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**Summary record of the 431st meeting**

Topic:  
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# INTERNATIONAL LAW COMMISSION

## SUMMARY RECORDS OF THE TENTH SESSION

*Held at the Palais des Nations, Geneva, from 28 April to 4 July 1958*

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### 431st MEETING

*Monday, 28 April 1958, at 3 p.m.*

*Chairman* : Mr. Jaroslav ZOUREK ;  
*later* : Mr. Radhabinod PAL.

#### Opening of the session

1. The CHAIRMAN declared the tenth session of the International Law Commission open.
2. He observed that the tenth anniversary of the commencement of the Commission's work was an appropriate moment for considering how it had acquitted itself of the task of "promotion of the progressive development of international law and its codification" assigned it by resolution 174 (II) of the General Assembly on the strength of Article 13 of the Charter.
3. Tracing the history of the Commission from its establishment in 1948, he said that, after feeling its way in the early years, the Commission, as could be judged from its draft articles on the law of the sea, had evolved a sound method of work. For the quality of those articles, which dealt with all aspects of the régime of the sea—the régime of the territorial sea, of the continental shelf and of the high seas, and conservation of the living resources of the sea—the Commission owed a debt of gratitude to its Special Rapporteur on the subject, Mr. François.
4. In studying the various topics in its programme of work, the Commission, thanks to the efforts of the Codification Division of the Secretariat, had accumulated a rich store of material on the state of international law, including the collection of *Reports of International Arbitral Awards*, the *Legislative Series* and sundry valuable memoranda.
5. Yet the Commission had long remained relatively unknown to the general public. That was partly because its work was highly technical and for a long time few of its documents were published, but also partly because until 1956 none of the drafts it had prepared had been regarded by the General Assembly as an appropriate basis for an international convention.
6. The first of its texts to have served as the subject of an international conference was the set of draft articles

on the law of the sea, completed by the Commission at its eighth session. The United Nations Conference on the Law of the Sea, convened by resolution 1105 (XI) of the General Assembly to codify the law of the sea and study the question of free access of land-locked countries to the sea, had been an undoubted, and to some extent unexpected, success. The problem of the breadth of the territorial sea had, admittedly, not been settled, but the Conference had approved four conventions, on the territorial sea and the contiguous zone, on the high seas, on the continental shelf, and on fishing and conservation of the living resources of the high seas, and had achieved positive results on the free access of land-locked States to the sea, a question which, unlike the other aspects of the law of the sea, had been little explored as a whole either by writers or by international conferences.

7. The Conference on the Law of the Sea, the largest ever convened under the auspices of the United Nations, was a milestone in the as yet brief history of the Commission, for it was the first time that representatives of eighty-six States had had the opportunity of passing judgement on the fruit of the Commission's labours. Many of its articles had been adopted with little or no change. Indeed, the Conference, acting on a proposal of the Colombian delegation, had passed a resolution expressing esteem, respect and admiration for the Commission's achievements in the field of the development of international law and its codification, and commending the Commission on the quality of its texts and commentaries, for which gesture he, as Chairman of the Commission, had thanked both the sponsor of the resolution and those who had unanimously adopted it.

8. Such success, however, carried with it the obligation to maintain a consistently high standard of work. And to ensure that, the Commission must continue to apply the method that had led to success, namely, to codify existing international law and to seek such solutions based on the fundamental principles of that law as would be acceptable to most Governments.

9. The success of the Conference on the Law of the Sea was a good omen for the future work of codification in matters less controversial than the law of the sea. He was convinced that in pursuing its task the Commission would greatly contribute, in conformity with the precepts of the United Nations Charter, to the

strengthening of international law, the consolidation of peace and the banishment for ever of the use of force in international politics.

### Election of officers

10. The CHAIRMAN called for nominations for the office of chairman.

11. Mr. SANDSTRÖM proposed Mr. Pal, whose qualities as a jurist were known to all the members of the Commission.

12. Mr. MATINE-DAFTARY seconded the proposal.

13. Mr. TUNKIN, Sir Gerald FITZMAURICE, Mr. EDMONDS, Mr. BARTOS, Mr. AMADO, Mr. VERDROSS and Mr. SCALLE supported the proposal.

*Mr. Pal was unanimously elected Chairman and took the Chair.*

14. The CHAIRMAN thanked the members of the Commission for the honour done to him and called for nominations for the offices of first and second vice-chairman and rapporteur.

15. Mr. GARCIA AMADOR congratulated the Chairman on his election, and proposed Mr. Amado for the office of first vice-chairman, Mr. Tunkin for the office of second vice-chairman, and Sir Gerald Fitzmaurice for the office of rapporteur.

*Mr. Amado was unanimously elected First Vice-Chairman.*

*Mr. Tunkin was unanimously elected Second Vice-Chairman.*

*Sir Gerald Fitzmaurice was unanimously elected Rapporteur.*

The meeting rose at 4.05 p.m.

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### 432nd MEETING

*Tuesday, 29 April 1958, at 9.45 a.m.*

*Chairman : Mr. Radhabinod PAL.*

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### Statement by the representative of the Secretary-General

1. The CHAIRMAN extended a welcome on behalf of the Commission to Mr. Stavropoulos, Legal Counsel to the United Nations and representative of the Secretary-General.

2. Mr. STAVROPOULOS, representative of the Secretary-General, said it was his pleasant duty to convey to the International Law Commission the many expressions of praise for its work that had been voiced in the recent United Nations Conference on the Law of the Sea. The fact that the great majority of the Commission's draft articles had been adopted without

substantial change greatly enhanced the authority of the United Nations work in the codification and development of international law, and he congratulated the Commission on its achievement.

3. The CHAIRMAN, after thanking the representative of the Secretary-General for his kind words, expressed the Commission's own appreciation of the support it received from other United Nations organs in the vitally important task of bringing the nations of the world under the sway of international law.

4. Sir Gerald FITZMAURICE paid a tribute to the outstanding contribution Mr. Stavropoulos himself had made to the success of the recent Conference. Time and again when the Conference had been on the point of breaking down, owing to the massive work with which it had to deal, the slow start it had made and the large number of amendments it had had to dispose of, his resource and determination had averted what might have been a real debacle.

5. The Conference had brought out clearly the great difficulty of drafting in large assemblies, and the consequent importance of having a well prepared text on which to work. The Conference had been fortunate in that respect; considering the number of articles and the number of delegations, many more amendments might in fact have been expected, and the fact that they had not been submitted showed that the Commission had done its preparatory work well and that it was desirable that it should continue to aim at quality rather than quantity.

### Adoption of the agenda (A/CN.4/112)

6. The CHAIRMAN drew attention to the provisional agenda (A/CN.4/112), which had been prepared in accordance with the decision taken at the ninth session.<sup>1</sup>

7. Mr. SANDSTRÖM said that lack of time had unfortunately prevented him from preparing a report on *ad hoc* diplomacy as requested by the Commission, but that he had prepared a report — which would be distributed shortly<sup>2</sup> — on the basis of the comments which Governments had submitted on the draft articles concerning diplomatic intercourse and immunities adopted at the ninth session.

8. Mr. EL-ERIAN said that at the twelfth session of the General Assembly the question of speeding up the Commission's work had again been raised in the Sixth Committee. He had pointed out — as had Mr. Khoman — that the Commission's work was necessarily slow, by its very nature, and had assured the Committee that the Commission was well aware of the desirability of greater speed wherever possible. While those members of the Sixth Committee who had raised the question were fervid supporters of the Commission, fully appreciated the efforts it was already

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<sup>1</sup> *Official Records of the General Assembly, Twelfth Session, Supplement No. 9, para. 25.*

<sup>2</sup> Later issued as document A/CN.4/116.