. The Commission had misconceived the situation, and his proposal was designed to rectify the position.

45. Upon reflexion, he would not press the amendment in his fourth paragraph to delete the last sentence of paragraph 1 of article 5. It was clear that the non-tidal conditions in the Baltic Sea tended to conceal the importance of that provision to countries bounded by tidal waters.

46. The CHAIRMAN said it appeared to be the general opinion that article 4 should be retained as drafted.

Article 4 was adopted.

47. The CHAIRMAN said that, without prejudice to Sir Gerald Fitzmaurice's proposal, which would be voted on at the next meeting, a vote could be taken on Mr. Sandström's amendment to article 5. The principle enunciated in paragraphs 1 and 3 could be taken as a point of substance, the formulation of a precise text being left to the Drafting Committee.

48. Mr. ZOUREK questioned the desirability of transferring the reference to economic interests from the first to the third sentence. The proposal was an important one of substance, for it amounted to eliminating one of the three considerations justifying the drawing of a straight baseline, with the addition of the condition of economic interests, which could be taken into account when drawing the baselines in accordance with the two remaining criteria. The finding of the International Court of Justice could not be quoted as justifying such an interpretation.

49. Mr. SANDSTRÖM, in reply to Mr. Zourek, explained that economic interests would not apply in cases where a decision had to be taken on the admissibility of the straight baseline system, but only when, that admissibility having been accepted, the question of the place where to draw the straight baselines arose. In the article by Sir Gerald Fitzmaurice that he had referred to, there was a sketch illustrating the various methods of drawing straight baselines, and it was only at the stage of choosing the most appropriate line that economic considerations would apply. The Swedish Government had stressed the identity of the geographical and juridical concepts of internal waters and had made it clear that no economic interests were of any relevance in establishing straight baselines.

[10] "*The Law and Procedure of the International Court of Justice, 1951-54: Points of Substantive Law.-I* ".

50. The CHAIRMAN put to the vote paragraphs 1 and 3 of Mr. Sandström's amendment to paragraph 1 of article 5.

Paragraphs 1 and 3 were adopted by 8 votes to 2, with 3 abstentions.

51. Mr. SANDSTRÖM suggested that paragraph 2 of his amendment should be referred to the Drafting Committee.

It was so agreed.

The meeting rose at 6.30 p.m.

365th MEETING

Tuesday, 12 June 1956, at 9.30 a.m.

CONTENTS

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. Radhabinod PAL, Mr. A. E. F. SANDSTRÖM, Mr. Jean SPIROPOULOS, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Regime of the territorial sea (item 2 of the agenda) (A/2693, A/2934, A/CN.4/97/Add.2, A/CN.4/99 and Add.1) (*continued*)

Article 5: Straight baselines (continued)

1. The CHAIRMAN invited the Commission to continue its consideration of article 5 of the draft articles on the regime of the territorial sea. At the close of the previous meeting, paragraphs 1 and 3 of Mr. Sandström's amendment had been adopted.

2. Mr. KRYLOV, explaining his vote on Mr. Sandström's amendment, said that he had voted against it because he regarded it as an unacceptable modification of the 1955 draft, which was a much better text.

3. A re-reading of the relevant passages of the interesting article by Sir Gerald Fitzmaurice, to which Mr. Sand-