

United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Document:
A/CONF.13/20

Preparation of the Conference: Report of the Secretary-General

Extract from the *Official Records of the United Nations Conference on the Law of the Sea, Volume I (Preparatory Documents)*

PREPARATION OF THE CONFERENCE: REPORT OF THE SECRETARY-GENERAL

[Original text: English]
[30 January 1958]

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1. This report is an account of the preparation for the United Nations Conference on the Law of the Sea in implementation of resolution 1105 (XI), adopted by the General Assembly on 21 February 1957.

I. INVITATIONS TO GOVERNMENTS, SPECIALIZED AGENCIES AND INTER-GOVERNMENTAL BODIES

2. Paragraphs 5 and 6 of resolution 1105 (XI) read as follows:

“[The General Assembly]

...

“5. *Invites* all States Members of the United Nations and States members of the specialized agencies to participate in the conference and to include among their representatives experts competent in the fields to be considered;

“6. *Invites* the interested specialized agencies and inter-governmental bodies to send observers to the conference;”

In accordance with paragraph 5, notification of the conference was sent on 25 March 1957 to all Members of the United Nations, as well as to the following States members of specialized agencies: Federal Republic of Germany, Republic of Korea, San Marino, Monaco, Switzerland, Viet-Nam and Vatican City. Similarly, in order to implement paragraph 6, notification of the forthcoming conference was sent on 25/26 March 1957 to all the specialized agencies (including the Contracting Parties to the General Agreement on Tariffs and Trade and the Interim Commission for the International Trade Organization, and the Inter-Governmental Maritime Consultative Organization), as well as to the following inter-governmental organizations:

- Organization of American States;
- Indo-Pacific Fisheries Council;
- Inter-American Tropical Tuna Commission;

International Commission for the Northwest Atlantic Fisheries;

International Council for the Exploration of the Sea;
International Pacific Halibut Commission;

International Pacific Salmon Fisheries Commission;
International North Pacific Fisheries Commission;
International Whaling Commission;

International Commission for the Exploitation and Conservation of the Maritime Resources of the South Pacific;

Permanent Commission under the International Overfishing Convention of 1946;

Institut international pour l'unification du droit privé;
Conseil général des pêches pour la Méditerranée;

Commission internationale pour l'exploration scientifique de la mer Méditerranée;

Bureau hydrographique international;

Asian Legal Consultative Committee¹

II. DATE AND SITE OF THE CONFERENCE

3. In paragraph 4 of resolution 1105 (XI), the Secretary-General was requested to convoke the conference early in March 1958. The question of a precise date and place for the conference was not, therefore, settled by the resolution itself. Before voting on the resolution, the General Assembly approved the suggestion of the President that this question, involving a decision between Rome and Geneva, should be left to the Secretary-General. After careful consideration of the financial and administrative problems involved, the Secretary-General decided to convene the conference at the European Office of the United Nations in Geneva on Monday, 24 February 1958, at 3 p.m. This decision was communicated to Governments, specialized Agencies and inter-governmental bodies invited to the conference by a letter dated 26 August 1957.

III. CONSULTATION WITH EXPERTS AND PREPARATORY DOCUMENTATION

4. Paragraph 7 of resolution 1105 (XI) reads as follows:

“[The General Assembly]

“... ”

¹ The invitation to the Asian Legal Consultative Committee was sent on 22 April 1957.

"Requests the Secretary-General to invite appropriate experts to advise and assist the Secretariat in preparing the conference, with the following terms of reference :

"(a) To obtain, in the manner which they think most appropriate, from the Governments invited to the conference any further provisional comments the Governments may wish to make on the Commission's report and related matters, and to present to the conference in systematic form any comments made by the Governments, as well as the relevant statements made in the Sixth Committee at the eleventh and previous sessions of the General Assembly ;

"(b) To present to the conference recommendations concerning its method of work and procedures, and other questions of an administrative nature ;

"(c) To prepare, or arrange for the preparation of, working documents of a legal, technical, scientific or economic nature in order to facilitate the work of the conference ;"

5. The terms of paragraph 7 envisaged the invitation, by the Secretary-General, of a group of experts to advise and assist the Secretariat in preparing the conference. Before dealing with the preparatory work which developed from the consultation between this group of experts and the Secretariat, mention should be made of certain aspects of the normal work of the Secretariat which constitute an important part of the background documentation of the conference.

6. This work has included the publication of the summary records of the International Law Commission during its eighth session² and of the documents of the eighth session, including the report of the Commission to the Assembly,³ in English, French and Spanish. The work of the Secretariat has also included the publication of a new volume on "Laws and Regulations of the Régime of the Territorial Sea" in the *United Nations Legislative Series* (ST/LEG/SER.B/6) and of a supplement (A/CONF.13/27) to three existing volumes in that series, namely "Laws and Regulations on the Régime of the High Seas", volumes I- and II- (ST/LEG/SER.B/1 and 2) and "Laws concerning the Nationality of Ships" (ST/LEG/SER.B./5). A bibliography on the law of the sea has been prepared (A/CONF.13/17) and also a reference guide to decisions of international tribunals relating to the law of the sea (A/CONF.13/22).

7. Apart from the preparation undertaken by the Secretariat in the normal course of its work, much of the preparation for the conference was the outcome of consultation between the Secretariat and the experts whom the Secretary-General was requested to invite by paragraph 7 of resolution 1105 (XI).

8. The persons invited by the Secretary-General to advise and assist the Secretariat were the following :

<i>Name</i>	<i>Nationality</i>
Mr. Kenneth H. Bailey	Australia
Mr. Jorge Castañeda	Mexico
Mr. B. N. Chopra	India
Mr. W. V. J. Evans	United Kingdom of Great Britain and Northern Ireland

² Yearbook of the International Law Commission, 1956, Vol. I.

³ *Ibid.*, 1956, Vol. II.

Mr. J. P. A. François	Netherlands
Mr. F. V. García Amador	Cuba
Mr. Hamed Abdul Fattar Gohar	Egypt
Mr. Luis Melo Lecaros	Chile
Mr. Karel Petrzelka	Czechoslovakia
Mr. William Sanders	United States of America

9. Ten meetings between these experts and the Secretariat were held between 25 February and 6 March 1957 and a further eight between 7 October and 16 October 1957. During the course of these meetings, the terms of reference set out in paragraph 7 of resolution 1105 (XI) were adopted as items of the agenda for the meetings, and the following is an account of the work done under each head of paragraph 7.

(a) In consultation with the experts, a letter was sent on 25 March 1957 on behalf of the Secretary-General to the Governments invited to the conference, requesting them to send to him before 31 July 1957 any further provisional comments they might wish to make on the International Law Commission's report and related matters. Further provisional comments were received from nineteen Governments and these are to be found in documents A/CONF.13/5 and Add.1-2.⁴ In order that this and other relevant material should be available in systematic form a further document (A/CONF.13/30) contains a complete reference guide to these and earlier comments as well as to the statements made by Governments in the Sixth Committee at the eleventh and previous sessions of the General Assembly. Both documents were prepared by the Secretariat of the United Nations.

(b) The outcome of the work of the Secretariat in consultation with the experts on the method of work and procedures of the conference, and other questions of an administrative nature, is to be found in the provisional agenda of the conference (A/CONF.13/9), the provisional rules of procedure (A/CONF.13/10), and the memorandum concerning the method of work and procedure of the Conference (A/CONF.13/11). This memorandum contains certain general observations and recommendations, and explanatory notes on the provisional Agenda and the provisional rules of procedure. These three documents embody, in most cases, the consensus of views of the experts ; but the final decision as to both the form and substance of these documents was the Secretary-General's.

(c) In the course of the first series of meetings between the experts and the Secretariat agreement was reached on a list of suggested titles for working documents which might be prepared by experts and presented to the conference.

10. In some cases the Secretariat of the United Nations was itself able to undertake the preparation of working documents ; in other cases arrangement was made for their preparation by independent experts on the recommendation of the experts in consultation with the Secretariat. The aim has been to provide documents in the nature of factual studies. In all cases where the documents have been prepared by independent experts,

⁴ Further comments were later received from two other Governments (A/CONF.13/5/Add.3 and 4).

the views therein contained must be regarded as those of the experts concerned and not necessarily of the Secretary-General.

11. Two other paragraphs, 9 and 10, of resolution 1105 (XI) call for mention here. Though distinct from paragraph 7, they do, in fact, relate to the preparatory documentation of the conference.

Paragraph 9

"Refers to the conference the report of the International Law Commission as the basis for its consideration of the various problems involved in the development and codification of the law of the sea, and also the verbatim records of the relevant debates in the General Assembly, for consideration by the conference in conjunction with the Commission's report ;"

12. The report of the Commission⁵ has been regarded, throughout the preparatory work of the Secretariat and the experts in consultation with the Secretariat, as the basis of the work of the forthcoming conference. The articles concerning the law of the sea contained in that report have been presented in a reference guide (A/C.6/L.378)⁶ which explains the development of each of the articles through successive stages of the Commission's work and which also gives the comparable articles in the 1930 draft of The Hague Conference. The memorandum concerning the method of work and procedures of the Conference (A/CONF.13/11) contains recommendations which are expressly based on the assumption that the articles concerning the law of the sea will constitute the basis of the work of the Conference.

13. The verbatim records of the relevant debate in the plenary meeting of the General Assembly are to be found in the *Official Records of the General Assembly, Eleventh Session, Plenary Meetings, 658th meeting*. The relevant verbatim records of the Sixth Committee have been published in two volumes as A/CONF.13/19.⁷

Paragraph 10

"Requests the Secretary-General to transmit to the conference all such records of world-wide or regional international meetings as may serve as official background material for its work ;"

14. These records are before the Conference in A/CONF.13/21, which gives the actual texts of records which are not easily available, and references to the records of meetings which are generally available for consultation. A separate document has been submitted by the Organization of American States, entitled "Background Material on the Activities in the Organization of American States relating to the Law of the Sea".

⁵ *Official Records of the General Assembly, Eleventh Session, Supplement No. 9 (A/3159)*.

⁶ *Ibid.*, *Eleventh Session, Annexes*, agenda item 53.

⁷ The official summary records are contained in the *Official Records of the General Assembly, Eleventh Session, Sixth Committee*, 485th to 500th meetings.

15. A complete list of all the documents prepared for the Conference has been prepared as A/CONF.13/33.

IV. STAFF AND FACILITIES

16. Paragraph 8 of resolution 1105(XI) reads :

"Requests the Secretary-General to arrange also for the necessary staff and facilities which would be required for the conference, it being understood that the technical services of such experts as are needed will be utilized ;"

Suitable arrangements have been made to provide the necessary staff and facilities. In addition, three expert advisers, each having long experience in their respective fields, have been invited to assist the Secretariat with their technical services ; they are : Professor J. P. A. François (Netherlands), Dr. B. N. Chopra (India) and Mr. Milner B. Schaefer (United States of America).

V. THE QUESTION OF LAND-LOCKED COUNTRIES

17. Paragraph 3 of resolution 1105 (XI) states that the General Assembly :

"Recommends that the conference should study the question of free access to the sea of land-locked countries, as established by international practice or treaties ;"

This particular question was not covered by the articles concerning the law of the sea contained in the International Law Commission's report. One of the preparatory documents by the Secretariat entitled "The question of free access to the sea of land-locked countries" (A/CONF.13/29) has been prepared with a view to placing certain basic facts regarding this question before the Conference.

VI. ATTENDANCE AND OFFICE SPACE AT THE CONFERENCE

18. In paragraph 12 of resolution 1105 (XI) the General Assembly expressed the hope that the conference would be fully attended. A letter, dated 6 December 1957, was sent to all Governments invited to the conference which had not, prior to that date, indicated their acceptance of the invitation, asking them to inform the Secretary-General of their decision not later than 31 December 1957. That letter drew attention to the importance of an accurate estimate of the number of attendances in view of the need to provide adequate facilities. By a further letter, dated 16 December 1957, a circular was sent to all Governments invited to the conference requesting them to communicate their requests for office space to the Office of Conference Services at the European Office of the United Nations, not later than 10 January 1958.

19. A list of attendances at the Conference by Governments and specialized agencies will be published at the beginning of the conference.