



**United Nations  
Conference  
on the Law of the Sea**

**Official records**

**Volume II:**

**PLENARY MEETINGS**

**Summary records of meetings  
and Annexes**

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*GENEVA*

*24 February — 27 April 1958*





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A/CONF.13/38

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## INTRODUCTORY NOTE

The *Official Records* of the United Nations Conference on the Law of the Sea comprise seven volumes, as follows :

- Volume I: Preparatory Documents
- Volume II: Plenary Meetings
- Volume III: First Committee (Territorial Sea and Contiguous Zone)
- Volume IV: Second Committee (High Seas; General Régime)
- Volume V: Third Committee (High Seas: Fishing, Conservation of Living Resources)
- Volume VI: Fourth Committee (Continental Shelf)
- Volume VII: Fifth Committee (Question of free access to the sea of Land-locked countries)

Volumes III to VII contain the summary records of the meetings and the relevant documents, which appear as annexes. These include the draft articles prepared by the International Law Commission and the final texts adopted by the committees of the Conference.

The present volume contains :

(a) Resolution 1105 (XI) of the General Assembly convening the Conference ;

(b) The list of delegations ;

(c) The officers of the Conference and of its committees, and the secretariat of the Conference ;

(d) The agenda of the Conference ;

(e) The rules of procedure of the Conference ;

(f) The summary records of the plenary meetings ;

(g) Documents published as annexes ; these include the reports of the five main committees and of the Drafting Committee of the Conference, the conventions, the protocol of signature, the resolutions adopted by the Conference and the Final Act.

The records of the meetings of the General Committee of the Conference have not been printed. A summary of the discussions in that Committee will be found in the General Committee's reports to the Conference which appear as annexes (A/CONF.13/L.2, L.8, L.9 and L.23).

Each volume includes a table of contents which indicates the matters dealt with at each meeting and an index listing all the

documents relating to that part of the Conference's work which forms the subject of the volume in question ; the index shows where these documents may be found. The present volume contains an index to the documents relating to the General Committee and to the plenary meetings.

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

The Conference documents all bear the symbol A/CONF.13/... followed by capital letters and figures which indicate the nature of the document concerned :

<i>Symbol</i>	<i>Nature of document</i>
A/CONF.13/1 to 36	Preparatory Documents
A/CONF.13/L.1 to L.58	} Plenary Meetings
A/CONF.13/SR.1 to SR.21	
A/CONF.13/BUR/L.1 to L.7	} General Committee of the Conference
A/CONF.13/BUR/SR.1 to SR.7	
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A/CONF.13/C.2/L.1 to L.153	} Second Committee
A/CONF.13/C.2/SR.1 to SR.37	
A/CONF.13/C.3/L.1 to L.93	} Third Committee
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A/CONF.13/C.4/L.1 to L.67	} Fourth Committee
A/CONF.13/C.4/SR.1 to SR.42	
A/CONF.13/C.5/L.1 to L.27	} Fifth Committee
A/CONF.13/C.5/SR.1 to SR.25	

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The summary records of the plenary meetings contained in this volume were originally distributed in mimeographed form as documents A/CONF.13/SR.1 to SR.21. They include the corrections to the provisional summary records that were requested by the delegations and such drafting and editorial modifications as were considered necessary.



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**RESOLUTION 1105 (XI) OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS  
CONVENING THE CONFERENCE**

**International conference of plenipotentiaries to examine the law of the sea**

*The General Assembly,*

*Having received* the report of the International Law Commission covering the work of its eighth session (A/3159), which contains draft articles and commentaries on the law of the sea,

*Recalling* that the General Assembly, in resolution 798 (VIII) of 7 December 1953, having regard to the fact that the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf and the superjacent waters were closely linked together juridically as well as physically, decided not to deal with any aspect of those matters until all the problems involved had been studied by the International Law Commission and reported upon by it to the General Assembly,

*Considering* that, by its resolution 899 (IX) of 14 December 1954, it requested the International Law Commission to submit its final report on these subjects in time for the General Assembly to consider them as a whole at its eleventh session,

*Taking into account also* paragraph 29 of the report of the International Law Commission wherein it is stated that the Commission considers—and the comments of governments have confirmed this view—that the various sections of the law of the sea hold together, and are so closely interdependent that it would be extremely difficult to deal with only one part and leave the others aside,

1. *Expresses its appreciation* to the International Law Commission for its valuable work on this complex subject ;
2. *Decides*, in accordance with the recommendation contained in paragraph 28 of the report of the International Law Commission covering the work of its eighth session, that an international conference of plenipotentiaries should be convoked to examine the law of the sea, taking account not only of the legal, but also of the technical, biological, economic and political aspects of the problem, and to embody the results of its work in one or more international conventions or such other instruments as it may deem appropriate ;
3. *Recommends* that the conference should study the question of free access to the sea of land-locked countries, as established by international practice of treaties ;
4. *Requests* the Secretary-General to convoke the conference early in March 1958 ;
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 field to be considered ;

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

7. *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 ;

8. *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 ;

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 ;

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 ;

11. *Calls upon* the governments invited to the conference and groups thereof to utilize the time remaining before the opening of the conference for exchanges of views on the controversial questions relative to the law of the sea ;

12. *Expresses the hope* that the conference will be fully attended.

*658th plenary meeting,  
21 February 1957.*



## LIST OF DELEGATIONS

### Afghanistan

#### Representatives :

Dr. Abdul Hakim Tabibi (*Chairman of the Delegation*) ;

Dr. Abdul-Ghafoor Rawan-Farhadi.

### Albania

#### Representatives :

H.E. Mr. Dhimitri Lamani, Minister in Paris ;

Mr. Zija Beqiri, Ministry of Foreign Affairs.

### Argentina

#### Representatives :

H.E. Dr. Isidore Ruiz Moreno, Ambassador Extraordinary and Plenipotentiary, Adviser, Political and Legal Affairs, Ministry of External Relations (*Chairman of the Delegation*) ;

H.E. Mr. Andrés M. Lescure, Envoy Extraordinary and Minister Plenipotentiary, Permanent Alternate Representative, European Office of the United Nations ;

Commander Carlos A. Ledesma, Envoy Extraordinary and Minister Plenipotentiary ;

Mr. Adolfo P. Lacú, Permanent Mission, European Office of the United Nations ;

Mr. Juan Carlos M. Beltramino, Secretary of Embassy, Permanent Mission to the European Office of the United Nations ;

Mr. Carlos H. Cerdá.

### Australia

#### Representatives :

Mr. K. H. Bailey, C.B.E., Solicitor-General of the Commonwealth (*Chairman of the Delegation*) ;

Mr. J. D. L. Hood, C.B.E., Counsellor, Permanent Mission to the United Nations, New York ;

H.E. Mr. A. H. Loomes, Ambassador Extraordinary and Plenipotentiary to Burma ;

Mr. W. A. Wynes, Legal Adviser, Department of External Affairs.

#### Alternate Representatives :

Mr. F. F. Anderson, Director of Fisheries ;

Mr. C. W. Harders, Chief Assistant, Legal Division, Attorney General's Department.

#### Advisers :

Dr. J. M. Thomson, Principal Research Officer, Commonwealth Scientific and Industrial Research Organization ;

Miss M. McPherson, Second Secretary, Permanent Mission to the European Office of the United Nations ;

Mr. G. B. Feakes, Second Secretary, Office of the Australian High Commissioner, London ;

Miss P. A. Williams, Third Secretary, Embassy, Dublin.

### Austria

#### Representatives :

Dr. Johannes Willfort, Counsellor of Legation, Permanent Representative, European Office of the United Nations (*Chairman of the Delegation*) ;

Mr. Otto Bazant, Counsellor, Federal Ministry of Transport and Power ;

Dr. Hermann Fröhlich, Counsellor, Shipping Division, Federal Ministry of Transport and Power ;

Mr. Georg Zuk, Counsellor, Economic Co-ordination Section, Federal Chancellery ;

Dr. Reginald Thomas, Secretary of Legation ;

Dr. Ludwig Gregor, Counsellor, Federal Ministry of Commerce and Reconstruction.

#### Alternate Representatives :

Dr. Walter Schauer, Counsellor, Shipping Division, Federal Ministry of Transport and Power ;

Dr. Roland Loewe, Secretary, Federal Ministry of Justice ;

Dr. Robert Linke, State Counsel, Federal Ministry of Justice ;

Dr. Peter Jankowitsch, Department of Foreign Affairs.<sup>1</sup>

### Belgium

#### Representatives :

H.E. Mr. Fernand Muûls, Ambassador Extraordinary and Plenipotentiary (*Chairman of the Delegation*) ;

Mr. Jean Etienne, Permanent Representative, European Office of the United Nations ;

Mr. Maurice Bourquin, Professor at the International Institute for Higher University Studies.

#### Alternate Representatives :

Mr. Léon-Emile Descamps, Director, Marine Administration, Ministry of Communications ;

Mr. Pluyms, Director, Marine Administration, Ministry of Communications ;

Mr. Charles Michielsen, Assistant Counsellor, Department of Fisheries, Ministry of Agriculture ;

Mr. van der Essen, Director, Ministry of Foreign Affairs ;

Mr. Hervé-Jean Robinet, Deputy Permanent Representative, European Office of the United Nations.

#### Secretary to the Delegation :

Miss Simone Vanhorenbeeck, Ministry of Foreign Affairs.

<sup>1</sup> Representative as from 11 April 1958.

## **Bolivia**

### *Representatives :*

Mr. Wálter Guevara Arze (*Chairman of the Delegation*) ;

Mr. Jorge Escobari Cusicanqui ;  
Mr. Carlos Salamanca ;  
Mr. Roberto Jordán Pando ;  
Mr. Germán Quiroga Galdo ;  
Mr. Luis Iturralde Chinel ;  
Mr. Mario Sandoval Saavedra.

## **Brazil**

### *Representatives :*

H.E. Mr. Gilberto Amado, Ambassador (*Chairman of the Delegation*) ;

H.E. Mr. José Sette Camara Filho, Minister Plenipotentiary ;

Mr. J. L. Bulhoes Pedreira, Legal Adviser, Ministry of Transport.

### *Alternate Representatives :*

Mr. Carlos Calero Rodrigues, First Secretary of Embassy ;

Mr. Geraldo de Carvalho Silos, First Secretary of Embassy ;

Major Afranio de Faria ;

Colonel Dilermando Silva ;

Mr. Armando Salgado Mascarenhas, Second Secretary of Embassy ;

Mr. Julio Silveiro Conçalves, Ministry of Agriculture ;

Mr. Guilherme Weinschenk, Third Secretary of Embassy ;

Mr. Mauro Martins.

### *Observer :*

Mr. Tobias Barros Ortiz, Vice-President, National Society of Fisheries.

## **Bulgaria**

### *Representatives :*

H.E. Mr. Petre Grigorov, Envoy Extraordinary and Minister Plenipotentiary to Switzerland (*Chairman of the Delegation*) ;

Mr. Lubomir Radouilsky, Professor at the Faculty of Law, University of Sofia ;

Mr. Atanasse Belinsky, Permanent Representative, European Office of the United Nations ;

Mr. Yordan Golemanov, Secretary of Legation ;

Mr. Todor Stoyanov, Secretary of Legation, Permanent Mission to the European Office of the United Nations.

## **Burma**

### *Representatives :*

Dr. Ba Han, Attorney-General (*Chairman of the Delegation*) ;

Sithu U Khin, Director of Agriculture ;

U Mya Sein, Chief of Division, Foreign Office ;

U Aung Thin, Nautical Adviser and Principal Officer, Merchant Marine Department ;

Lt. Commander Chit Hlaing, War Office.

## **Byelorussian Soviet Socialist Republic**

### *Representative :*

Mr. I. E. Geronin (*Chairman of the Delegation*).

### *Advisers :*

Mr. G. A. Povetiev ;

Mr. A. N. Sheldov.

## **Cambodia**

### *Representatives :*

Mr. Phlek-Chhat, Engineer of Public Works (*Chairman of the Delegation*) ;

Captain Coedes, Chief of Staff of the Navy ;

Mr. Hem Heng Phanrasy, Ministry of Foreign Affairs.

## **Canada**

### *Representatives :*

The Hon. George A. Drew, P.C., Q.C., High Commissioner for Canada in the United Kingdom (*Chairman of the Delegation*) ;

H.E. Mr. M. H. Wershof, Q.C., Ambassador, Permanent Representative, European Office of the United Nations ;

Mr. Marcel Cadieux, Legal Adviser and Assistant Under-Secretary of State for External Affairs ;

Mr. R. G. Robertson, Deputy Minister of Northern Affairs and National Resources ;

Mr. S. V. Ozere, Assistant Deputy Minister of Fisheries ;

Mr. L. J. Leavey, Legal Adviser, Canadian Maritime Commission ;

Mr. G. F. Curtis, Dean of the Faculty of Law, University of British Columbia.

### *Special adviser :*

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### *Advisers :*

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Mr. George M. Carty, Department of Northern Affairs and National Resources ;

Mr. C. E. Bourbonnière, Second Secretary, Permanent Mission, European Office of the United Nations ;

Mr. Peter R. Jennings, Second Secretary, Embassy, Copenhagen.

### *Secretary to the Delegation :*

Mr. M. W. Cunningham, Privy Council Office, Ottawa.

## Ceylon

### Representatives :

H.E. Sir Claude Corea, K.B.E., Ambassador Extraordinary and Plenipotentiary, Permanent Representative, United Nations, New York (*Chairman of the Delegation*) ;

H.E. Mr. A. B. Perera, Envoy Extraordinary and Minister Plenipotentiary to Egypt (*Vice-Chairman of the Delegation*) ;

Mr. D. T. E. A. de Fonseka, Director of Fisheries ;

Mr. N. T. D. Kanakarathne, First Secretary, Legal Affairs, Permanent Mission, United Nations, New York ;

Mr. B. P. Tillekeratne, Assistant Secretary, Ministry of External Affairs.

## Chile

### Representatives :

H.E. Mr. Luis Melo Lecaros, Ambassador (*Chairman of the Delegation*) ;

Mr. Fernando Donoso Silva, Permanent Representative, European Office, United Nations ;

Mr. Sergio Gutiérrez Olivos, barrister-at-law, Professor of International Law.

### Advisers :

Mr. Fernando Guarello Fitz-Henry, Legal Adviser, Commission of the South Pacific ;

Mr. Mario Prieto Serviere, Permanent Mission to the European Office of the United Nations ;

Mr. José Miguel Barros Franco, First Secretary of Embassy, Rome ;

Mr. Ignacio Benítez Gallardo, Consul, Geneva (*Secretary of the Delegation*).

## China

### Representatives :

H.E. Mr. Liu Chieh, Ambassador Extraordinary and Plenipotentiary to Canada (*Chairman of the Delegation*) ;

H.E. Mr. Yu-Chi Hsueh, Minister Plenipotentiary, Deputy Permanent Representative, United Nations, New York.

### Alternate Representatives :

Commodore Chao Chi-Lin, Director of the Research Office, Navy Headquarters, Ministry of National Defence ;

Mr. John Yu Kwei, Professor of Law, National Taiwan University ;

Mr. Chen Tung-Pai, Senior Fishery Specialist, Joint Commission on Rural Reconstruction.

### Advisers :

Mr. Chu Teng-Kao, Deputy Director, Department of Navigation and Aviation, Ministry of Communications ;

Mr. Lee Yen-Ping, Alternate Representative of the Governing Body of the International Labour Organisation.

## Colombia

### Representatives :

H.E. Dr. Juan Uribe Holguín, Ambassador Extraordinary and Plenipotentiary to France (*Chairman of the Delegation*) ;

Dr. José Joaquín Caicedo Castilla, Ambassador Extraordinary and Plenipotentiary on special mission, Representative on the Inter-American Juridical Committee.

### Advisers :

Captain Carlos Vásquez, Head of the Astronomy and Geophysics Department of the Geographical Institute "Augustín Codazzi" ;

Dr. Carlos Borda Mendoza, Counsellor, Embassy to the Holy See ;

Dr. Víctor Jiménez Suarez, Permanent Representative, European Office of the United Nations ;

Dr. Ernesto Vásquez Rocha, First Secretary, Embassy, Rome ;

Dr. Ignacio Henao Osorio, Second Secretary, Embassy, Bern ;

Captain Juan Antonio Morales, Great Colombian Merchant Fleet.

## Costa Rica

### Representatives :

Mr. Raúl F. Trejos Flores, Ambassador Extraordinary and Plenipotentiary, Alternate Representative, United Nations, New York (*Chairman of the Delegation*) ;

Professor Aristide Donnadieu, Consul General, Geneva.<sup>1</sup>

## Cuba

### Representatives :

H.E. Mr. Francisco V. Garcíá Amador, Ambassador (*Chairman of the Delegation*) ;

Mr. Enrique Camejo Argudín, Envoy Extraordinary and Minister Plenipotentiary, Permanent Representative, European Office of the United Nations ;

Mr. Pedro A. de la Concepción, Minister, Naval Commodore (retired).

### Advisers :

Dr. Orlando Martínez Zanetti, National Institute of Fisheries ;

Dr. Sergio Pons y Rivero, Secretary-General of the Workers National Maritime Federation.

## Czechoslovakia

### Representatives :

H.E. Mr. Jan Obhlídal, Ambassador Extraordinary and Plenipotentiary (*Chairman of the Delegation*) ;

Professor Jaroslav Žourek, Head of the Section of International Law, Institute of Law, Czechoslovak Academy of Sciences ;

Dr. Josef Fišer, Head of Section, Ministry of Transport ;

<sup>1</sup> Rank of Ambassador Extraordinary and Plenipotentiary.

Dr. Vratislav Pechota, First Secretary of Embassy ;  
Dr. Zdenek Cervenka, First Secretary of Embassy.

*Adviser :*

Mr. Milan Glozar, Permanent Mission, European Office of the United Nations ;

*Secretaries :*

Mr. Frantisek Vlček, Ministry of Foreign Affairs ;  
Mrs. Blanka Tumova, Ministry of Foreign Affairs.

**Denmark**

*Representatives :*

Dr. Max Sörensen, Doctor of Law, Counsellor, Ministry of Foreign Affairs on matters of International Law ; Professor, University of Aarhus (*Chairman of the Delegation*) ;

Mr. Troels Valdemar Andreas Oldenburg, Head of Section, Ministry of Foreign Affairs ;

Mr. Albert Wulff Königfeldt, Assistant Head of Section, Ministry of Foreign Affairs ;

Mr. Bengt Sophus Dinesen, Secretary-General, Ministry of Fisheries ;

Mr. Aage Vedel Taaning, Doctor of Science, Director of the Danish Institute for the Exploration of the Sea ;

Captain Fréderik Hempel-Jørgensen ;

Mr. Anders Otto Bache, Deputy Head of Section, Ministry of Commerce ;

Mr. Niels Otto Christensen, Head of Section, Ministry of Greenland ;

Mr. Paul Marinus Hansen, Doctor of Science, Biologist, Ministry of Greenland ;

Mr. Daniel Johannes Nolsoe, Judge of the First Instance ;

Mr. Johan Frits Djurhuus, Head of Section, Secretariat of the Lagting and of the local Government of the Faroe Islands ;

Mr. Niels Kamper, Deputy Director, Association of Danish Shipowners.

*Advisers :*

Mr. Kjeld Mortensen, Secretary of Embassy, Bern ;

Mr. Hans Rieman, Secretary, Ministry of Foreign Affairs.

**Dominican Republic**

*Representatives :*

H.E. Dr. Ambrosio Alvarez Aybar, Ambassador Extraordinary and Plenipotentiary, Alternate Representative, United Nations, New York (*Chairman of the Delegation*) ;

Dr. José Angel Saviñon, Envoy Extraordinary and Minister Plenipotentiary, Permanent Representative to the European Office of the United Nations and the International Labour Organisation ;

Mr. A. F. M. Noelting, Consul General, Geneva.

**Ecuador**

*Representatives :*

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and Plenipotentiary, Permanent Representative, United Nations, New York (*Chairman of the Delegation*) ;

H.E. Dr. José Antonio Correa, Ambassador Extraordinary and Plenipotentiary, Ministry of Foreign Relations (*Vice-Chairman of the Delegation*) ;

H.E. Dr. Enrique Ponce y Carbo, Ambassador Extraordinary and Plenipotentiary, Legal and Technical Adviser, Ministry of Foreign Relations ;

Dr. Francisco Urbina Ortiz, Envoy Extraordinary, chargé d'affaires at The Hague.

*Adviser :*

Captain Carlos Saavedra, Naval Attaché, Embassy, London.

*Secretary of the Delegation :*

Mr. Jaime Zaldumbide Guarderas, Consul, Geneva.

**Egypt**

See United Arab Republic.

**El Salvador**

*Representatives :*

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Mr. Alberto Amy, Permanent Representative, European Office of the United Nations, and Consul General, Geneva.

**Finland**

*Representatives :*

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Mr. Torsten Tikanvaara, Permanent Representative to the International Organizations, Geneva ;

Mr. Voitto Saario, Justice of the Court of Appeal, Helsinki.

**France**

*Representatives :*

H.E. Mr. Simonnet, Secretary of State for the Merchant Marine (*Chairman of the Delegation*) ;

Professor André Gros, Legal Adviser, Ministry of Foreign Affairs (*Vice-Chairman of the Delegation*) ;

Mr. Alloy, Director, Sea Fisheries, Secretariat of State for the Merchant Marine ;

Professor Gilbert Gidel ;

Mr. Ruedel, Director, Ministry of Marine.

*Secretary-General of the Delegation :*

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*Advisers :*

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Mr. de Curton, Permanent Representative, European Office of the United Nations ;

Mr. Deleau, Counsellor of Embassy ;

Mr. Thierry, Professor, Faculty of Law, Grenoble ;  
Commander Le Masson de Rance ;

Mr. Chabrand, Magistrate in charge of Legal Affairs, Office of the Secretary of State for the Merchant Marine ;

Mr. Estable, Deputy Permanent Representative, European Office of the United Nations ;

Mrs. de Hartingh, Doctor of Law ;

Mr. Ravel, Deputy Director of Maritime Fisheries, Secretariat of State for the Merchant Marine.

#### *Technical Experts :*

Mr. Rondeau, Honorary Director of the " Compagnie des Messageries Maritimes " ;

Mr. Soublin, President of the Association of Fishing-boat owners.

### **Germany (Federal Republic of)**

#### *Representatives :*

H.E. Mr. Peter H. Pfeiffer, Ambassador (*Chairman of the Delegation*) ;

Dr. Friedrich Münch, Professor of International Law, Max-Planck Institute, Berlin (*Vice-Chairman of the Delegation*) ;

Dr. Herbert Dreher, Counsellor of Legation, Legal Division, Federal Ministry of Foreign Affairs ;

Mr. Wilhelm Bertram, Counsellor, Federal Ministry of Justice ;

Dr. Hans Wilhelm Kötter, Counsellor, Federal Ministry of Economy ;

Dr. Gerhard Meseck, Assistant Director, Federal Ministry of Food, Agriculture and Forestry ;

Dr. Gerhard Breuer, Senior Counsellor, Federal Ministry of Transport ;

Dr. Heinz Knackstedt, Counsellor, Federal Ministry of Defence.

#### *Alternate Representatives :*

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Dr. Walter Hurst, Counsellor, Federal Ministry of Finance ;

Dr. Harry Stordel, Junior Administrator, Federal Ministry of Economy ;

Mr. Fritz Werner Pirkmayr, Counsellor, Federal Ministry of Food, Agriculture and Forestry.

### **Ghana**

#### *Representatives :*

Mr. Geoffrey Bing, Q.C., Attorney-General (*Chairman of the Delegation*) ;

Mr. G. M. Scott, Solicitor-General ;

Mr. R. A. Quarshie, First Secretary, Embassy, Paris ;

Mr. K. B. Asante, Second Secretary, Office of the High Commissioner of Ghana, London.

### **Greece**

#### *Representatives :*

H.E. Mr. Alexandre Contoumas, Ambassador Extraordinary and Plenipotentiary to Switzerland (*Chairman of the Delegation*) ;

Mr. Georges Bensis, Permanent Representative to the International Organizations, Geneva ;

Mr. Phokion Potamianos, Secretary-General, Ministry of the Merchant Marine ;

Mr. Constantin Sourlos, Judge, Court of Appeal ;

Mr. Elias Krispis, Professor, University of Athens ;  
Captain Georges Panaghiotopoulos, Royal Hellenic Navy ;

Mr. Christos Serbetis, Director, Department of Fisheries, Ministry of Industry ;

Commander Basile Hanidis, Ministry of the Merchant Marine ;

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#### *Technical Counsellors :*

Mr. Georges Laimos ;

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### **Guatemala**

#### *Representatives :*

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Mr. Alberto Dupont Willemin, Permanent Representative, European Office of the United Nations and the International Labour Organisation.

### **Haiti**

#### *Representatives :*

Mr. Jean Bélizaire, Senator (*Chairman of the Delegation*) ;

Mr. Jean David, Senator ;

Mr. Antoine Regal, President of the Order of Barristers, Port-au-Prince.

#### *Alternate Representatives :*

Mr. Yvon Perrier, Chargé d'Affaires, Bonn ;

Mr. Jean Duvigneaud, Acting Chargé d'Affaires, Brussels ;

Mr. Adolf Ador, Honorary Consul-General, Geneva.

### **Holy See**

#### *Representatives :*

Professor Paul Demeur, Catholic University, Louvain ;

The Reverend Father Henri de Riedmatten.

### **Honduras**

#### *Representative :*

H.E. Mr. Francisco José Durón, Envoy Extraordinary and Minister Plenipotentiary.

## Hungary

### Representatives :

Dr. Janos Szita, Permanent Representative, European Office of the United Nations (*Chairman of the Delegation*) ;

Dr. Endre Ustor, Head of the Department of International Law and Consular Affairs, Ministry of Foreign Affairs (*Vice-Chairman of the Delegation*) ;

Mr. Endre Zador, First Secretary, Permanent Mission, European Office of the United Nations ;

Dr. Ferenc Juba, Secretary, Ministry of Posts and Communications ;

Mr. Jozsef Kovács, Second Secretary, Permanent Mission to the European Office of the United Nations.

## Iceland

### Representatives :

H.E. Mr. Gudmundur i Gudmundsson, Minister of Foreign Affairs ;

H.E. Mr. Hans G. Andersen, Ambassador (*Chairman of the Delegation*) ;<sup>1</sup>

H.E. Mr. Ludvik Josepsson, Minister for Fisheries ;

Mr. David Olafsson, Director of Fisheries ;

Mr. Jon Jonsson, Director, Fisheries Research ;

Viscount Olivier de Ferron, Consul, Geneva.

## India

### Representatives :

H.E. Shri A. K. Sen, Minister of Law (*Chairman of the Delegation*) ;

Shri S. N. Sikri, Advocate-General of the Punjab ;

H.E. Shri B. N. Kaul, Ambassador Extraordinary and Plenipotentiary to Belgium.

### Alternate Representatives :

Shri E. E. Jhirad, Judge Advocate-General of the Navy ;

Shri P. N. Menon, First Secretary, Embassy, Rome ;

Dr. N. K. Panikkar, Fisheries Development Adviser, Ministry of Food and Agriculture.

### Advisers :

Shri R. A. Narayanan, Honorary Assistant Legal Adviser, Ministry of External Affairs ;

Shri K. S. Bajpai, Secretary, Embassy, Bern.

## Indonesia

### Representatives :

H.E. Mr. Achmad Subardjo Djoyoadisuryo, Ambassador Extraordinary and Plenipotentiary to Switzerland (*Chairman of the Delegation*) ;

Mr. Mas Pardi, Chairman of the Court of Justice, Ministry of Navigation (*Vice-Chairman of the Delegation*) ;

Mr. Karni, Minister-Counsellor, Diplomatic Mission, The Hague (*Vice-Chairman of the Delegation*) ;

Mr. Alwi Sutan Osman, Deputy Chief, Department of Immigration, Ministry of Justice ;

Colonel Adam, Naval Attaché, Embassy, London ;

Mr. Surodjo Ranukusumo, Chief, Department of Geology, Ministry of Industry ;

Mr. Mochtar Kusumaatmadja, Lecturer, Padjadjaran University, Bandung ;

Mr. Gusti Muhammad Charidjie Kasuma, Deputy Chief, Central Sea-Fisheries Department, Ministry of Agriculture ;

Mr. Sudharno Mustafa, Senior Official, Directorate of Legal Affairs, Ministry of Foreign Affairs.

### Adviser :

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### Special Assistants :

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Mr. Munadjat Danaseputro, Cultural Attaché, Embassy, Bern ;

Mr. Pablo Frontaura.

## Iran

### Representatives :

Dr. Ahmad Matine-Daftary, Senator (*Chairman of the Delegation*) ;

Mr. Abdol-Ahad Dara, Counsellor, Ministry of Foreign Affairs (*Vice-Chairman of the Delegation*) ;

Dr. Mohamad Ali Hekmat, Legal Adviser, Ministry of Foreign Affairs ;

Mr. Mohamad-Hossein Akhavi, Member, Council of Administration of the Northern Fisheries ;

Mr. Fuad Rouhani, Legal Administrator of the " Société nationale du pétrole " ;

Mr. Fatollah Naficy, Administrator in the management of the " Société nationale du pétrole " ;

Captain Abdol-Hossein Vahabi, Ministry of War ;

Dr. Gholam-Reaz Tadj-Bakhch.

### Advisers :

Dr. Hossein Davoudi ;

Mr. Sadegh Azimi.

### Secretaries of Delegation :

Mr. M. Gandji ;

Mr. Modir.

## Iraq

### Representative :

Dr. Hasan Zakariya, Director-General, Legal Department, Ministry of Foreign Affairs.

## Ireland

### Representatives :

Mr. Seán Morrissey, Legal Adviser, Department of External Affairs (*Chairman of the Delegation*) ;

Mr. Séamus Mallin, Inspector and Engineer, Fisheries Division, Department of Lands ;

<sup>1</sup> In the absence of Mr. Gudmundur i Gudmundsson.

Mr. James Fay, Principal Officer, Department of Defence.

*Alternate Representative :*

Mr. Tadhg O'Sullivan, Secretary, Legation, Bern.

**Israel**

*Representatives :*

Mr. Michael Comay, Deputy Director-General, Ministry of Foreign Affairs (*Chairman of the Delegation*);

Mr. Shabtai Rosenne, Legal Adviser, Ministry of Foreign Affairs (*Vice-Chairman of the Delegation*);

Mr. Izaak Mintz, Legal Adviser, Ministry of Transport and Communications;

Captain Shmuel Yanai, Chief of Naval Operations;

H.E. Mr. Moshe Tov, Ambassador Extraordinary and Plenipotentiary;<sup>1</sup>

Mr. Moshe Shavit, Director, Division of Fisheries, Ministry of Agriculture;

Mr. Paul Bar Zeev.<sup>2</sup>

*Alternate Representative :*

Mr. Menaham Kahany, Permanent Representative, European Office of the United Nations.

*Adviser :*

Mr. Josef Lador, Principal Assistant to the Legal Adviser, Ministry of Foreign Affairs;

*Secretaries of the Delegation :*

Miss Pauline Cooperstone;

Mrs. Helen Eisinger, Secretary to the Legal Adviser.

**Italy**

*Representatives :*

Mr. Riccardo Monaco, Professor, University of Rome, Counsellor of State, Legal Adviser, Ministry of Foreign Affairs (*Chairman of the Delegation*<sup>3</sup>);

Mr. Roberto Ago, Professor, University of Rome, Member, Commission on International Law (*Chairman of the Delegation*<sup>4</sup>);

Dr. Michele Gaetano de Rossi, Counsellor of Legation;

Colonel Anselmo Gabrielli, Attaché, Bureau of Naval Treaties;

Dr. Raffaele Cusmai, Head of Department, Ministry of the Merchant Marine;

Dr. Vincenzo Vitelli, Head of Department, Ministry of the Merchant Marine;

Dr. Fausto Bacchetti, First Secretary of Legation.

*Alternate Representatives :*

Dr. Angelo Franchi, Counsellor, Ministry of the Merchant Marine;

Dr. Sergio Paroletti, Counsellor, Ministry of the Merchant Marine.

<sup>1</sup> As from 16 April 1958.

<sup>2</sup> As from 15 April 1958.

<sup>3</sup> From 24 February to 6 April 1958.

<sup>4</sup> From 6 April.

*Advisers :*

Mr. Manlio Udina, Professor, University of Trieste;

Mr. Mario Scerni, Professor, University of Genoa.

*Secretaries of the Delegation :*

Dr. Giorgio Bosco, Attaché of Legation;

Dr. Oliviero Rossi, Attaché of Legation.

**Japan**

*Representatives :*

H.E. Mr. Akira Ohye, Ambassador Extraordinary and Plenipotentiary to the Netherlands (*Chairman of the Delegation*);

H.E. Mr. Ichiro Kawasaki, Envoy Extraordinary and Minister Plenipotentiary, Permanent Mission to the International Organizations, Geneva;

H.E. Mr. Senjin Tsuruoka, Envoy Extraordinary and Minister Plenipotentiary to the Holy See.

*Advisers :*

Dr. Kisabura Yokota, Legal Adviser to the Minister for Foreign Affairs;

Dr. Hiroaki Aikawa, Professor of Fishery Science, Kyushu University;

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Mr. Shoji Sato, Consul-General, Geneva;

Mr. Katsuichi Ikawa, Chief, First Section, Treaties Bureau, Ministry of Foreign Affairs;

Mr. Kei Miyakawa, Research Secretary, Ministry of Foreign Affairs;

Mr. Kenzo Kawakami, Secretary, Ministry of Foreign Affairs;

Mr. Fumihiko Suzuki, Secretary, Ministry of Foreign Affairs;

Mr. Kazuo Chiba, Third Secretary, Permanent Mission to the International Organizations in Geneva;

Mr. Harunori Kaya, Secretary, Ministry of Foreign Affairs;

Dr. Shigeru Oda, Assistant Professor of International Law, Tohoku University;

Dr. Gensaku Fujinaga, Chief, Investigation and Research Division, Fisheries Agency;

Mr. Hisao Nakazato, Chief, First Oceans Section, Production Division, Fisheries Agency;

Mr. Zenjiro Yoshida, Chief, Administration Division, Maritime Safety Agency;

Mr. Hiroshi Inoue, Chief, Nautical Affairs Section, Maritime Co-ordination Division, Ministry of Transportation.

**Jordan**

*Representatives :*

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Mr. Sami Awad, Secretary, Aqaba Port Authority.

**Korea (Republic of)**

*Representatives :*

H.E. Mr. Yong Woo Kim, Ambassador Extraordinary and Plenipotentiary to the Court of St. James (*Chairman of the Delegation*);

H.E. Mr. Pyo Wook Han, Minister Plenipotentiary in Washington (*Vice-Chairman of the Delegation*);  
Mr. Soo Young Lee, Counsellor, Embassy, London.

*Advisers :*

Mr. Chul Soon Moon, Chief, Treaty Section, Ministry of Foreign Affairs;

Mr. Kyu Young Hahn, First Secretary, Legation, Paris.

**Laos**

*Representative :*

Mr. Sisouk Na Champassak, Deputy Permanent Representative to the United Nations, New York.

**Lebanon**

*Representatives :*

H.E. Dr. Nagib Sadaka, Ambassador Extraordinary and Plenipotentiary to Switzerland (*Chairman of the Delegation*);

Dr. Jean Baz, President of the Court of Appeal, Beyrouth;

Dr. Antoine Fattal, Counsellor of State;

Mr. Riad Ali Ahmad, Director of Communications, Ministry of Public Works.

**Liberia**

*Representatives :*

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Mr. Rocheforte L. Weeks, Assistant Attorney-General;

Mr. Edgar T. Kongsberg.

**Libya**

*Representatives :*

Mr. Fuad Caabasi, Under-Secretary, Ministry of Communications (*Chairman of the Delegation*);

Mr. Gibril Shallouf, Head of Department, Ministry of Foreign Affairs;

Dr. H. Zlitni, Federal Government;

Mr. J. Gow, Port Manager, Tripoli.

**Luxembourg**

*Representative :*

Mr. Ignace Bessling, Permanent Representative, European Office of the United Nations and the International Labour Organisation.

**Malaya (Federation of)**

*Representative :*

Mr. Mohamed Suffrian bin Hashim, Senior Federal Counsel, Attorney-General's Chambers.

**Mexico**

*Representatives :*

H.E. Dr. Luis Padilla Nervo, Secretary of State for External Relations (*Chairman of the Delegation*);

H.E. Dr. Pablo Campos Ortiz, Ambassador Extraordinary and Plenipotentiary;<sup>1</sup>

H.E. Dr. Alfonso García Robles, Ambassador Extraordinary and Plenipotentiary;

H.E. Dr. Antonio Gomez Robledo, Envoy Extraordinary and Minister Plenipotentiary;

Dr. Jorge Castañeda;

Dr. Salvador Cardona.

*Advisers :*

Professor José Alvarez del Villar;

Professor Enrique Rioja;

Dr. Ismael Moreno;

Miss Elisa Aguirre.

*Secretary :*

Mr. Juan Antonio Mérida Aza.

**Monaco**

*Representatives :*

H.E. Mr. César Solamito, Minister Plenipotentiary (*Chairman of the Delegation*);

Professeur Paul de la Pradelle;

Mr. Jean Raimbert, Secretary for Claims and Legislative Studies.

**Morocco**

*Representatives :*

H.E. Mr. Abdellatif Filali, Minister Plenipotentiary, Legal Adviser, Minister of Foreign Affairs (*Chairman of the Delegation*);

Mr. Sinaceur Ben Larbi, Chargé d'Affaires, Bonn;<sup>2</sup>

Mr. Mohamed Bennani, Director of the Merchant Marine;

Mr. Ahmed Osman, Director, European Department, Ministry of Foreign Affairs.

**Nepal**

*Representative :*

H.E. Mr. Rishikesh Shaha, Ambassador Extraordinary and Plenipotentiary, Permanent Representative to the United Nations, New York.

**Netherlands**

*Representatives :*

Mr. J. H. W. Verzijl, Professor, University of Utrecht (*Chairman of the Delegation*);

H.E. Mr. E. Star Busmann, Ambassador Extraordinary and Plenipotentiary (*Vice-Chairman of the Delegation*);

<sup>1</sup> Chairman of the Delegation in the absence of the Secretary for External Relations.

<sup>2</sup> Chairman of the Delegation as from 31 March 1958.

Mr. W. Riphagen, Legal Adviser, Ministry of Foreign Affairs ;

Rear-Admiral M. W. Mouton, Legal Adviser, Naval Staff ;

Mr. G. J. Lienesch, Director of Fisheries, Ministry of Agriculture, Fisheries and Food ;

Mr. H. E. Scheffer, Legal Adviser, Ministry of Transport and *Waterstaat*.

*Special Advisers :*

Mr. N. Debrot, Deputy Minister Plenipotentiary of the Netherlands West Indies ;

Mr. W. L. de Vries, Director-General of Shipping ;  
Jonkheer H. F. van Panhuys, Deputy Legal Adviser, Ministry of Foreign Affairs ;<sup>1</sup>

Mr. A. Thurmer, Fisheries Consultant, Ministry of Agriculture, Fisheries and Food.

*Secretaries of the Delegation :*

Mr. Z. F. Marcella, Ministry of Foreign Affairs ;

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### **New Zealand**

*Representatives :*

H.E. Mr. J. V. Wilson, Ambassador Extraordinary and Plenipotentiary to France (*Chairman of the Delegation*) ;

Mr. G. L. O'Halloran, Secretary for Marine, Marine Department ;

Mr. R. Q. Quentin-Baxter, Office of the High Commissioner, Ottawa ;

Commander W. N. Waite, Royal New Zealand Navy.

*Alternate Representative :*

Miss A. B. Souter, Department of External Affairs.

### **Nicaragua**

*Representatives :*

H.E. Dr. Guillermo Sevilla Sacasa, Ambassador Extraordinary and Plenipotentiary to the United States, Permanent Representative, United Nations, New York (*Chairman of the Delegation*) ;

H.E. Mr. Ignacio Portocarrero Lacayo, Ambassador Extraordinary and Plenipotentiary ;

Mr. Antonio A. Mullhaupt, Consul, Geneva.

### **Norway**

*Representatives :*

Mr. O. C. Gundersen, Judge of the Supreme Court (*Chairman of the Delegation*) ;

Mr. Bredo Stabell, Director, Legal Department, Ministry of Foreign Affairs (*Vice-Chairman of the Delegation*) ;

Mr. Finn Seyersted, Chief of Division, Ministry of Foreign Affairs ;

Mr. Jens Bugge, Secretary, Ministry of Foreign Affairs ;

Mr. Carl Stabel, Director, Legal Department, Ministry of Justice ;

Mr. Johs. Sellaeg, Director, Fishing and Sealing Department, Ministry of Fisheries ;

Mr. Olav Lund, Chief of Division, Directorate of Fisheries ;

Dr. Birger Rasmussen, Fishery Consultant, Directorate of Fisheries ;

Mr. Johannes Dalstoe, Director, Shipping Department, Ministry of Commerce and Shipping ;

Mr. Erik Moe, Chief of Whaling Division, Ministry of Industry ;

Commander W. A. Coucheron-Aamot, Ministry of Defence ;

Mr. Johann Cappelen, Counsellor ; Permanent Representative, European Office of the United Nations and the International Organizations, Geneva.

*Advisers :*

Mr. H. J. Darre-Hirsch, Director-General, Norwegian Shipowners' Association ;

Mr. Olaf Malterud, Director, Norwegian Shipowners' Association ;

Mr. Ingvald Haugen, Secretary-General, Norwegian Seamen's Union ;

Mr. Frithjof Bettum, Supreme Court Barrister, President of the Association of Norwegian Whaling Companies ;

Mr. Einar Vangstein, Director, Association of Norwegian Whaling Companies ;

Mr. Magnus Andersen, President, Norwegian Fishermen's Association ;

Mr. Knut Vartdal, Shipowner, Norwegian Fishing Boat Owners' Association ;

Mr. Johs. Overaa, Director, Norwegian White Fish Sales Association ;

Mr. Torkel Opsahl, Lecturer and Research Fellow, University of Oslo ;

Mr. Knut Rasmussen, Secretary, Norwegian Shipowners' Association.

*Secretariat :*

Mrs. Iben Jacobsen.

### **Pakistan**

*Representatives :*

Mr. Zulfiqar Ali Bhutto, Barrister-at-Law (*Chairman of the Delegation*) ;

Sir Edward Snelson, Law Secretary to the Government ;

Mr. M. A. Samad, Joint Secretary, Ministry of Law ;

Mr. S. M. Murshed ;

Mr. Yamin Qureshi, Deputy Secretary, Ministry of Agriculture ;

Commander A. Hameed.

### **Panama**

*Representatives :*

H.E. Dr. Carlos Sucre, Ambassador Extraordinary and Plenipotentiary (*Chairman of the Delegation*) ;

<sup>1</sup> From 28 March 1958.

H.E. Dr. Ernesto Castellero Pimentel, Deputy Minister for External Relations ;

H.E. Professor Renato Ozores, Ambassador Extraordinary and Plenipotentiary ;

H.E. Professor Angel Rubio, Ambassador Extraordinary and Plenipotentiary.

*Alternate Representatives :*

Mr. Carlos A. Chambonnet, Chargé d'Affaires, Permanent Mission, European Office of the United Nations.

Miss Elvia Lefèvre, Consul General, Bern.

### **Paraguay**

*Representatives :*

H.E. Dr. Carlos R. Velilla, Ambassador Extraordinary and Plenipotentiary to the Holy See (*Chairman of the Delegation*) ;

H.E. Dr. Ramiro Recalde de Vargas, Minister Plenipotentiary to Italy.

### **Peru**

*Representatives :*

H.E. Dr. Alberto Ulloa Sotomayor, former Minister for External Relations (*Chairman of the Delegation*) ;

H.E. Dr. Enrique García Sayán, former Minister for External Relations ;

H.E. Rear-Admiral Luis Edgardo Llosa, former Minister for External Relations ;

Dr. Edwin Letts, Director, Department of International Organizations and Conference, Ministry of External Relations ;

Dr. Maximo Cisneros, Naval Barrister-at-Law ;

Dr. Andrés A. Aramburu Menchaca, Professor of International Public Law, National University, San Marcos.

*Counsellors :*

Mr. Manuel Elguera, National Fisheries Company ;

Mr. Luis Gamarra Dulanto, State Guano Company.

### **Philippines**

*Representatives :*

Dr. Arturo M. Tolentino, Senator (*Chairman of the Delegation*) ;

Dr. Jorge Bocobo, Chairman of the Code Commission ;<sup>1</sup>

H.E. Dr. Juan M. Arreglado, Minister Plenipotentiary ;

H.E. Mr. Roberto Regala, Ambassador.<sup>2</sup>

*Advisers :*

Mr. Claro Martin, Chief, Fisheries Research Division, Bureau of Fisheries, Department of Agriculture and Natural Resources ;

Colonel Roman T. Gavino, Military Attaché, Embassy, Paris ;

<sup>1</sup> Chairman of the Delegation in the absence of Dr. Tolentino.

<sup>2</sup> From 31 March 1958.

Lt. Commander Avelino de Guzman, Bureau of Coast and Geodetic Survey, Department of National Defence.

### **Poland**

*Representatives :*

H.E. Professor Tadeusz Ocioszynski, Under-Secretary of State, Ministry of Navigation (*Chairman of the Delegation*) ;

H.E. Mr. Adam Meller-Conrad, Minister Plenipotentiary, Permanent Representative, European Office of the United Nations (*Vice-Chairman of the Delegation*) ;

Professor Mirosław Gasiorowski, Deputy-Director, Legal Department, Ministry of Foreign Affairs ;

Professor Remigiusz Bierzanek, Deputy ;

Professor Walerian Ciegiewicz, Institute of Marine Fisheries ;

Professor Remigiusz Zaorski, Director of the Marine Institute, Gdansk.

*Advisers :*

Mrs. Eugenia Gieborek, Head of Division, Ministry of Navigation ;

Mr. Wojciech Goralczyk, Lecturer, University of Warsaw ;

Mrs. Krystyna Jamiolkowska, Counsellor, Legal Department, Ministry of Foreign Affairs ;

Mr. Franciszek Przetacznik, Counsellor, Legal Department, Ministry of Foreign Affairs.

### **Portugal**

*Representatives :*

H.E. Count de Tovar, Ambassador (*Chairman of the Delegation*) ;

Dr. José Ferreira Bossa ;

Dr. José Madeira Rodrigues ;

Commander Joaquim Gormicho Boavida ;

Dr. Mario Joao de Oliveira Ruivo ;

Commander Joaquim Carlos Esteves Cardoso, Naval Engineer ;

Dr. José Joaquim Romano de Castro.

### **Romania**

*Representatives :*

H.E. Mr. Alexandru Lazareanu, Deputy Minister for Foreign Affairs (*Chairman of the Delegation*) ;

Mr. Grigore Geamanu, Dean, Faculty of Legal Sciences (*Vice-Chairman of the Delegation*) ;

Mr. Adrian Iosipescu, Director, Legal and Treaty Department, Ministry of Foreign Affairs ;

Mr. Mihail Ghelmegeanu, Principal Scientific Officer, Institute of Legal Research ;

Mr. Edwin Glaser, Professor, Principal Legal Counsellor, Ministry of Foreign Affairs ;

Mr. Androne Nae, Legal Adviser, Ministry of Foreign Affairs.

*Adviser :*

Mr. Alexandru Bolintineanu, Principal Scientific Officer, Institute of Legal Research.

*Expert :*

Mr. Ilie Dobre, Naval Inspector.

**San Marino (Republic of)**

*Representative :*

Dr. Emmanuel Noel, Consul-General, Brussels.

*Alternate Representative :*

Mr. Henry Reynaud, Consul-General.

**Saudi Arabia**

*Representatives :*

H.E. Mr. Ahmed Shukairi, Minister of State for United Nations Affairs (*Chairman of the Delegation*);

Mr. Samir Shihabi ;

Mr. Mamdouh Adib ;

Mr. Abdurrahman Albaiz ;

Mr. Nasser Shuaibi ;

Mr. Teha Arrashid Aldughaiter ;

Mr. Salem Azzam.

**Spain**

*Representatives :*

H.E. Mr. Alonso Alvarez de Toledo y Mencos, Marquis of Miraflores, Ambassador Extraordinary and Plenipotentiary to Switzerland (*Chairman of the Delegation*);

Rear-Admiral Juan José de Jáuregui, Under-Secretary of the Merchant Marine ;

Rear-Admiral Alvaro Guitián, Ministry of Marine ;

Mr. Antonio de Luna, Professor of International Law, Legal Adviser, Ministry of External Affairs.

*Alternate Representatives :*

H.E. Mr. Luis García de Llera, Minister Plenipotentiary, Permanent Representative, European Office of the United Nations ;

Colonel José Gómez de Barreda, Directorate-General of Navigation ;

Colonel José Galán, Air Ministry ;

Mr. Juan Manuel Castro Rial, Secretary of Embassy, Assistant-Director, Department of International Organizations, Ministry of External Affairs ;

Lieut-Colonel Luis Orcasitas, Ministry of Marine ;

Mr. Marcelino Cabanas, Senior Counsel, Ministry of Justice.

*Advisers :*

Lieut-Colonel José Luis Azcárraga, Naval Legal Service.

Lieut-Colonel Ernesto Machín, Air Ministry ;

Commander Jerónimo Traspaderne, Administration of Maritime Fisheries ;

Mr. Rafael Gasset, Secretary of Embassy ;

Mr. Manuel García Miranda, Secretary of Embassy ;

Mr. Manuel Lacleta, Secretary of Embassy ;

Mr. Victor de la Serna, Press Attaché, Permanent Mission to the European Office of the United Nations.

*Secretary of the Delegation :*

Marquis of Robledo, Secretary of Embassy, Permanent Mission to the International Organizations, Geneva.

**Sweden**

*Representatives :*

H.E. Mr. Sture Petré, Ambassador Extraordinary and Plenipotentiary, Director of Legal Affairs, Ministry of Foreign Affairs (*Chairman of the Delegation*);

H.E. Mr. Sven Dahlgren, Ambassador Extraordinary and Plenipotentiary to the Netherlands ;

Mr. Jöran Hult, Principal Director, Administration of Fisheries ;

Mr. Torsten Gihl, Former Professor of Stockholm University, Counsellor and Expert in matters of International Law, Ministry of Foreign Affairs ;

Captain Hans Gottfridsson, Royal Navy.

*Advisers :*

Mr. Axel Edelstam, Secretary, Ministry of Foreign Affairs ;

Mr. Rune Fremlin, Attaché, Ministry of Foreign Affairs.

**Switzerland**

*Representatives :*

H.E. Mr. Paul Ruegger, Ambassador (*Chairman of the Delegation*);

Mr. Alfred Schaller, Counsellor of State, and National Councillor, Basle, President of the Swiss Commission for Maritime Navigation ;

Mr. E. Froelich, Former President of the Foundation for Transport Services in the service of the Red Cross ;

Mr. R. Bindschedler, Professor, Head of the Legal Service, Federal Political Department ;

Mr. Sven Stiner, Assistant Chief of the Division of International Organizations, Federal Political Department ;<sup>1</sup>

Mr. R. Probst, Legal Service, Federal Political Department ;

Mr. Walter Müller, Barrister and Notary, Basle, Legal Expert of the Swiss Commission for Maritime Navigation ;

Mr. Herbert Duttwyler, Deputy Director of the Swiss Office for Maritime Navigation ;

Mr. Ernest A. Grau, Director of the Oceana Shipping Company, Coire ;

Mr. A. R. Werner, Doctor of Law, Lecturer at the University of Geneva.

**Thailand**

*Representatives :*

H.R.H. Prince Wan Waithayakon Krommun Naradhip Bongsprabandh, Deputy Prime Minister and Minister for Foreign Affairs, Permanent Representative, United Nations, New York ;<sup>2</sup>

<sup>1</sup> From 15 March 1958.

<sup>2</sup> Elected President of the Conference.

Luang Chakrapani Srisilvisuddhi, Judge of the Supreme Court of Appeal, Ministry of Justice (*Chairman of the Delegation*);

Major-General Ambhorn Sriyayanta, Legal Adviser, Defence General Staff, Ministry of Defence;

Mr. Boon Indrambarya, Director-General, Fisheries Department, Ministry of Agriculture;

Commodore Jit Sangkhadol, Naval Attaché, Embassy, Paris;

Mr. Chapikorn Sreshtaputra, Assistant Legal Adviser, Ministry of Foreign Affairs.

*Secretary :*

Mr. Prayut Nawongs, Office of the Secretary to the Minister for Foreign Affairs.

### **Tunisia**

*Representatives :*

Mr. Mustapha Abdeselem (*Chairman of the Delegation*);

Mr. Hamida Ben Salem;

Mr. Brahim Douik.

### **Turkey**

*Representatives :*

Mr. Necmettin Tuncel, Director-General, Ministry of Foreign Affairs (*Chairman of the Delegation*);

Mr. Osman Dostel, Chief Legal Adviser, Ministry of Foreign Affairs;

Mr. Sait Kandan, Adviser, Prime Minister's Office;

Dr. Sevkett Müftügil, Director-General, Ministry of Justice;

Dr. İlhan Lütem, Professor of International Law, University of Ankara.

*Alternate Representatives :*

Commander Hilmi Firat, Ministry of Defence;

Mr. Haydar Aytekin, Director, Meat and Fish Office;

Dr. Melih Ezgü, Ministry of Justice.

*Adviser :*

Mr. Yüksel Söylemez, Third Secretary, Ministry of Foreign Affairs.

*Technical Adviser (Unofficial) :*

Mr. Ceydet Aygün.

### **Ukrainian Soviet Socialist Republic**

*Representatives :*

Mr. V. M. Koretsky, Professor, Member of the Academy of Sciences (*Chairman of the Delegation*);

Mr. K. S. Zabigailo, First Secretary, Ministry of Foreign Affairs.

*Adviser :*

Mr. A. A. Pushkin, Lecturer, Juridical Institute, Kharkov.

*Secretary of the Delegation :*

Mr. Y. A. Lapanov.

### **Union of South Africa**

*Representatives :*

Mr. D. B. Sole, Chargé d'Affaires, Vienna (*Chairman of the Delegation*);

Dr. L. H. Wessels, Q.C., Law Adviser, Department of Justice.

*Alternate Representative :*

Dr. J. C. G. Liebenberg, Third Secretary, Legation, Bern.

### **Union of Soviet Socialist Republics**

*Representatives :*

Mr. G. I. Tunkin, Head, Treaties and Legal Section, Ministry of Foreign Affairs (*Chairman of the Delegation*);

Mr. A. N. Nikolaev, Deputy Head, Treaties and Legal Section, Ministry of Foreign Affairs (*Vice-Chairman of the Delegation*);

Captain A. A. Saveliev, Member of the Board, Chief of Department, Ministry of Merchant Marine Fleet;

Mr. A. D. Keilin, Professor, Institute of Foreign Trade; Legal Adviser, Ministry of Foreign Trade;

Mr. S. B. Krylov, Professor, Institute of Foreign Relations; Legal Adviser, Ministry of Foreign Affairs.

*Advisers :*

Mr. A. K. Zhudro, Head of the Legal Section, Ministry of Merchant Marine Fleet;

Mr. P. L. Bezrukov, Professor and Laboratory Director, Oceanographic Institute, Academy of Sciences;

Mr. G. K. Izhevsky, Senior Scientific Officer, Scientific Research Institute for Sea Fisheries and Oceanography;

Mr. S. V. Molodtsov, Senior Scientific Officer, Legal Institute, Academy of Sciences;

Mr. V. L. Borisov, Adviser, Permanent Mission to the European Office of the United Nations;

Captain K. P. Ryzhkov, U.S.S.R. Navy;

Mr. D. N. Kolesnik, Second Secretary, Ministry of Foreign Affairs.

*Experts :*

Mr. V. I. Khamanov, Assistant, Treaties and Legal Section, Ministry of Foreign Affairs;

Mr. V. A. Romanov, Third Secretary, Ministry of Foreign Affairs.

*Secretariat :*

Mr. Busarov, Ministry of Foreign Affairs;

Mrs. E. S. Nikolaeva, Ministry of Foreign Affairs;

Mrs. Y. V. Pavlova, Ministry of Foreign Affairs.

Mrs. T. M. Korolyuk, Ministry of Foreign Affairs.

### **United Arab Republic<sup>1</sup>**

*Representatives :*

H.E. Mr. Omar Loutfi, Ambassador Extraordinary

<sup>1</sup> The delegation of the United Arab Republic replaced the delegations of Egypt and Syria on 11 March 1958.

and Plenipotentiary, Permanent Representative, United Nations, New York (*Chairman of the Delegation*) ;

Dr. Abdel Fattah Gohar, Director, Institute of Hydrobiology ;

Mr. Salah Gohar, Director, Department of Palestinian Affairs ;

Mr. Abdallah El Erian, Assistant Professor, Faculty of Law, University of Cairo.

*Advisers :*

Mr. Esmat Abdel Meguid ;

Mr. Mohamed Riad ;

Mr. Ali Samir Safwat ;

Mr. Selim El Yaffi.

*Secretaries :*

Mr. Saleh Bassiouni ;

Mr. Ahmed Sedky.

**United Kingdom of Great Britain  
and Northern Ireland**

*Representatives :*

Sir Reginald Manningham-Buller, Bt., Q.C., M.P., Attorney-General, Senior Law Officer of the Crown (*Chairman of the Delegation*) ;

Sir Harry Hylton-Foster, Q.C., M.P., Solicitor-General, Law Officer of the Crown (*Vice-Chairman of the Delegation*) ;

Sir Gerald Fitzmaurice, K.C.M.G., Q.C., Chief Legal Adviser, Foreign Office ;<sup>1</sup>

Sir Alec Randall, K.C.M.G., O.B.E., formerly Ambassador to Denmark ;

Mr. R. G. R. Wall, Fisheries Secretary, Ministry of Agriculture, Fisheries and Food ;

Miss Joyce A. C. Gutteridge, Assistant Legal Adviser, Foreign Office.

*Advisers :*

Sir William Sullivan, K.B.E., C.M.G., formerly Ambassador to Mexico ;

Dr. D. H. N. Johnson, Reader in International Law, London School of Economics, University of London.

Captain R. P. S. Grant, D.S.C., R.N. ;

Mr. K. J. Pritchard, Department of the Secretary of the Admiralty ;

Commander R. H. Kennedy, O.B.E., R.N.(Ret.), Naval Assistant, Hydrographic Department ;

Mr. T. F. Bird, C.B., Under-Secretary, Ministry of Transport and Civil Aviation ;

Mr. R. G. Bellamy, Assistant Secretary, Ministry of Transport and Civil Aviation ;

Mr. L. E. Dale, Principal, Ministry of Transport and Civil Aviation ;

Mr. A. W. G. Kean, Assistant Solicitor, Treasury Solicitors' Department, Ministry of Transport and Civil Aviation ;

Mr. R. S. Wimpenny, O.B.E., M.Sc., Deputy Director of Fisheries Research, Senior Principal Scientific Officer, Ministry of Agriculture, Fisheries and Food ;

Mr. R. H. Stone, Assistant Principal, Ministry of Agriculture, Fisheries and Food ;

Dr. C. E. Lucas, C.M.G., D.Sc., F.R.S.E., Director of Marine Laboratory, Fisheries Division, Scottish Home Department ;

Mr. T. F. S. Hetherington, Assistant Secretary, Fisheries Division, Scottish Home Department ;

Mr. N. J. P. Hutchison, Assistant Secretary, Scottish Home Department ;

Mr. E. C. Burr, Principal, Colonial Office ;

Mr. B. J. Greenhill, Principal, Commonwealth Relations Office.

*Unofficial Advisers :*

Major-General Sir Farndale Philips, K.B.E., C.B., D.S.O., President, British Trawlers Federation ;

Mr. J. S. Coble, Chairman, Distant Water Section, British Trawlers Federation ;

Mr. Dawson R. Miller, C.B.E., General Council of British Shipping ;

Dr. D. S. Tennant, C.B.E., British Seafarers Unions ;  
Mr. W. T. Wright, A.F.C.

**United States of America**

*Representatives :*

Mr. Arthur H. Dean (*Chairman of the Delegation*) ;

Mr. William Sanders, Special Assistant to the Under-Secretary of State (*Vice-Chairman of the Delegation*) ;

Vice-Admiral Oswald S. Colclough (Ret.), Department of Defence, Professor of Law and Dean of Faculties, George Washington University ;

Mr. William C. Herrington, Special Assistant to the Under-Secretary of State ;

Miss Marjorie M. Whiteman, Assistant Legal Adviser, Department of State ;

Mr. Arnie J. Suomela, Commissioner of Fish and Wildlife, Department of the Interior ;

Mr. Raymond T. Yingling, Assistant Legal Adviser, Department of State.

*Alternate Representative :*

Mr. Nat B. King, Counsellor of Embassy (Economic Affairs), Baghdad.

*Congressional Adviser :*

Mr. Russell B. Long, Senator.<sup>2</sup>

*Senior Advisers :*

Mr. Franklin C. Gowen, Representative to the International Organizations, Geneva ;

Mr. Ross L. Leffler, Assistant Secretary of Interior for Fish and Wildlife ;

Mr. David H. Popper, Deputy Representative to the International Organizations, Geneva.

*Advisers :*

Mr. Edward W. Allen, United States Commissioner, International North Pacific Fisheries Commission ;

Mr. Paul Averitt, Geological Survey, Department of the Interior ;

<sup>1</sup> Chairman of the Delegation in the absence of the principal delegates.

<sup>2</sup> As from 11 April 1958.

Mr. Warren E. Baker, General Counsel, Federal Communications Commission ;

Captain Rafael C. Benitez, Office of the Secretary of Defence ;

Mr. Frank Boas, Office of the Legal Adviser, Department of State ;

Mr. Milton Brooding, United States Commissioner, International North Pacific Fisheries Commission ;

Mr. Wilbert M. Chapman, American Tunaboat Association, San Diego, California ;

Mr. Keith Ferguson, Admiralty Section, Civil Affairs Division, Department of Justice ;

Mr. Arthur E. Gorman, Consultant, Division of Reactor Development, Atomic Energy Commission ;

Captain Leonard R. Hardy, Department of Defence ;

Captain Wilfred A. Hearn, Department of Defence ;

Mr. Bernard Heinzen, Office of the Legal Adviser, Department of State ;

Mr. Chester S. Lawton, General Plant Engineer, International Communications, Western Union Telegraph Company, New York ;

Mr. John W. Mann, Shipping Division, Department of State ;

Mr. John C. Marr, Fish and Wildlife Service, Department of the Interior ;

Commander William L. Morrison, Department of the Treasury ;

Mr. Paul W. Meyer, Office of Far Eastern Affairs, Department of State ;

Mr. William R. Neblett, Executive Director, National Shrimp Congress, Tallahassee, Florida ;

Mr. George Owen, Bureau of Inter-American Affairs, Department of State ;

Mr. G. Etzel Percy, The Geographer, Department of State ;

Mr. Percy R. Peck, Maritime Administration, Department of Commerce ;

Mr. Benjamin H. Read, Office of the Legal Adviser, Department of State ;

Mr. Peter Roberts, Office of European Affairs ;

Lieutenant-Commander Horace B. Robertson Jr., Department of Defence ;

Mr. Oscar Sette, Fish and Wildlife Service, Department of the Interior ;

Mr. George H. Steele Jr., National Cannery Association, Washington ;

Mr. Fred E. Taylor, Office of the Special Assistant to the Under-Secretary of State ;

Mr. William M. Terry, Fish and Wildlife Service, Department of the Interior ;

Mr. Marten H. A. Van Heuven, Office of the Legal Adviser, Department of State.

#### *Public Information Officer :*

Mr. John M. Stuart, Public Affairs Officer, Geneva.

#### *Secretary of Delegation :*

Mr. Virgil L. Moore, Conference Attaché, Geneva.

#### *Technical Secretary :*

Mr. Ernest L. Kerley, Office of the Legal Adviser, Department of State.

#### *Administrative Officer :*

Mr. J. Harlan Southerland, Office of International Conferences, Department of State.

### **Uruguay**

#### *Representatives :*

H.E. Dr. José A. Quadros, Ambassador Extraordinary and Plenipotentiary to the Court of St. James (*Chairman of the Delegation*) ;

Rear-Admiral D. Carlos Carbajal ;

Lt. Homero Martínez Montero, Permanent Representative, European Office of the United Nations ;

H.E. Mr. Víctor Pomés, Minister Plenipotentiary ;

Dr. Alvaro Alvarez.

### **Venezuela**

#### *Representatives :*

Dr. Ramón Carmona, Legal Adviser, Ministry of Foreign Affairs (*Chairman of the Delegation*) ;

Dr. Angel Aguerrevere ;

Dr. Armando Schwarck Anglade ;

Dr. Leonardo Díaz González ;

Commander Carlos Arturo Porras ;

Dr. Adolfo C. Romero ;

Captain R. Arístides Rojas.

#### *Advisers :*

Dr. Luis J. Cordero ;

Dr. Ignacio Silva Sucre ;

Mr. Germán Nava Carillo ;

Mr. José Luis Martínez ;

Dr. Angel Francisco Luján ;

Mr. Adolfo Raúl Taylhardat ;

Dr. Oscar Oyarzábal ;

Mr. Felipe Martén Salazar ;

Mr. Francisco Casanova.

### **Viet-Nam (Republic of)**

#### *Representatives :*

Professor Nguyen-Quoc-Dinh, (*Chairman of the Delegation*) ;

Mr. Buu-Kinh, Embassy, Paris.

### **Yemen**

#### *Representative :*

Dr. Hassan Baghdadi (*Chairman of the Delegation*).

### **Yugoslavia**

#### *Representatives :*

H.E. Mr. Milan Bartos, Ambassador Extraordinary and Plenipotentiary, Titular Member of the International Maritime Committee (*Chairman of the Delegation*) ;

Mr. Vuksan Popovic, Director, General Department, Secretariat of State for Foreign Affairs (*Vice-Chairman of the Delegation*) ;

Mr. Natko Katicic, Professor of Law, University of Zagreb, Titular Member of the International Maritime Committee ;

Captain Miroslav Dragustin, Master Mariner, Director-General of Administration of Sea and River Navigation, Titular Member of the International Maritime Committee ;

Captain Josip Vrtacnik ;

Mr. Predrog Nikolic, Counsellor, Secretariat of State for Foreign Affairs.

*Alternate Representatives :*

Mr. Zvonimir Petnicki, First Secretary, Secretariat of State for Foreign Affairs ;

Mr. Sime Zupanovic, Agricultural Expert, Scientific Collaborator of the Institute of Oceanography and Fisheries, Split ; Vice-President of the Committee on Economy and Statistics of the General Council of Fisheries for the Mediterranean.

**Specialized Agencies**

**INTERNATIONAL LABOUR ORGANISATION**

Mr. David A. Morse, Director-General of the International Labour Office ;

Mr. C. W. Jenks, Assistant Director-General of the International Labour Office ;

Mr. Luis Alvarado, Assistant Director-General of the International Labour Office ;

Mr. Francis Wolf, Chief, Legal Division ;

Mr. Tord H. Bratt, Chief, Maritime Division ;

Mr. David S. Blanchard, Maritime Division.

**UNITED NATIONS FOOD AND AGRICULTURE ORGANIZATION**

Mr. Frederick E. Popper, Chief, Economics Branch, Fisheries Division ;

Dr. Geoffrey Leighton Kesteven, Chief, Biology Branch, Fisheries Division.

**UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION**

Dr. Hanna Saba ;

Mr. Cacciapuoti ;

Mr. Paul Anger.

**INTERNATIONAL CIVIL AVIATION ORGANIZATION**

Dr. Jean Carroz, Legal Bureau.

**WORLD HEALTH ORGANIZATION**

Mr. Frank Gutteridge, Legal Officer ;

Mr. Antoine Henri Zarb, Chief of the Legal Service.

**INTERNATIONAL TELECOMMUNICATION UNION**

Mr. Gerald C. Gross, Deputy Secretary-General ;

Mr. William F. Studer, Counsellor.

**WORLD METEOROLOGICAL ORGANIZATION**

Mr. Jean R. Rivet, Deputy Secretary-General.

**OFFICERS OF THE CONFERENCE AND ITS COMMITTEES**

**President of the Conference**

Prince Wan Waithayakon (Thailand).

**Vice-Presidents of the Conference**

The representatives of the following Member States : Argentine, China, France, Guatemala, India, Italy, Mexico, Netherlands, Poland, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

**First Committee**

*(Territorial Sea and Contiguous Zone)*

*Chairman :*

Mr. K. H. Bailey (Australia).

*Vice-Chairman :*

Mr. Sergio Gutiérrez Olivos (Chile).

*Rapporteur :*

Mr. V. M. Koretsky (Ukrainian SSR).

**Second Committee**

*(High Seas : General Régime)*

*Chairman :*

Mr. O. C. Gundersen (Norway).

*Vice-Chairman :*

Mr. E. Glaser (Romania).

*Rapporteur :*

Mr. J. Madeira Rodrigues (Portugal).

**Third Committee**

*(High Seas : Fishing, Conservation of Living Resources)*

*Chairman :*

Mr. Carlos Sucre (Panama).

*Vice-Chairman :*

Mr. Elias Krispis (Greece).

*Rapporteur :*

Mr. N. K. Panikkar (India).

**Fourth Committee**

*(Continental Shelf)*

*Chairman :*

Mr. A. B. Perera (Ceylon).

*Vice-Chairman :*

Mr. R. A. Quarshie (Ghana).

*Rapporteur :*

Mr. L. Díaz González (Venezuela).

### **Fifth Committee**

*(Question of Free Access to the Sea  
of Land-locked Countries)*

*Chairman :*

Mr. J. Zourek (Czechoslovakia).

*Vice-Chairman :*

Mr. W. Guevara Arze (Bolivia).

*Rapporteur :*

Mr. A. H. Tabibi (Afghanistan).

### **General Committee**

The President of the Conference, as Chairman, the

thirteen Vice-Presidents of the Conference and the Chairmen of the five main committees.

### **Credentials Committee**

The representatives of the following States : Canada, Iceland, Indonesia, Liberia, Mexico, Netherlands, Nicaragua, Union of Soviet Socialist Republics, United States of America.

### **Drafting Committee of the Conference**

The representatives of the following States : China, Czechoslovakia, Ecuador, France, Pakistan, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America.

## **SECRETARIAT OF THE CONFERENCE**

Mr. C. A. Stavropoulos, Legal Counsel (Representative of the Secretary-General of the United Nations) ;

Mr. Yuen-li Liang, Director, Codification Division, Office of Legal Affairs (Executive Secretary) ;

Mr. G. Sandberg, Assistant Director, Codification Division, Office of Legal Affairs (Deputy Executive Secretary) ;

Mr. W. M. Cox, Deputy Director, Office of the Legal Counsel (Secretary of the First Committee and Secretary of the Credentials Committee) ;

Miss K. Chen, Legal Officer (Secretary of the Second Committee) ;

Mr. P. Raton, Legal Officer (Secretary of the Third Committee) ;

Mr. D. Bowett, Legal Officer (Secretary of the Fourth Committee) ;

Mr. C. Malek, Legal Officer (Secretary of the Fifth Committee) ;

Miss C. Rhodes, Secretary of the Drafting Committee, Special Assistant to the Executive Secretary ;

Miss B. Cerna, Administrative Officer.

*Experts :*

Dr. B. N. Chopra, Former Fisheries Adviser to the Government of India ;

Professor J. P. A. François, Rapporteur of the International Law Commission on the Law of the Sea ;

Mr. M. B. Schaefer, Director of Investigations, Inter-American Tropical Tuna Commission ; Research Associate, Scripps Institution of Oceanography, University of California.

## AGENDA <sup>1</sup>

1. Opening of the Conference by the Secretary-General.
2. Election of the President.
3. Adoption of the agenda.
4. Adoption of the rules of procedure.
5. Appointment of the Credentials Committee.
6. Convening of the five Main Committees for the purpose of electing Chairmen.
7. Election of Vice-Presidents.
8. Organization of work.
9. Appointment of the Drafting Committee.
10. Examination of the law of the sea in accordance with resolution 1105 (XI) adopted by the General Assembly on 21 February 1957.
11. Study of the question of free access to the sea of land-locked countries in accordance with resolution 1105 (XI) adopted by the General Assembly on 21 February 1957.
12. Adoption of conventions or other instruments regarding the matters considered and of the Final Act of the Conference.

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<sup>1</sup> Adopted by the Conference at its first plenary meeting and circulated as document A/CONF.13/34.

The text of the agenda approved by the Conference does not differ from the provisional agenda contained in document A/CONF.13/9, apart from item 6 which, in the provisional agenda, read as follows :

- “ 6. Convening of the Main Committees and the special Committee on the question of free access to the sea of land-locked countries for the purpose of electing Chairmen.”



## RULES OF PROCEDURE<sup>1</sup>

### CHAPTER I. REPRESENTATION AND CREDENTIALS

#### *Composition of delegations*

##### *Rule 1*

The delegation of each State participating in the Conference shall consist of accredited representatives and such alternate representatives and advisers as may be required.

#### *Alternates or advisers*

##### *Rule 2*

An alternate representative or an adviser may act as a representative upon designation by the Chairman of the delegation.

#### *Submission of credentials*

##### *Rule 3*

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Secretary if possible not later than twenty-four hours after the opening of the Conference. The credentials shall be issued either by the Head of the State or Government, or by the Minister for Foreign Affairs.

#### *Credentials Committee*

##### *Rule 4*

A Credentials Committee shall be appointed at the beginning of the Conference. It shall consist of nine members who shall be appointed by the Conference on the proposal of the President. It shall examine the credentials of representatives and report to the Conference without delay.

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<sup>1</sup> As adopted by the Conference at its first and second plenary meetings and circulated as document A/CONF.13/35.

The text of the rules approved by the Conference does not differ from that of the provisional rules contained in document A/CONF.13/10, apart from the following changes:

(a) The Conference, at its 1st plenary meeting held on 24 February 1958, decided that thirteen Vice-Presidents should be elected. Consequential changes were therefore made in rule 6 of the provisional rules prepared by the Secretariat, in which the number of nine Vice-Presidents had been proposed, and in rule 13, in which the composition of the General Committee was laid down.

(b) The Conference, at the same meeting, agreed that the expression "the majority required" occurring in rules 43 and 44 of the provisional rules of procedure should be amended, for the sake of clarity, to read "a majority of the representatives present and voting".

(c) Also at its first plenary meeting, the Conference decided that the proposed "Special Committee on the Question of Free Access to the Sea of Land-locked Countries" should be constituted as a Main Committee of the Conference. Consequential changes were therefore made in rules 6, 13, 46, 47, 48, 60 and 63 of the provisional rules.

### *Provisional participation in the Conference*

##### *Rule 5*

Pending a decision of the Conference upon their credentials, representatives shall be entitled provisionally to participate in the Conference.

### CHAPTER II. OFFICERS

#### *Elections*

##### *Rule 6*

The Conference shall elect a President and thirteen Vice-Presidents, and such other officers as it may decide. The Vice-Presidents shall be elected after the election of the Chairmen of the five Main Committees.

#### *President*

##### *Rule 7*

The President shall preside at the plenary meetings of the Conference.

##### *Rule 8*

The President, in the exercise of his functions, remains under the authority of the Conference.

#### *Acting President*

##### *Rule 9*

If the President is absent from a meeting or any part thereof, he shall appoint a Vice-President to take his place.

##### *Rule 10*

A Vice-President acting as President shall have the same powers and duties as the President.

#### *Replacement of the President*

##### *Rule 11*

If the President is unable to perform his functions, a new President shall be elected.

#### *The President shall not vote*

##### *Rule 12*

The President, or Vice-President acting as President, shall not vote but shall appoint another member of his delegation to vote in his place.

### CHAPTER III. GENERAL COMMITTEE

#### *Composition*

##### *Rule 13*

There shall be a General Committee of nineteen members, which shall comprise the President of the Conference, the Vice-Presidents and the Chairmen of the Main Committees. No two members of the General Committee shall be drawn from the same delegation, and it shall be so constituted as to ensure its

representative character. The President of the Conference or, in his absence, a Vice-President designated by him, shall serve as Chairman of the General Committee.

#### *Substitute members*

##### *Rule 14*

If the President or a Vice-President of the Conference finds it necessary to be absent during a meeting of the General Committee, he may designate a member of his delegation to sit and vote in the Committee. The Chairman of a Committee shall, in case of absence, designate the Vice-Chairman of that Committee as his substitute. A Vice-Chairman shall not have the right to vote if he is of the same delegation as another member of the General Committee.

#### *Functions*

##### *Rule 15*

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the co-ordination of its work.

### CHAPTER IV. SECRETARIAT

#### *Duties of the Secretary-General and the Secretariat*

##### *Rule 16*

1. The Secretary-General of the Conference shall be the Secretary-General of the United Nations. He, or his representative, shall act in that capacity in all meetings of the Conference and its Committees.

2. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference and its committees.

3. The Secretariat shall receive, translate, reproduce and distribute documents, reports and resolutions of the Conference; interpret speeches made at the meetings, prepare and circulate records of the public meetings; have the custody and preservation of the documents in the archives of the United Nations; publish the reports of the public meetings; distribute all documents of the Conference to the participating governments and, generally, perform all other work which the Conference may require.

#### *Statements by the Secretariat*

##### *Rule 17*

The Secretary-General or any member of the staff designated for that purpose may make oral or written statements concerning any question under consideration.

### CHAPTER V. CONDUCT OF BUSINESS

#### *Quorum*

##### *Rule 18*

A quorum shall be constituted by the representatives of a majority of the States participating in the Conference.

#### *General powers of the President*

##### *Rule 19*

In addition to exercising the powers conferred upon

him elsewhere by these rules, the President shall declare the opening and closing of each plenary meeting of the Conference, direct the discussions at such meetings, accord the right to speak, put questions to the vote and announce decisions. He shall rule on points of order and, subject to these rules of procedure, have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the limitation of time to be allowed to speakers, the limitation of the number of times each representative may speak on any question, the closure of the list of speakers or the closure of the debate. He may also propose the suspension or the adjournment of the debate on the question under discussion.

#### *Speeches*

##### *Rule 20*

No person may address the Conference without having previously obtained the permission of the President. Subject to rules 21 and 22, the President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

#### *Precedence*

##### *Rule 21*

The Chairman or Rapporteur of a committee, or the representative of a sub-committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his committee, sub-committee or working group.

#### *Points of order*

##### *Rule 22*

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote and the President's ruling shall stand unless overruled by a majority of the representatives present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

#### *Time limit on speeches*

##### *Rule 23*

The Conference may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. When the debate is limited and a representative has spoken his allotted time, the President shall call him to order without delay.

#### *Closing of list of speakers*

##### *Rule 24*

During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. He may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

## *Adjournment of debate*

### *Rule 25*

During the discussion of any matter, a representative may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

## *Closure of debate*

### *Rule 26*

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the closure of the debate shall be accorded only to two speakers opposing the closure, after which the motion shall be immediately put to the vote. If the Conference is in favour of the closure, the President shall declare the closure of the debate. The President may limit the time to be allowed to speakers under this rule.

## *Suspension or adjournment of the meeting*

### *Rule 27*

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speaker moving the suspension or adjournment.

## *Order of procedural motions*

### *Rule 28*

Subject to rule 22, the following motions shall have precedence in the following order over all other proposals or motions before the meeting :

- (a) To suspend the meeting ;
- (b) To adjourn the meeting ;
- (c) To adjourn the debate on the question under discussion ;
- (d) For the closure of the debate on the question under discussion.

## *Proposals and amendments*

### *Rule 29*

Proposals and amendments thereto shall normally be introduced in writing and handed to the Executive Secretary of the Conference, who shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Conference unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day.

## *Decisions on competence*

### *Rule 30*

Subject to rule 22, any motion calling for a decision

on the competence of the Conference to discuss any matter or to adopt a proposal or an amendment submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.

## *Withdrawal of motions*

### *Rule 31*

A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion which has thus been withdrawn may be reintroduced by any representative.

## *Reconsideration of proposals*

### *Rule 32*

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on the motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

## *Invitations to technical advisers*

### *Rule 33*

The Conference may invite to one or more of its meetings any person whose technical advice it may consider useful for its work.

## CHAPTER VI. VOTING

### *Voting rights*

### *Rule 34*

Each State represented at the Conference shall have one vote.

### *Required majority*

### *Rule 35*

1. Decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the representatives present and voting.
2. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting.
3. If the question arises whether a matter is one of procedure or of substance, the President of the Conference shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.

### *Meaning of the expression "representatives present and voting"*

### *Rule 36*

For the purpose of these rules, the phrase "representatives present and voting" means representatives present and casting an affirmative or negative vote. Representatives who abstain from voting shall be considered as not voting.

## *Method of voting*

### *Rule 37*

The Conference shall normally vote by show of hands or by standing, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the delegation whose name is drawn by lot by the President.

## *Conduct during voting*

### *Rule 38*

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connexion with the actual conduct of the voting. The President may permit representatives to explain their votes, either before or after the voting, except when the vote is taken by secret ballot. The President may limit the time to be allowed for such explanations.

## *Division of proposals and amendments*

### *Rule 39*

A representative may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

## *Voting on amendments*

### *Rule 40*

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

## *Voting on proposals*

### *Rule 41*

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

## *Elections*

### *Rule 42*

All elections shall be held by secret ballot unless otherwise decided by the Conference.

## *Rule 43*

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot a majority of the representatives present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

## *Rule 44*

When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining in the first ballot a majority of the representatives present and voting shall be elected. If the number of candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

## *Equally divided votes*

### *Rule 45*

If a vote is equally divided on matters other than elections, the proposal shall be regarded as rejected.

## CHAPTER VII. COMMITTEES

### *Creation of committees*

### *Rule 46*

In addition to the General Committee and the Credentials Committee, the Conference shall establish five Main Committees and such other committees as it deems necessary for the performance of its functions. Each committee may set up sub-committees or working groups.

## *Main Committees*

### *Rule 47*

The Main Committees shall be :

First Committee (Territorial Sea and Contiguous Zone)

Second Committee (High Seas : General Régime)

Third Committee (High Seas : Fishing ; Conservation of Living Resources)

Fourth Committee (Continental Shelf)

Fifth Committee (Question of free access to the sea of land-locked countries)

**Rule 48**

Each State participating in the Conference may be represented by one person on each Main Committee. It may assign to these Committees such alternate representatives and advisers as may be required.

*Drafting Committee*

**Rule 49**

A Drafting Committee, composed of not more than nine members, shall be appointed by the Conference on the proposal of the General Committee. It shall be entrusted with the final drafting and co-ordination of the instruments approved by the Committees of the Conference. It shall also prepare the Final Act of the Conference.

*Co-ordination by the General Committee*

**Rule 50**

Questions affecting the co-ordination of their work may be referred by other committees to the General Committee, which may make such arrangements as it thinks fit, including the holding of joint meetings of committees or sub-committees and the establishment of joint working groups. The General Committee shall appoint, or arrange for the appointment of, the Chairman of any such joint body.

*Officers*

**Rule 51**

Except in the case of the General Committee, each committee and sub-committee shall elect its own officers.

*Quorum*

**Rule 52**

A majority of the representatives on a committee or sub-committee shall constitute a quorum.

*Officers, conduct of business, and voting in committees*

**Rule 53**

The rules contained in chapters II, V and VI above shall be applicable *mutatis mutandis* to the proceedings of committees and sub-committees, except that decisions of committees and sub-committees shall be taken by a majority of the representatives present and voting.

CHAPTER VIII. LANGUAGES AND RECORDS

*Official and working languages*

**Rule 54**

Chinese, English, French, Russian and Spanish shall be the official languages of the Conference. English, French and Spanish shall be working languages.

**Rule 55**

Speeches made in any of the working languages shall be interpreted into the other two working languages.

*Interpretation from official languages*

**Rule 56**

Speeches made in either of the other two official languages shall be interpreted into the three working languages.

*Interpretation from other languages*

**Rule 57**

Any representative may make a speech in a language other than the official languages. In this case he shall himself provide for interpretation into one of the working languages. Interpretation into the other working languages by the interpreters of the Secretariat may be based on the interpretation given in the first working language.

*Summary records*

**Rule 58**

Summary records of the plenary meetings of the Conference and of the meetings of the Main Committees of the Conference shall be kept by the Secretariat. They shall be sent as soon as possible to all representatives, who shall inform the Secretariat within three working days after the circulation of the summary record of any changes they wish to have made.

*Language of documents and summary records*

**Rule 59**

Documents and summary records shall be made available in the working languages.

CHAPTER IX. PUBLIC AND PRIVATE MEETINGS

*Plenary meetings and meetings of committees*

**Rule 60**

The plenary meetings of the Conference and the meetings of the Main Committees shall be held in public unless the body concerned decides that exceptional circumstances require that a particular meeting be held in private.

*Meetings of sub-committees or working groups*

**Rule 61**

As a general rule meetings of a sub-committee or working group shall be held in private.

*Communiqué to the press*

**Rule 62**

At the close of any private meeting a communiqué

may be issued to the press through the Executive Secretary.

CHAPTER X. OBSERVERS FROM SPECIALIZED  
AGENCIES AND INTER-GOVERNMENTAL BODIES

*Rule 63*

1. Observers of specialized agencies and inter-governmental bodies invited to the Conference may

participate, without the right to vote, in the deliberations of the Conference and its Main Committees, upon the invitation of the President or Chairman, as the case may be, on questions within the scope of their activities.

2. Written statements of such specialized agencies and inter-governmental bodies shall be distributed by the Secretariat to the delegations at the Conference.

# SUMMARY RECORDS OF THE PLENARY MEETINGS

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## FIRST PLENARY MEETING

*Monday, 24 February 1958, at 3 p.m.*

*Acting President* : Mr. STAVROPOULOS (Legal Counsel to the United Nations, representing the Secretary-General)

*later*

*President* : Prince WAN WAITHAYAKON (Thailand)

### Opening of the Conference

[Agenda item 1]

1. The ACTING PRESIDENT, on behalf of the Secretary-General of the United Nations, declared the United Nations Conference on the Law of the Sea open.
2. Mr SPINELLI (Director of the European Office of the United Nations), after welcoming the delegations, said that the Conference would have serious difficulties to overcome before concrete results could be achieved. The large number of eminent statesmen and jurists taking part in the Conference showed the importance which governments attached to its success. He shared the hopes of world public opinion that the proposals submitted by the International Law Commission would have a practical outcome, and expressed his warmest wishes for the success of the Conference.
3. The ACTING PRESIDENT said that he welcomed the delegations on behalf of the Secretary-General, who deeply regretted his inability to attend the opening of the Conference.
4. The convening of the Conference in accordance with General Assembly resolution 1105 (XI) of 21 February 1957 marked the culmination of eight years' work by the International Law Commission on the régime of the high seas and the régime of the territorial sea. In 1953, the General Assembly, in resolution 798 (VIII), had expressed the view that the many complex problems involved in the study of the law of the sea were essentially interdependent; in 1956, the International Law Commission had submitted to the General Assembly, at its eleventh session, a comprehensive report (A/3159), chapter II of which was now before the Conference as a basis for its discussions. The work done by the Secretariat in the past year was described in the Secretary-General's report on the preparation of the Conference (A/CONF.13/20).
5. The inability of the Codification Conference held at The Hague in 1930 to reach agreement on a convention dealing with the territorial sea did not justify pessimism regarding the outcome of the present conference. The very fact that the present conference had wider terms of reference made compromise and adjustment more likely.
6. Scientific and technological progress had raised new

problems connected with the exploitation of the resources of the sea, which stood in urgent need of a rational and just solution. In municipal law, that challenge had been met; and it could therefore be hoped that the combined experience of States would enable them to meet it in the international sphere as well. Conflicts of interest between States and differences in state practice raised considerable difficulties for the Conference. That, however, in the view of the Secretary-General, was an overwhelming reason for reaching agreement before such differences produced incidents of international concern.

7. The task of the Conference was primarily a legal one, but it must bear in mind the technical, biological, economic and political factors involved in its work; both the International Law Commission and the General Assembly had recognized the need to consider those factors.

8. He drew attention to the Secretary-General's memorandum, prepared with expert advice, concerning the method of work and procedures of the Conference (A/CONF.13/11), which contained a number of recommendations and comments on the provisional agenda (A/CONF.13/9) and the provisional rules of procedure (A/CONF.13/10).

9. In conclusion, he stressed that any convention or other legal instrument drawn up by the Conference would have no value beyond that which States would give to it. He therefore urged the States invited to the Conference to carry on its work by implementing any agreement that might be reached.

10. He then invited Mr. Petitpierre, head of the Swiss Federal Political Department, to address the Conference.

11. Mr. PETITPIERRE (Head of the Swiss Federal Political Department) said that even though man had conquered the air, the sea still remained a very important means of communication. All countries, whether they had a sea-coast or not, were interested in the law of the sea; for their prosperity and the strengthening of peaceful relations between them depended on freedom of navigation. To safeguard that freedom should be the Conference's main aim—the first visible expression of the desire of the United Nations to give a recognized form to that codification of the law which was too frequently delayed by selfish or political considerations.

12. He thought that if the law was codified by the community of States, and dealt with a specific subject, it was much more likely to be observed. Even if the legal rules adopted did not reflect real unity of views and fell short of the rules of international custom, they would afford better safeguards because they were expressed in written form.

13. He wished the Conference every success in its important work.

*The meeting was suspended at 3.40 p.m., and resumed at 4 p.m.*

### Question of the representation of China

14. Mr. TUNKIN (Union of Soviet Socialist Republics), speaking on a point of order, said that the State of China was not represented at the Conference; the presence of representatives of Chiang Kai-shek was inadmissible and unlawful. The lawful representatives of China could only be those appointed by the Government of the People's Republic of China. The absence of representatives of the Great Chinese people would be harmful to the Conference and to the cause of international co-operation.
15. He also pointed out that invitations to the Conference had not been sent to the Governments of the German Democratic Republic, the People's Democratic Republic of Korea and the Democratic Republic of Viet-Nam. Failure to invite the states in question was contrary to the basic principles of modern international law.
16. Mr. LIU (China) said that he spoke with the greatest reluctance on a question which was extraneous to the purposes and objectives of the Conference. Emphasizing that the government he represented was the only government of China elected under a constitution based on the free consent of the people, he pointed out that time and time again the States Members of the United Nations had supported the status of China's rightful representatives. His government commanded the allegiance of all free Chinese, and was a beacon of hope for the millions under communist rule. It would make a mockery of the Conference to admit the Chinese communists, who had defied all standards of international conduct.
17. Mr. DEAN (United States of America) submitted that the statement of the USSR representative was out of order, since the question he had raised was outside the Conference's terms of reference.
18. Recalling the terms of General Assembly resolution 1105 (XI) convening the Conference, he emphasized that the Conference had no power to go beyond the terms of that resolution. The Government of the People's Republic of China had failed to respect the generally accepted standards of international conduct and stood condemned by the United Nations for its participation in the aggression against Korea. The right of the representative of the Republic of China to participate in the Conference should not be impaired.
19. Mr. SEN (India) said that the absence of representatives of the Central Government of the People's Republic of China imparted an element of unreality to the Conference so far as the peoples of the Far East were concerned. If ideals of peaceful co-existence were to prevail, the United Nations could not afford to exclude representatives of that government from its discussions.
20. Mr. HAN (Republic of Korea), supporting the representatives of China and the United States, challenged the USSR representative's statement and recalled the manner in which the Governments of the so-called People's Republic of China and Democratic People's Republic of Korea had defied the authority of the United Nations.
21. Mr. BA HAN (Burma) supported the statement of the representative of India.
22. Mr. NGUYEN-QUOC-DINH (Republic of Viet-Nam) thought that the question raised by the Soviet Union representative was outside the competence of the Conference; for the General Assembly, which had convoked the Conference, had clearly laid down, in its resolution 1105 (XI), what States were to be invited. The State of Viet-Nam was legally represented at the Conference by the delegation of the Republic of Viet-Nam.
23. Mr. SHAHA (Nepal) said that his government had recognized the Government of the People's Republic of China and he accordingly associated himself with the views expressed by the representatives of India and Burma. At the same time, however, he agreed with the United States representative that the Conference was bound by the terms of General Assembly resolution 1105 (XI), under which only States Members of the United Nations or of the specialized agencies were to be invited to participate in the Conference.
24. Mr. OBHLIDAL (Czechoslovakia) thought the Conference so important, by reason of its object, that the People's Republic of China, a country with an immense sea-coast, could not possibly be excluded. The government of that country could not be expected to ratify any instrument adopted if its representatives were not admitted to the Conference. He also regretted the absence of representatives of the German Democratic Republic, the Mongolian People's Republic, the Democratic People's Republic of Korea and the Democratic Republic of Viet-Nam.
25. Mr. ALVAREZ AYBAR (Dominican Republic) associated himself with the comments of the United States representative. As the Central Government of the People's Republic of China had not been freely chosen by the Chinese people, it could not represent that people at the Conference.
26. Mr. GOHAR (Egypt) said that his government had recognized the Central Government of the People's Republic of China and therefore considered that only that government should represent the people of China at international gatherings.
27. Mr. PFEIFFER (Federal Republic of Germany) said that the German Democratic Republic had not been formed by the German people and was not governed on their behalf. He associated himself with the statements made by the representatives of the United States and the Republic of Viet-Nam.
28. Sir Claude COREA (Ceylon) expressed his regret at the absence of a representative of the People's Republic of China. He recalled that when the convening of a conference had first been discussed by the General Assembly, at its eleventh session, his delegation, together with other delegations, had proposed that sovereign countries which were not members of the United Nations should be invited.<sup>1</sup> That proposal had been

<sup>1</sup> See *Official Records of the General Assembly, Eleventh Session, Annexes*, agenda item 53, document A/3520, para. 14 (i).

defeated, and it did not seem proper for the Conference to invite those very countries which the General Assembly had declined to invite. It was regrettable that the failure to invite the People's Republic of China would make the Conference less effective.

29. Mr. BARTOS (Yugoslavia) said that the Central Government of the People's Republic of China was a government in the true sense of the word. It controlled the territory of China and had been recognized by almost half of the countries represented at the Conference. It had been stated that the General Assembly had finally settled the question of the representation of China. In point of fact, it had always deferred consideration of the question, the last occasion being at its twelfth session; but according to the resolution adopted by the General Assembly, that decision was for the duration of the twelfth session only, and since the session was closed the decision no longer applied. Since every diplomatic conference was sovereign, the Conference on the Law of the Sea could take up the question. In his delegation's opinion, the Formosa Government was not qualified to represent China at the Conference.

30. Mr. BAGHDADI (Yemen) considered it astonishing that a country in which a quarter of the world's population lived should be excluded from a conference convened to codify an important branch of international law.

31. The ACTING PRESIDENT said that all the statements made would be noted in the official record of the meeting. He then invited the Conference to take up the next item on the provisional agenda.

#### Election of the President

[Agenda item 2]

32. The ACTING PRESIDENT invited nominations for the office of President of the Conference.

33. Mr. TRUJILLO (Ecuador), speaking on behalf of the delegations of the Latin American States, nominated Prince Wan Waithayakon (Thailand).

34. Mr. SEN (India) and Mr. BARTOS (Yugoslavia) seconded the nomination.

35. The ACTING PRESIDENT proposed that, since there was only one nomination, the secret ballot required under rule 42 of the provisional rules of procedure should be dispensed with.

*It was so agreed.*

*Prince Wan Waithayakon (Thailand) was elected President by acclamation, and took the Chair.*

36. The PRESIDENT thanked the representatives who had nominated him for the cordial terms in which they had done so. He welcomed Mr. Petitpierre, Head of the Swiss Federal Political Department, on behalf of the Conference, and thanked Mr. Spinelli, newly-appointed Director of the European Office of the United Nations, for the valuable services which he and his staff were providing.

37. He fully shared the views expressed regarding the importance of the Conference. The General Assembly,

mindful of its duty under Article 13 (1) (a) of the Charter to encourage the progressive development and codification of international law, had been giving special attention for some years to the law of the sea. The sea was the common heritage of mankind. It was therefore in the common interest that the law of the sea should be certain, that it should regulate justly the various interests involved and that it should ensure the preservation of that heritage for the benefit of all.

38. He expressed the gratitude of the Conference to the International Law Commission for its painstaking work in drafting the articles concerning the law of the sea (A/3159, chap. II, section II), which constituted the basic document of the Conference.

39. In conclusion, he stated his belief that with the co-operation of all the States represented and the unfailing assistance of the Secretariat, the problems before the Conference would be successfully solved.

40. Mr. SHAHA (Nepal) and Mr. TABIBI (Afghanistan) congratulated the President on his election.

#### Adoption of the Agenda

[Agenda item 3]

41. Mr. TABIBI (Afghanistan) proposed that item 6 of the provisional agenda (A/CONF.13/9) be amended to make the Special Committee on the question of free access to the sea of land-locked countries one of the main committees. The change would entail consequential amendments to the rules of procedure.

42. Mr. SZITA (Hungary) supported the amendment to item 6.

*The amendment was adopted.*

*The provisional agenda (A/CONF.13/9), as amended, was adopted.*

#### Adoption of the rules of procedure

[Agenda item 4]

43. Mr. GRIGOROV (Bulgaria) said that, for the sake of the universality of the Conference, rules 1 and 63 of the provisional rules of procedure (A/CONF.13/10) should be amended to allow all countries, whether invited or not, and whether they had access to the sea or not, to send observers. His delegation's amendments would be circulated before the next meeting.

44. Mr. GARCIA ROBLES (Mexico) proposed, on behalf of all the Latin-American delegations, that in rule 6 the word "nine" be replaced by the word "thirteen". The main purpose of that amendment was to broaden the representation of the various schools of legal thought. If the amendment was adopted, a consequential change would have to be made in rule 13 — namely, the replacement of the word "fifteen" by the word "nineteen".

45. On behalf of the Mexican delegation alone, he pointed out that the term "majority required" in rule 43 (1) was ambiguous; and rule 35, entitled "Required Majority", shed no light on the matter. The Mexican delegation thought that the Conference should take a decision on the point in order to avoid possible misunderstandings later.

*The Mexican amendments to rules 6 and 13 were adopted unanimously.*

46. The PRESIDENT, referring to the Mexican representative's comment on rule 43 (1), said that the "majority required" was generally the majority of those present and voting. He therefore suggested that rule 43 (1) be amended in that sense.

*It was so agreed.*

47. The PRESIDENT proposed that, in consequence of the adoption of the Afghan proposal regarding the wording of agenda item 6, the various references to the Special Committee in the provisional rules of procedure be amended.

*It was so agreed.*

48. Mr. TABIBI (Afghanistan) said that, as a further consequence of the decision to amend item 6, rule 47 should refer to a Fifth Committee (Question of Free Access to the Sea of Land-Locked Countries).

49. The PRESIDENT said that the point would be noted. He proposed that the Bulgarian amendments to rules 1 and 63 be considered at the next meeting, and that the rules of procedure be adopted subject to the decision to be taken on these amendments.

*It was so agreed.*

The meeting rose at 6.15 p.m.

## SECOND PLENARY MEETING

*Tuesday, 25 February 1958, at 3 p.m.*

*President* : Prince WAN WAITHAYAKON (Thailand)

### Appointment of a Credentials Committee

[Agenda item 5]

1. The PRESIDENT pointed out that under rule 4 of the rules of procedure, the Conference was required to appoint a Credentials Committee consisting of nine members. Subject to the Conference's approval, he proposed that the Committee should consist of representatives of the following States: Canada, Iceland, Indonesia, Liberia, Mexico, Netherlands, Nicaragua, Union of Soviet Socialist Republics, United States of America.

*It was so decided.*

### Adoption of the rules of procedure (A/CONF.13/10, A/CONF.13/L.1) (concluded)

[Agenda item 4]

2. The PRESIDENT drew attention to the amendments to rules 1 and 63 of the rules of procedure (A/CONF.13/10) proposed by Bulgaria, which had been circulated as document A/CONF.13/L.1.

3. The first amendment consisted of adding the following paragraph to rule 1 :

"Each State not participating in the Conference shall have the right to send observers or experts to it."

4. The second amendment re-worded rule 63 as follows :

"1. Observers and experts of States may participate, without the right to vote, in the deliberations of the Conference and its main committees upon the invitation of the President or Chairman, as the case may be, on questions within the scope of their activities.

"2. Observers of specialized agencies and inter-governmental bodies invited to the Conference shall have the same rights.

"3. Written statements of such specialized agencies and intergovernmental bodies shall be distributed by the Secretariat to the delegations at the Conference."

5. Mr. DEAN (United States of America) said that the amendments proposed by the Bulgarian delegation to rules 1 and 63 of the rules of procedure (A/CONF.13/L.1) dealt with matters on which the Conference was not entitled to take a decision. He therefore raised the question of competence under rule 30 of the rules of procedure of the Conference adopted at the previous meeting. The same point had been discussed at that meeting when the USSR representative and others had referred to the absence of certain political entities from the Conference.

6. He pointed out that, by virtue of its resolution 1105 (XI), the General Assembly had specifically limited attendance at the Conference to States Members of the United Nations and States members of the specialized agencies, and had invited interested specialized agencies and intergovernmental bodies to send observers. At the General Assembly's eleventh session, a proposal submitted by the representatives of Ceylon, India and Indonesia to the effect that other entities should be allowed to attend<sup>1</sup> had been rejected. His delegation considered, therefore, that the Conference was not competent to consider the Bulgarian amendments and requested that a decision in accordance with rule 30 should be taken before the Conference proceeded with its business.

7. Mr. BOCOBO (Philippines), referring to rule 35 (1), suggested that decisions should be taken by a simple majority. The rule that decisions on all matters of substance required a two-thirds majority might prevent some of the proposals for the progressive codification of international law from being included in the convention or conventions which the Conference might adopt. To require a two-thirds majority would be an injustice to the International Law Commission, which had worked for many years on the drafting of the articles concerning the law of the sea. He therefore hoped that members would reflect on his suggestion and that rule 35 (1), as adopted, might still be amended.

8. Mr. LIMA (El Salvador) thought that the Conference was not competent to consider the amendments

<sup>1</sup> See *Official Records of the General Assembly, Eleventh Session, Annexes*, agenda item 53, document A/3520, para. 14 (i).

submitted by the Bulgarian delegation. The composition of the Conference had been fixed by General Assembly resolution 1105 (XI) and, in any case, on an earlier occasion, the Sixth Committee had rejected an amendment under which all States would have been invited to participate.<sup>2</sup>

9. The delegation of El Salvador would vote against the amendment to rules 1 and 63 of the rules of procedure proposed by Bulgaria.

10. Mr. KIM (Republic of Korea), after congratulating the President on his election, associated himself with the United States representative's statement; the amendments submitted by the Bulgarian delegation were an attempt to enable the representatives of certain puppet States to attend the Conference. If the Bulgarian amendments were put to the vote his delegation would vote against them.

11. Mr. SEN (India) said that, although it had been one of the sponsors of the amendment providing for the participation of all States, the Indian delegation considered itself bound by the Assembly's decision rejecting that amendment. Accordingly, it would have to oppose the Bulgarian amendments. It would be a dangerous precedent if the Conference were allowed to overrule a decision of the Assembly which had convoked it. He therefore asked the Bulgarian representative to reconsider the matter purely from the point of view of the Conference's competence, and not to press for his amendments to be put to the vote.

12. Mr. LAZAREANU (Romania) said that the Romanian delegation supported the amendments submitted by the Bulgarian delegation. Many States not invited to the Conference were interested in the questions with which it was to deal, and those States should be given an opportunity to express their views. To enable them to do so would greatly enhance the prospects of the instruments adopted by the Conference being universally ratified. In his opinion, General Assembly resolution 1105 (XI) in no way forbade the Conference to invite States to send observers; indeed, the sending of observers was consistent with international practice. The General Assembly itself sometimes invited non-member States to send observers to its meetings.

13. Mr. BAGHDADI (Yemen) thought that the Conference should obtain technical advice from as many sources as possible. As rule 33 of the rules of procedure provided that the Conference might "invite to one or more of its meetings any person whose technical advice it may consider useful for its work", he himself could see no reason why States which had not been invited to attend the Conference should not be invited to send experts, if its work would thereby be facilitated.

14. He proposed that the Bulgarian amendment to rule 1 should be redrafted to provide that the General Committee was competent to authorize non-participating States to send experts or observers to the Conference.

15. Mr. LIU (China) said that the Bulgarian amendments did not in fact concern the rules of procedure;

they concerned the composition of the Conference, which was not a matter within its own competence. Rule 1 of the rules of procedure dealt with the composition of delegations; the composition of the Conference, on the other hand, had been clearly defined in resolution 1105 (XI), and any attempt to enlarge it would constitute a challenge to the authority of the General Assembly.

16. Mr. NGUYEN-QUOC-DINH (Republic of Viet-Nam) observed that the amendments submitted by Bulgaria were incompatible with the provisions of General Assembly resolution 1105 (XI), which was binding on the Conference.

17. In reply to the Romanian and Yemeni representatives, he said that resolution 1105 (XI) did not permit the attendance of observers or experts from States or bodies other than those expressly mentioned in it. In view of those considerations, he would support the United States motion under rule 30, and oppose the amendments submitted by Bulgaria and Yemen.

18. Mr. SHAHA (Nepal) said that as a matter of principle, the Conference was not competent to deal with the Bulgarian amendments. He therefore supported the United States motion under rule 30.

19. Mr. TUNKIN (Union of Soviet Socialist Republics) said that in accordance with the principles of modern international law, and in particular with the principles of national sovereignty and equality of States, all States should have an opportunity of participating in the discussion of questions of world-wide interest and in the formulation of rules of law affecting them. Since, unfortunately, all States were not being given an opportunity of participating in the Conference with full rights, it was most desirable that they should at least be able to send observers or experts without the right to vote, as proposed in the Bulgarian amendments. The Conference was competent to adopt a resolution to that effect; like any other diplomatic conference, it was entitled to invite any persons who might prove useful as experts or observers, or who could express the views of States not actually invited to the Conference.

20. The Soviet Union delegation supported the Bulgarian amendments; but if the Bulgarian delegation should accept the compromise proposal submitted by Yemen, the Soviet Union delegation would support the latter.

21. Mr. GRIGOROV (Bulgaria) said that his delegation accepted the proposal submitted by the delegation of Yemen.

22. Mr. DEAN (United States of America) moved that the Conference was not competent to consider the amendment proposed by Yemen and accepted by Bulgaria.

23. The Conference was not qualified to amend resolution 1105 (XI), and it was therefore not competent to invite additional States. It was obvious, therefore, that still less could it delegate the power to issue such invitations to its own General Committee.

24. There was no substance in the argument based on rule 33; persons invited by the Conference to give technical advice were employees of the Conference,

<sup>1</sup> *Ibid.*, Eleventh Session, Sixth Committee, 505th meeting.

whereas the Yemeni proposal was that the General Committee should be given the right to invite States not participating in the Conference to send representatives.

*The United States motion was carried by 62 votes to 12, with 11 abstentions.*

The meeting rose at 4.30 p.m.

### THIRD PLENARY MEETING

*Wednesday, 26 February 1958, at 4 p.m.*

*President* : Prince WAN WAITHAYAKON (Thailand)

#### Convening of the main committees

[Agenda item 6]

1. The PRESIDENT said that under rules 46, 47 and 48 of the rules of procedure (A/CONF.13/35), the Conference was required to set up five main committees :

First Committee (Territorial Sea and Contiguous Zone)

Second Committee (High Seas : General Régime)

Third Committee (High Seas : Fishing ; Conservation of Living Resources)

Fourth Committee (Continental Shelf)

Fifth Committee (Question of Free Access to the Sea of Land-locked Countries)

Each State would be represented by one person on each of those committees.

2. He would suspend the plenary meeting in order that the five committees might be convened to elect their chairmen.

*The meeting was suspended at 4.15 p.m., and resumed at 5.5 p.m.*

#### Election of vice-presidents

[Agenda item 7]

3. The PRESIDENT drew attention to rule 13 of the rules of procedure and to the fact that Thailand, Australia, Norway, Panama, Ceylon and Czechoslovakia were already represented on the General Committee by the President and the Chairmen of the five main committees. He then called for a vote by secret ballot.

4. Mr. GARCIA AMADOR (Cuba) said that his delegation had decided to withdraw its candidature for a vice-presidency because, owing to reasons and circumstances which it would be inappropriate to mention, it could not count on the support of the regional group to which it belonged.

*At the invitation of the President, the representatives of Spain and Tunisia acted as tellers.*

*A vote was taken by secret ballot.*

Number of ballot papers . . . . .	84
Invalid ballots . . . . .	Nil
Number of valid ballots . . . . .	84
Abstentions . . . . .	2

Number of members voting . . . . .	82
Required majority . . . . .	42
Number of votes obtained	
1. United States of America . . . . .	73
2. United Kingdom of Great Britain and Northern Ireland . . . . .	72
3. India . . . . .	71
4. France . . . . .	68
5. Union of Soviet Socialist Republics . . . . .	63
6. Italy . . . . .	62
7. Netherlands . . . . .	62
8. Egypt . . . . .	60
9. Mexico . . . . .	56
10. Argentina . . . . .	55
11. Guatemala . . . . .	54
12. Poland . . . . .	52
13. China . . . . .	50

*Having obtained the required majority, the representatives of the following countries were elected vice-presidents : United States of America, United Kingdom of Great Britain and Northern Ireland, India, France, Union of Soviet Socialist Republics, Italy, Netherlands, Egypt, Mexico, Argentina, Guatemala, Poland and China.*

#### Organization of work

[Agenda item 8]

5. The PRESIDENT proposed that the question of organization of work be referred to the General Committee for report to the plenary conference.

*It was so agreed.*

The meeting rose at 5.50 p.m.

### FOURTH PLENARY MEETING

*Friday, 28 February 1958, at 10.45 a.m.*

*President* : Prince WAN WAITHAYAKON (Thailand)

*In the absence of the President, Mr. Ruiz Moreno (Argentina), Vice-President, took the Chair.*

#### Organization of work (A/CONF.13/L.2) (continued)

[Agenda item 8]

#### REPORT OF THE GENERAL COMMITTEE

1. The PRESIDENT invited representatives to consider the General Committee's report on the organization of the work of the Conference (A/CONF.13/L.2).

*The recommendations in the General Committee's report were adopted without comment.*

The meeting rose at 11 a.m.

**FIFTH PLENARY MEETING***Tuesday, 18 March 1958, at 10.30 a.m.**President* : Prince WAN WAITHAYAKON (Thailand)**Note verbale addressed to the President of the Conference by the Secretary-General of the United Nations (A/CONF.13/L.4)**

1. The PRESIDENT said that, annexed to the note verbale addressed to him by the Secretary-General of the United Nations (A/CONF.13/L.4), were two communications constituting formal notification of the unification of Egypt and Syria to form a single State — the United Arab Republic — and of the election of President Gamal Abdel Nasser as its president.

2. On placing the Secretary-General's communication before the Conference, he wished to welcome Mr. Omar Loutfi, leader of the delegation of the United Arab Republic, and to invite him to convey his congratulations to President Nasser.

3. Mr. TABIBI (Afghanistan), on behalf of the African and Asian States represented at the Conference, offered their warmest congratulations to the United Arab Republic.

4. Mr. DEAN (United States of America) said it was his government's view that, as a consequence of the voluntary union of Egypt and Syria following a plebiscite, the United Arab Republic was the successor of those States in all organs of the United Nations. He extended his government's good wishes to the new republic, and welcomed its representatives to the Conference.

5. Mr. TUNKIN (Union of Soviet Socialist Republics), after welcoming the delegation of the United Arab Republic, said that the Soviet Union Government had decided to recognize the United Arab Republic as an independent and sovereign State, and had made known its willingness to continue with that State the friendly relations it had formerly maintained with Egypt and Syria.

6. Mr. BARTOS (Yugoslavia) observed that the Yugoslav Government had extended *de jure* recognition to the United Arab Republic on the day of its creation. The Yugoslav delegation welcomed the representatives of the new Arab State to the Conference.

7. Mr. SEN (India), Mr. BHUTTO (Pakistan), Mr. GRIGOROV (Bulgaria), Mr. LAMANI (Albania), Mr. GEAMANU (Romania), Mr. KRISPIS (Greece), Mr. MATINE-DAFTARY (Iran), and Mr. LESCURE (Argentina) on behalf of the Latin-American States represented at the Conference, and Mr. SHUKAIRI (Saudi Arabia) on behalf of the Arab States, associated themselves with the welcome extended by the President to the delegation of the United Arab Republic.

8. Mr. LOUTFI (United Arab Republic) expressed his thanks for the congratulations offered to his delegation on the occasion of the establishment of the United Arab Republic. He had been deeply touched by the good wishes addressed to his country.

9. In its international relations, the United Arab Republic would be guided by the principles of the Charter,

and would collaborate with the United Nations in putting them into effect. Acting in a spirit of co-operation and conciliation, his delegation would do all in its power to ensure the success of the Conference.

The meeting rose at 11.15 a.m.

**SIXTH PLENARY MEETING***Monday, 14 April 1958, at 3 p.m.**President* : Prince WAN WAITHAYAKON (Thailand)**Report by the General Committee on the progress of the work of the Conference and on the appointment of the Drafting Committee (A/CONF.13/L.9)**

1. The PRESIDENT drew attention to the third report of the General Committee (A/CONF.13/L.9), which contained certain recommendations concerning the organization of the work of the Conference. The General Committee recommended, in the first place, that each committee should decide as soon as possible on any recommendations it would make to the Conference regarding the kind of instrument or instruments required to embody the results of its work, and what final clauses, if any, were necessary. Secondly, the General Committee proposed that the committees should complete their work by certain given dates. Thirdly, it recommended that the closing date of the Conference should be put back from Thursday, 24 April, to Saturday, 26 April.

*The recommendations of the General Committee concerning the organization of the work of the Conference were adopted.*

2. The PRESIDENT announced that the General Committee had also recommended, pursuant to rule 49 of the rules of procedure, that the Conference appoint a Drafting Committee composed of nine members. The names proposed by the General Committee were : Mr. Liu (China), Mr. Zourek (Czechoslovakia), Mr. Correa (Ecuador), Mr. Gros (France), Mr. Bhutto (Pakistan), Mr. Lacleta (Spain), Mr. Tunkin (Union of Soviet Socialist Republics), Sir Gerald Fitzmaurice (United Kingdom) and Mr. Dean (United States of America). Each member would, of course, have the right to nominate an alternate.

*The General Committee's recommendations concerning the appointment of the Drafting Committee of the Conference were adopted.*

The meeting rose at 3.15 p.m.

**SEVENTH PLENARY MEETING***Monday, 21 April 1958, at 10.15 a.m.**President* : Prince WAN WAITHAYAKON (Thailand)**Consideration of proposals concerning the settlement of disputes (A/CONF.13/BUR/L.3, L.5, L.6)**

1. The PRESIDENT suggested that the delegations of Colombia, the Netherlands and Switzerland, which

sponsored the various proposals on the judicial or arbitral settlement of disputes, should consult with the Drafting Committee with a view to working out a unified text.

2. Mr. WERSHOF (Canada) thought that the Committee should first hear the sponsors of the various proposals and hold at least a preliminary discussion. The Colombian and Netherlands proposals (A/CONF.13/BUR/L.5 and L.6) advocated the inclusion of a new article in the body of the instrument to be adopted, while the Swiss proposal (A/CONF.13/BUR/L.3) suggested that the whole question of judicial settlement should be covered by a separate protocol. That seemed to be a fundamental difference, on which representatives should have the opportunity to state their views.

3. Mr. RUIZ MORENO (Argentina) supported the Canadian representative's suggestion.

4. Mr. RUEGGER (Switzerland), explaining the Swiss proposal (A/CONF.13/BUR/L.3), said that the question of clauses on the settlement of disputes appeared very important, as any decision in the matter by the Conference would have much persuasive force as a precedent.

5. The Swiss delegation was convinced that any codification of international law required, as an indispensable corollary, the establishment of a system of compulsory arbitration or judicial settlement. It was not sufficient to state the law in general terms without providing for its effective application by an impartial arbitrator or judge. Switzerland was well qualified to speak on the subject, as arbitration had always been one of the cardinal points of its foreign policy. It had been one of the very first signatories of the optional clause of Article 36 of the Statute of the Permanent Court of International Justice, and had since then entered into some twenty treaties providing for arbitration or the judicial settlement of disputes. In each case, Switzerland had gone as far towards compulsory arbitration as its partner had been ready to accept. In that connexion, he stressed that the Swiss Government would welcome the opportunity of concluding similar treaties with States which had only recently attained nationhood.

6. His delegation was also convinced that provisions stipulating compulsory arbitral or judicial settlement were particularly necessary in instruments which codified existing law. A system of compulsory arbitration had great advantages even in other contexts, but a work of codification which did not contain a watertight arbitration clause seemed wholly inconceivable. In the Swiss delegation's opinion, the signatories could not be the only judges in the interpretation and application of the rules which they themselves had reaffirmed and codified. Moreover, the history of international law showed that arbitral awards based on customary law generally preceded codified law and contributed to its formation. For those reasons, the Swiss delegation had consistently voted and would continue to vote for any clause providing for truly compulsory arbitration and judicial settlement. For example, it had supported article 73, which had been adopted by the Fourth Committee.

7. His government therefore welcomed the Colombian proposal which — in keeping with the best traditions of

Latin America — called for compulsory settlement by the International Court of Justice of any dispute regarding the interpretation or application of any of the provisions which the Conference might adopt. His delegation also warmly supported the Netherlands proposal, which would give the parties a choice between judicial settlement and arbitral procedure.

8. He wished to stress that the Swiss proposal was of an essentially subsidiary character, and was designed to salvage as much of the idea of compulsory arbitration as prevailing circumstances permitted. A number of Powers were still not prepared to accept the principle of genuinely compulsory arbitration and even certain members of the International Law Commission had made reservations on that particular point. That reluctance in certain quarters was further confirmed by the records of the Sixth Committee of the General Assembly, where some delegations had gone so far as to assert that compulsory arbitration was incompatible with sovereignty. The Swiss Government hoped that such a negative attitude was only temporary and that the whole world would ultimately agree that the peaceful and compulsory settlement of all disputes was vital to peace. But realities had to be taken into account and the Swiss proposal was designed to enable those States which supported the idea of arbitration to enter into an undertaking, binding only between themselves, to submit any dispute to the International Court of Justice on the application of either party. The Swiss proposal had been submitted in the belief that it was better to record the agreement of those who genuinely desired machinery for a compulsory settlement rather than to seek partial solutions which might not prove generally acceptable.

9. The Swiss formula had been prompted by the same considerations as those which had led to the adoption of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice. The form of the proposed undertaking followed the text adopted, after long discussion, by the Institute of International Law at Granada at its last session in 1956. Another feature of the Swiss proposal was that it gave the parties ample freedom to agree on other forms of arbitration, provided that they acted within specified time limits and on the understanding that the compulsory character of the settlement remained unaffected.

10. The Swiss proposal, though essentially subsidiary, would provide a basis for the development of the case-law of the International Court of Justice in maritime matters. The Court's decisions would admittedly have no universally binding force, but they would certainly carry considerable weight. That conclusion seemed borne out by the repeated references heard at the Conference to the Court's judgements in the Anglo-Norwegian fisheries case and the Corfu Channel case.

11. The Swiss delegation believed that the Conference could and should give some new impetus to compulsory arbitration and international jurisdiction. If it did so, its work would bear comparison with that of The Hague conferences of 1899 and 1907, while failure to take any clear decision in the matter would represent a deplorable step backward.

12. An argument advanced in the past against general

recognition of the principle of compulsory arbitration and judicial settlement had been that the rules of customary international law which the judge or arbitrator could use as guidance were excessively vague. That argument obviously could not be maintained when a codification conference had succeeded in adopting precise rules governing an entire subject.

13. In conclusion, he again stressed that the Swiss proposal was of a subsidiary nature, and was not designed to replace any of the more general proposals which might have a genuine chance of wider acceptance. Furthermore, the Swiss delegation had no intention of reopening the discussion on partial clauses already approved, such as article 73. His government only hoped that the Conference would give the most generous possible support to the idea of compulsory arbitration, which remained one of the finest safeguards of legitimate rights.

14. Mr. CAICEDO CASTILLA (Colombia) said that his delegation had submitted its proposal (A/CONF.13/BUR/L.5) because it firmly believed that differences between States should all be settled on a compulsory basis. That view had been traditionally maintained by Colombia in its foreign policy and successive governments had never hesitated to submit international problems — on such matters as the delimitation of the national territory, the responsibility of the State for measures affecting aliens and the interpretation or application of international agreements — to arbitration or to the International Court of Justice. Moreover, the Colombian Government had always faithfully complied with the decisions of arbitral or judicial tribunals even when they had ruled against its own contentions. Colombia was thus not merely advancing an abstract theory but was proposing something which its own experience had shown to be practical and effective. It was always better to refer a dispute at the earliest opportunity to an impartial judge or arbitrator than to resort to violence or to allow a tense situation to subsist indefinitely. Furthermore, a prompt reference to an arbitral or judicial tribunal benefited not only the States directly concerned but also the entire international community and the region to which those States belonged.

15. For those reasons, and mindful of the fact that the Conference had gathered together representatives from almost every State in the world, the Colombian delegation had come to the conclusion that any legal or technical problems that might arise in the interpretation or application of the many provisions which would probably be approved should be governed by some general provision on the settlement of disputes. His delegation thought that no instrument would be complete without a general provision similar to that which the International Law Commission had proposed in article 73 in the specific context of the regime of the continental shelf. Such a rule was particularly necessary in the case of the continental shelf, since the subject-matter was a novel one in the evolution of international law. But it was also needed in the case of the other texts, since it was impossible to maintain that no differences of opinion would arise in the future as to

the interpretation and scope of those texts and their application in individual cases.

16. The Colombian delegation was well aware that some countries — although supporting arbitration by mutual consent and the ordinary jurisdiction of the International Court of Justice — considered the notion of compulsion incompatible with their national interests and historical conditions or with their concept of sovereignty. Colombia itself did not agree with them, as it had always believed that compulsory arbitration was in no way inconsistent with the principle of sovereignty and that the sovereign or discretionary rights of States sometimes had to be subordinated to the paramount needs of the international community. But the views of others deserved respect and no decision on the settlement of disputes could be of much value without unanimity. The Colombian delegation would accordingly be prepared, as a conciliatory gesture, to change its text to the effect that the obligation to refer a dispute to the Court would in each case be determined by the Court's Statute. It might be argued that such a change would greatly reduce the scope of the provision's application, but the situation would be exactly the same if the Conference adopted a rigid rule which would merely oblige a number of States to avail themselves of their undeniable right to make reservations.

17. The modified Colombian formula should thus prove acceptable to all delegations. As an additional measure, however, the Conference should also approve the well-conceived proposal submitted by Switzerland. The two documents would between them afford a satisfactory solution, by reaffirming the adherence of many States to the loftiest of juridical principles without offending any national susceptibilities.

18. Mr. VERZIIL (Netherlands) said that his government was strongly in favour of compulsory jurisdiction by independent judicial or arbitral organs, and had a definite preference for the former so that it would have supported the original Colombian proposal; but since that proposal had lost much of its force by the change just introduced by the Colombian representative, he would have to maintain the Netherlands proposal (A/CONF.13/BUR/L.5). One of its essential elements was that contained in paragraph 2 whereby one of the parties could opt for arbitration rather than for judicial settlement; that clause had been introduced in recognition of the fact that some States had persisted in refusing to accept the compulsory jurisdiction of the International Court of Justice. In order to make such latitude acceptable, certain stipulations had been laid down to ensure that the party choosing arbitration was not able to obstruct the proceedings by, for example, failing to appoint its arbitrator within the time-limit specified.

19. With regard to paragraph 3 in the Swiss proposal, he doubted whether it would be wise to substitute for article 57 in the Commission's draft a general jurisdictional clause.

20. In view of the change introduced by the Colombian representative in his proposal, he was not very optimistic about the prospects of reaching agreement on a compromise text.

21. The PRESIDENT observed that even if the Drafting Committee and the authors of the three proposals were unable to reach agreement on a combined text, their report would greatly assist the plenary meeting in its deliberations. It would clearly be more expeditious to leave the complicated technical points to the Drafting Committee.

22. Mr. SOLE (Union of South Africa) agreed to the procedure suggested by the Chair but thought that the plenary meeting should first give the Drafting Committee some directive as to whether the clauses dealing with the settlement of disputes should be incorporated in the convention or conventions to be adopted or in a separate protocol. At the present stage, he considered that it would be imprudent to contemplate anything but the latter solution.

23. Mr. TUNKIN (Union of Soviet Socialist Republics) said he had no objection to the procedure suggested by the President. If that course was chosen then the corresponding provisions concerning the settlement of disputes adopted by the committees should be held over until the Drafting Committee had submitted its recommendations.

24. Mr. BARROS FRANCO (Chile), observing that he favoured a single convention embodying all the articles adopted at the Conference, said that it would be desirable to incorporate all the provisions concerning the settlement of disputes in a separate group of articles — a course which would simplify the decisions on the substantive articles and which, he thought, the Drafting Committee should take into consideration.

25. Mr. MÜNCH (Federal Republic of Germany) said that his government was a firm believer in compulsory jurisdiction, but agreed with those delegations which had pointed out in the Fourth Committee that the International Court of Justice was not the appropriate body for dealing with highly specialized technical problems. Accordingly, he welcomed the ingenious solution offered in the Netherlands proposal. The system proposed by the Swiss delegation had definite merits, and might be usefully combined with the Netherlands proposal. Apart from that consideration, he also wished to draw the Drafting Committee's attention to the desirability of using terminology that was in line with the provisions of the Court's Statute. Finally, the Drafting Committee should draw up the text in such a form that if it failed to obtain the necessary majority it could be incorporated in an optional protocol of the type proposed by Switzerland.

26. Mr. MATINE-DAFTARY (Iran) said it was very doubtful whether arbitration clauses could secure general approval, for many governments had voiced criticism concerning the International Law Commission's draft provisions on arbitral procedure.

27. He was not yet in a position to state his government's views about the three proposals before the Conference, and for the time being expressed his personal preference for a separate protocol.

28. Mr. WERSHOF (Canada) stated that his govern-

ment had always favoured the idea of compulsory jurisdiction and could have supported the original Colombian proposal or either of the other two proposals. However, neither the original Colombian proposal nor the Netherlands proposal, both of which represented a genuine compulsory jurisdiction clause, had much chance of obtaining a two-thirds majority. As the question of a compulsory jurisdiction had for long been the subject of controversy, it might have to be settled by some higher body, such as the General Assembly. In the circumstances, therefore, the solution put forward by the Swiss delegation might be the most practicable and a separate protocol, though optional, certainly had some utility.

29. He was opposed to the directive to the Drafting Committee suggested by the Chilean representative, because it would prejudge certain important issues which had not yet been discussed in the plenary meeting. Nor did he think that the decision on a separate protocol as an alternative to a compulsory jurisdiction clause in the conventions could be reached at the present meeting as suggested by the representative of South Africa.

30. Mr. DIAZ GONZALEZ (Venezuela) said that, although his government always faithfully discharged its international obligations, he regretted that it could not accept a compulsory jurisdiction clause; such a clause would be incompatible with state sovereignty and would, in addition, be unrealistic. He therefore favoured a flexible formula more in accordance with the provisions of the United Nations Charter and the Statute of the International Court of Justice. He agreed with the procedure suggested by the President.

31. Mr. SHAHA (Nepal) welcomed the Swiss proposal which he would support because it paved the way for the progressive development of international law. He agreed to the procedure suggested by the President.

32. Mr. RUIZ MORENO (Argentina) hoped that the Drafting Committee would take into consideration the question of reservations in deciding whether a clause on compulsory jurisdiction, which would be the most desirable, were feasible.

33. Sir Alec RANDALL (United Kingdom) while finding merit in all three proposals, particularly the original Colombian text, said he was unwilling to commit his government to any one of them until the Drafting Committee had submitted its report. Since the Committee was to work in conjunction with the authors of the proposals, no directives were necessary.

34. The PRESIDENT suggested, in the light of the foregoing discussion, that the Colombian, Netherlands and Swiss proposals (A/CONF.13/BUR/L.3, L.5, L.6) be referred to the Drafting Committee which should study the proposals in consultation with the authors and report back to the Conference.

*It was so agreed.*

The meeting rose at 12.20 p.m.

**EIGHTH PLENARY MEETING***Tuesday, 22 April 1958, at 10 a.m.**President* : Prince WAN WAITHAYAKON (Thailand)**Consideration of the report  
of the Fourth Committee (A/CONF.13/L.12 to L.16)**

1. The PRESIDENT observed that the report of the Drafting Committee of the Conference on articles 67 to 74 adopted by the Fourth Committee and the final clauses adopted by that Committee were contained in document A/CONF.13/L.13. Two amendments proposed by Yugoslavia, one to article 67 (A/CONF.13/L.14) and the other to article 72 (A/CONF.13/L.15) adopted by the Fourth Committee, together with a Canadian proposal concerning final clauses (A/CONF.13/L.16), were also before the Conference.

2. Mr. DIAZ GONZALEZ (Venezuela), Rapporteur of the Fourth Committee, explained that its report (A/CONF.13/L.12) sought to describe briefly the trend of opinion in the Committee.

3. Mr. JHIRAD (India) said that it might be difficult to secure agreement on a single convention embodying all the articles approved at the Conference, and the numerous reservations to which such a convention could give rise might cause confusion. He therefore proposed that the Conference should first decide to incorporate the articles on the continental shelf, which was an entirely new concept, in a separate convention, allowing reservations to all of them except articles 67, 68 and 69 which were of fundamental importance.

4. He also proposed that the International Law Commission's expression "sovereign rights" be restored in article 68, paragraph 1, in place of the expression "exclusive rights", which had been adopted by the Fourth Committee at its 24th meeting by a majority of only one vote, and was clearly causing concern to some delegations. He also proposed that the words "but crustacea and" be deleted from paragraph 4, a similar amendment having been rejected at the same meeting of the Fourth Committee by a tied vote.

5. Sir Reginald MANNINGHAM-BULLER (United Kingdom) supported the Indian proposal and agreed that reservations should not be allowed on articles 67, 68 and 69.

6. Mr. TUNKIN (Union of Soviet Socialist Republics) also supported the Indian proposal, and agreed that States might have difficulty in accepting a single convention of very wide scope.

7. Miss WHITEMAN (United States of America) favoured a separate instrument for the articles on the continental shelf, especially as international law on that subject was in process of development. She thought it would be unfortunate to jeopardize the acceptance of all the articles of the International Law Commission's draft by incorporating them in too wide a convention, which might not obtain the necessary number of ratifications.

8. Mr. GROS (France) did not attach great importance to whether the articles were placed in a separate chapter

of a general convention or in an independent instrument. The argument that the articles dealing with the continental shelf pertained to a new domain of international law had little force, because rules of international law, whatever their history and age, acquired the same status once they had been embodied in a convention. In any case, he doubted whether it would be possible to settle the matter before any decision had been taken on reservations. He therefore proposed that the vote on the Indian proposal be deferred.

9. Mr. BARROS FRANCO (Chile) agreed with the French representative and furthermore maintained that all the articles adopted by the Conference should be inserted in a single instrument on the law of the sea in time of peace, in recognition of the close connexion between the various topics. An additional reason for adopting a single convention was that it would be more likely to secure parliamentary ratification than a series of conventions.

10. Mr. BARTOS (Yugoslavia) agreed with the two foregoing speakers and considered that it would be premature to take a decision on the Indian proposal before all the committees had concluded their work. He could not support the proposal and doubted whether the new principles embodied in the articles on the continental shelf would have a better chance of acceptance if embodied in a separate convention.

11. He agreed with the Indian representative that reservations on articles 67, 68 and 69 should not be permitted, and would go even further by stating that it would be wholly undesirable to allow reservations on articles 70 and 71, since that would mean that States could unilaterally exonerate themselves from certain responsibilities. Again, it would be extremely dangerous to allow reservations on articles 72 and 74; in the former case, it could lead to disputes liable to endanger peace, since, in a sense, territorial integrity would be at issue, and in the latter it would be tantamount to denying jurisdiction for the settlement of disputes.

12. Mr. MATINE-DAFTARY (Iran), observing that the First Committee had not yet reached agreement on certain vital issues, said he favoured a number of separate conventions, since if the Conference aimed at a single instrument it was doomed to failure. He supported the Indian amendment to article 68, paragraph 1, because the term "exclusive rights" had no meaning in law. He would comment on the problem of reservations after studying the Canadian proposal (A/CONF.13/L.16).

13. Mr. CAICEDO CASTILLA (Colombia), supporting the Indian proposal, said that he would vote for the articles on the continental shelf in the form submitted by the Fourth Committee. He would have no reservations to make, but recognized that, due account being taken of the Yugoslav representative's observations, they must be allowed on certain articles.

14. The PRESIDENT suggested that it might be advisable to proceed with the Committee's report on the assumption that the proposal in paragraph 16 would ultimately be approved. The final decision could then be taken at the same time as that on final clauses,

unless the Indian representative insisted on his proposal being put to the vote.

15. Mr. GROS (France) pointed out that it was not quite correct to interpret paragraph 16 as meaning that the Committee had pronounced itself in favour of a separate convention, since it had omitted the word "only" after the word "relating" and the word "separate" before "convention" in the original Canadian proposal.

16. Mr. BARROS FRANCO (Chile) pointed out that in answer to a question by Mr. García Amador at the 28th meeting of the Fourth Committee as to the precise purport of the decision on the Canadian proposal, Mr. Wershof had explained at the 39th meeting that the question whether the convention containing the articles on the continental shelf was to be a separate instrument or part of a more general one had been left open.

17. Mr. BARTOS (Yugoslavia) agreed that the Fourth Committee had taken no decision as to whether the convention should be a separate one or not.

18. Mr. WERSHOF (Canada) said that his delegation still favoured a separate convention, but had modified its proposal in committee so that some kind of agreement could be reached. He hoped that, as time was short, the Conference could take a decision forthwith on whether the instrument should be a separate one or not.

19. Mr. MOUTON (Netherlands) agreed with the President that it might be expeditious to proceed on the assumption that the articles would be placed in a separate convention, but he also supported the French representative's view that the final decision must be deferred, particularly as other articles might have to be transferred. For example, article 48 had a direct bearing on the exploration and exploitation of the continental shelf.

20. Mr. SOLE (Union of South Africa) did not think that much would be gained by postponing the decision at the present late stage, particularly as it was essential to dispose of the problem of reservations before discussing the articles themselves.

21. With regard to the last point made by the Netherlands' representative, he did not think that a decision in favour of a separate convention at that stage would preclude subsequent insertion of additional articles relating directly to the continental shelf.

22. Mr. JHIRAD (India) regretted that he must press for a vote on his proposal because he had learnt, after consulting a number of delegations, that they were anxious to obtain a definite decision.

23. Mr. AGO (Italy) thought it would be putting the cart before the horse to seek agreement on the form of the final instrument before adopting the articles themselves. Moreover, the decision must be influenced by the action taken on the articles discussed in other committees.

24. Mr. DIAZ GONZALEZ (Venezuela) thought it advisable to reach agreement on the final clauses and

reservations before deciding on the Indian proposal, which he would support.

25. He had already explained his delegation's view on the nature of the rights exercised by the coastal State over its continental shelf, and he supported the Indian amendment to restore the Commission's expression "sovereign rights" in article 68, paragraph 1.

26. Mr. SUBARDJO (Indonesia) said that it would save time to vote on the Indian proposal forthwith.

27. The PRESIDENT put to the vote the Indian proposal that the articles on the continental shelf should be embodied in a separate convention.

*The proposal was adopted by 57 votes to 11, with 12 abstentions.*

28. The PRESIDENT invited the Conference to consider seriatim the articles submitted by the Fourth Committee in the annex to its report (A/CONF.13/L.12).

#### *Article 67*

29. The PRESIDENT drew attention to the text proposed by the Drafting Committee for article 67 (A/CONF.13/L.13) and to the Yugoslav amendment to that article (A/CONF.13/L.14).

30. Mr. BARTOS (Yugoslavia) introducing his amendment, urged moderation and asked that thought be given to the consequences of the text proposed and to the considerations he had outlined in the note appended to his amendment.

31. Mr. MOUTON (Netherlands) asked for the vote on the Yugoslav amendment to be deferred until the next meeting, because it would be difficult to decide without further consultation. The delimitation of the continental shelf by reference to a fixed distance from the coast was not a new idea. It had been rejected by the International Law Commission and the Fourth Committee as serving no useful purpose. The Yugoslav amendment would curtail the potential exploitation of the continental shelf, and the distance specified in the amendment should at least be increased to 200 miles.

32. Mr. KANAKARATNE (Ceylon), observing that precisely the same amendment (A/CONF.13/C.4/L.12) had been submitted by the Yugoslav delegation and supported with the same arguments in the Fourth Committee, saw no reason whatever for postponing the vote.

33. Mr. BARTOS (Yugoslavia) was prepared to modify his amendment as suggested by the Netherlands representative.

34. Mr. QUARSHIE (Ghana) regretted that an amendment which had been carefully examined and rejected in the Committee, and which had no bearing on the definition adopted, should have been re-introduced.

35. Mr. GROS (France) was unable to accept the amendment because it was impossible to speak of a limitation of distance where a geological concept was concerned.

36. The PRESIDENT observed that in the light of the foregoing remarks he was unable to comply with the Netherlands representative's request for postponement of the vote on the Yugoslav amendment.

*The Yugoslav amendment (A/CONF.13/L.14) was rejected by 53 votes to 3 with 11 abstentions.*

37. Mr. GROS (France) moved that a separate vote be taken on the words: "or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" in article 67, paragraph 1. If the principle of exploitability was rejected, as he hoped it would be, it would still be possible to put the limit of 550 metres' depth to the vote.

38. Mr. DIAZ GONZALEZ (Venezuela) opposed the French motion because the text had been the subject of long discussion in committee.

39. Mr. JHIRAD (India) opposed the motion because the draft had been adopted as a composite whole.

40. Mr. TUNKIN (Union of Soviet Socialist Republics), while supporting the text as it stood, did not think it proper to deny any delegation the right to ask for a separate vote on part of a proposal.

41. Mr. MOUTON (Netherlands) and Miss GUTTERIDGE (United Kingdom) supported the French representative's proposal.

42. Mr. SOLE (Union of South Africa), speaking on a point of order, submitted that there should only be two speakers in favour of a motion for division and two against it.

43. The PRESIDENT agreed.

*The French representative's motion for division of the text was approved by 32 votes to 24, with 9 abstentions.*

44. The PRESIDENT put to the vote the words "or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas."

*At the request of the representative of Venezuela, a vote was taken by roll-call.*

*The Holy See, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Republic of Korea, Liberia, Federation of Malaya, Mexico, Morocco, Peru, Philippines, Poland, Romania, Saudi Arabia, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Afghanistan, Albania, Argentina, Australia, Bolivia, Brazil, Bulgaria, Burma, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Czechoslovakia, Dominican Republic, Ecuador, El Salvador, Ghana, Guatemala.

*Against:* Italy, Japan, Monaco, Netherlands, New Zealand, Norway, Pakistan, Portugal, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Belgium, Byelorussian Soviet Socialist Republic, Denmark, Finland, France, Federal Republic of Germany, Greece.

*Abstentions:* Lebanon, Spain.

*The words in question were adopted by 48 votes to 20, with 2 abstentions.*

*Article 67 as a whole, with the changes suggested by the Drafting Committee (A/CONF.13/L.13), was adopted by 51 votes to 5, with 10 abstentions.*

#### Article 68

45. Mr. JHIRAD (India) proposed that the words "exclusive rights" in paragraph 1 should be replaced by the words "sovereign rights". Since the approval of the text by the Fourth Committee, many delegations had had further opportunity to study it and had come to the conclusion that the word "sovereign" — the term originally proposed by the International Law Commission — was preferable. The reasons for introducing the somewhat imprecise term "exclusive" no longer applied, since the fact that the coastal State's rights over the continental shelf would not affect the legal status of the superjacent waters or of the air space above those waters was now expressly recognized in article 69.

46. Mr. DIAZ GONZALEZ (Venezuela) said that his delegation had always favoured the Commission's text, and would therefore have no hesitation in supporting the Indian proposal.

47. Mr. CARBAJAL (Uruguay) recalled that his delegation too had always declared its preference for the word "sovereign". The fears which that word evoked in certain quarters were not justified, as the concept of sovereignty had lost much of its absolute character and certain limitations had become universally accepted. Moreover, the term "exclusive" was negative and inexact.

48. Mr. AGO (Italy) said that he failed to see how the rights in question could be "sovereign" when they were expressly stated to be exercisable for specified and limited purposes only. Nor could he accept the criticisms of the term "exclusive", which seemed both accurate and clear.

49. Mr. GOMEZ ROBLEDO (Mexico) recalled that his delegation had originally proposed (A/CONF.13/C.4/L.2) that paragraph 1 should refer to the sovereign rights exercised by the coastal State over the seabed and subsoil of the continental shelf and its natural resources. That proposal had been narrowly defeated in the Fourth Committee, and the Mexican delegation had made no attempt to re-introduce it, but when it came to choosing between the International Law Commission's original text and the one finally adopted by the Fourth Committee there could be no doubt that the original text was clearly superior. The fears that the term "sovereign" might restrict the freedom of navigation in the epicontinental sea should be dispelled by article 69.

50. Mr. TUNKIN (Union of Soviet Socialist Republics) said that his delegation would also support the Indian proposal because the exact significance of the word "exclusive rights" was obscure.

51. Miss WHITEMAN (United States of America) said that, as article 69 clarified the entire question of the

legal status of the waters and air space above the continental shelf, the United States delegation would vote in favour of the Indian proposal.

52. Mr. MATINE-DAFTARY (Iran) said that the expression "exclusive rights" might be perfectly appropriate in private law, where the right of ownership was a *dominium*, but was wholly out of place in a provision of public law, where the question was one of *imperium*.

53. Mr. GROS (France) deplored the disdain with which certain other representatives tended to reject the Italian representative's statement that the term "sovereign" could not properly be employed in the context of article 68. If the views of acknowledged authorities on the law of nations were to go completely unheeded, some legal experts might reasonably conclude that they should have stayed at home to await the appearance of the defective texts of the Conference, which they seemed powerless to improve.

54. In the context under discussion, the expression "sovereign rights" would render the whole provision defective. What was contemplated was not sovereignty but the reservation of special powers for determined purposes. The Conference was perfectly at liberty to produce bad texts if it wished to do so, but it should at least have no illusions about the value of the "rules of law" thus devised.

55. Mr. BARROS FRANCO (Chile) said that it was precisely because of its conviction that "sovereign rights" could not be subject to limitations that the Chilean delegation had supported the original Mexican proposal in the Fourth Committee. As things stood, however, he thought that the restoration of the word "sovereign" might be the lesser of two evils.

56. Mr. BARTOS (Yugoslavia) said that the difficulty of choosing the correct term had been fully appreciated by the International Law Commission, as was apparent from paragraphs 6 and 8 of the relevant commentary. It seemed to him, however, that the term "exclusive" would reflect the exact intent of the article more accurately. The rights envisaged were not "sovereign" in the strict sense, but subject to specific qualifications.

57. Mr. MÜNCH (Federal Republic of Germany) observed that there was absolutely no justification for interfering with the Fourth Committee's decision. The function of the Conference was to make general international law; questions involving a few local interests were therefore irrelevant. Even more deplorable were the attempts quite recently made for propaganda reasons by certain great maritime powers to achieve a compromise at the expense of the smaller countries.

58. Mr. AGO (Italy) said that he could not accept the Iranian representative's contention that the concept of "exclusive rights" pertained solely to private law. The expression could be used equally well in a provision of public law and in a rule of the law of nations. The expression "sovereign rights" on the other hand would be wholly improper in article 68 as it would imply that the coastal State could somehow enjoy sovereignty over the subsoil while having no such right in the superjacent waters. The principal reason for the difficulty was the

tendency of certain delegations to use words merely because of their rhetorical attraction. In practice, the use of such words would not give States any greater prerogatives, but would only make the whole text the object of ridicule.

59. Mr. QUARSHIE (Ghana) said that his delegation would support the Indian proposal although it had originally voted for the word "exclusive". It had since become clear that some delegations believed that that term did not adequately safeguard their position.

60. Mr. GOMEZ ROBLEDO (Mexico) said that, although the Mexican delegation had the greatest respect for recognized experts in international law, it should be remembered that the Conference was not a university, but an assembly of sovereign States. Furthermore, very country in the world could now inform itself as to the true meaning of the principle of sovereignty and no State had a monopoly of learning on the matter. Those who refused to agree that the concept of sovereignty was susceptible of development or qualification should remember that until quite recently few had dared to assert that a State enjoyed full sovereignty over the airspace above its territory.

61. Mr. JHIRAD (India) pointed out that the expression "exclusive rights" had been approved in the Fourth Committee by a very small majority and that some of its principal supporters had been unable to agree on its exact meaning. By contrast, the expression "sovereign rights" was a term which had been used in international law for decades.

62. Mr. LIMA (El Salvador) moved that a separate vote be taken on the words "crustacea and" in the second sentence of paragraph 4.

63. Mr. KANAKARATNE (Ceylon) moved that a separate vote be taken on the first sentence of paragraph 4.

64. Sir Reginald MANNINGHAM-BULLER (United Kingdom) thought that if the words "crustacea and" were deleted there should also be a separate vote on the remaining part of the second sentence. That would enable the Conference to remove a possible source of future misunderstanding, namely, the meaning of the expression "swimming species" which could conceivably be said to include the swimming members of the crustacea family. The United Kingdom delegation, for its part, approved of the article as it stood.

*The proposal of El Salvador that the words "crustacea and" should be put to the vote separately was carried by 29 votes to 24 with 13 abstentions.*

*The proposal of India that the word "exclusive" in paragraph 1 should be replaced by "sovereign" was adopted by 51 votes to 14 with 6 abstentions.*

*The first sentence of paragraph 4 was adopted by 62 votes to 4 with 2 abstentions.*

65. The PRESIDENT put to the vote the words "crustacea and" in the second sentence of paragraph 4.

*A vote was taken by roll-call.*

*Australia, having been drawn by lot by the President, was called upon to vote first.*

*In favour* : Belgium, Brazil, Canada, Ceylon, China, Cuba, Denmark, Dominican Republic, Finland, Federal Republic of Germany, Greece, Ireland, Israel, Italy, Japan, Federation of Malaya, New Zealand, Norway, Spain, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland.

*Against* : Australia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Czechoslovakia, Ecuador, El Salvador, France, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Republic of Korea, Mexico, Monaco, Netherlands, Pakistan, Panama, Peru, Philippines, Romania, Saudi Arabia, Switzerland, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela, Yugoslavia, Afghanistan, Albania, Argentina.

*Abstaining* : Costa Rica, Iraq, Liberia, Poland, Portugal, United States of America.

*The words "crustacea and" were rejected by 42 votes to 22, with 6 abstentions.*

*The remaining words of the second sentence of paragraph 4, reading "but swimming species are not included in this definition", were rejected by 43 votes to 14 with 9 abstentions.*

*Article 68, as amended, and with the changes suggested by the Drafting Committee (A/CONF.13/L.13) was adopted by 59 votes to 5 with 6 abstentions.*

The meeting rose at 1.15 p.m.

## NINTH PLENARY MEETING

Tuesday, 22 April 1958, at 3 p.m.

*President* : Prince WAN WAITHAYAKON (Thailand)

### Consideration of the report of the Fourth Committee (A/CONF.13/L.12, L.13, L.15, L.16) (continued)

1. The PRESIDENT invited the Conference to continue its consideration of the report of the Fourth Committee (A/CONF.13/L.12) and of the amendments recommended by the Drafting Committee (A/CONF.13/L.13) to the articles adopted by the Fourth Committee.

#### Article 69

*Article 69, with the changes to the Spanish text recommended by the Drafting Committee (A/CONF.13/L.13), was adopted by 43 votes to none, with 3 abstentions.*

#### Article 70

*Article 70 was adopted by 45 votes to none, with 2 abstentions.*

#### Article 71

2. Mr. STABEL (Norway) asked the Chairman to put paragraph 8 to the vote separately.

3. Mr. JHIRAD (India) requested a separate vote on the words in paragraph 1 reading "nor [result] in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication". Oceanographic research did not form part of the problem of the continental shelf, and in particular he doubted whether the words "in any interference" should be used in view of the words "any unjustifiable interference" in the first part of the paragraph.

4. Mr. TUNKIN (Union of Soviet Socialist Republics) supported the request made by the representative of Norway. He opposed paragraph 8 because, if no kind of scientific research into the continental shelf could be undertaken without the consent of the coastal State, much valuable purely scientific work would be stopped. The preceding clauses sufficiently safeguarded the interests of the coastal State. The inclusion of the paragraph in the Convention might dissuade some States from becoming parties.

*The words "nor [result] in any interference . . . intention of open publication" were adopted by 44 votes to 10, with 8 abstentions.*

*Paragraph 8, with the changes recommended by the Drafting Committee (A/CONF.13/L.13), was adopted by 43 votes to 15, with 5 abstentions.*

*The whole of article 71, with the changes recommended by the Drafting Committee (A/CONF.13/L.13), was adopted by 50 votes to none, with 14 abstentions.*

#### Article 72

5. Mr. BARTOS (Yugoslavia) said the reasons for his delegation's proposal (A/CONF.13/L.15) were explained in the commentary appended to it. The words in the proposed text "unless another boundary line is justified by special circumstances" were not justified by any text in an international law manual.

6. Mr. MATINE-DAFTARY (Iran) said that he supported those words and, in general, all the texts which were the result of many months of careful work by the International Law Commission. Every law which was too strictly worded was inevitably broken. There was no mention of the clause in question in international law manuals because the continental shelf was a new subject. It should not be forgotten that continental shelves were of very different shapes.

*The Yugoslav proposal (A/CONF.13/L.15) was rejected by 47 votes to 5, with 11 abstentions.*

*Article 72, with the changes to the Spanish text recommended by the Drafting Committee (A/CONF.13/L.13), was adopted by 63 votes to none, with 2 abstentions.*

#### Article 73

*Article 73, with the changes recommended by the Drafting Committee (A/CONF.13/L.13) was adopted by 62 votes to none, with 4 abstentions.*

#### Article 74

7. Mr. TUNKIN (Union of Soviet Socialist Republics) suggested deferment of the discussion on article 74

until the Drafting Committee had submitted its report on the Swiss (A/CONF.13/BUR/L.3), Colombian (A/CONF.13/BUR/L.5) and Netherlands (A/CONF.13/BUR/L.6) proposals regarding the settlement of disputes, referred to it at the 7th meeting. A final decision taken on the article before the results of the Conference's deliberations on those proposals were known would prejudice the Conference's decisions on them.

8. Mr. JHIRAD (India) supported the suggestion, saying that he would prefer to speak on the question whether article 74 should be included in the convention after the Conference had taken a decision on the Swiss proposal, which had commended itself to his delegation.

9. Mr. MOUTON (Netherlands) opposed the suggestion. There should be a clause in the convention on the continental shelf providing for the settlement of disputes arising out of provisions in the convention. His delegation's proposal for the inclusion of certain provisions if there was a general convention on the law of the sea had been drafted before the decision that there should be a convention relating solely to the continental shelf.

10. Mr. MATINE-DAFTARY (Iran) expressed the opinion that provisions regarding the settlement of disputes should be included in a protocol which parties to the convention could accede to or not as they wished. Many States were opposed to including in any convention drafted at the Conference clauses obliging parties to follow a fixed procedure for the settlement of disputes.

11. Mr. GROS (France) supported the Soviet Union suggestion but opposed the Iranian representative's suggestion for a separate protocol.

*The suggestion made by the representative of the Union of Soviet Socialist Republics was adopted.*

#### *Final clauses*

12. Mr. TUNKIN (Union of Soviet Socialist Republics) suggested that much time would be saved if the final clauses proposed by the Fourth Committee (A/CONF.13/L.12, annex) were not discussed at the current meeting but the whole question of final clauses for all the instruments to be finally adopted at the Conference were discussed later, since all the final clauses in those instruments should be couched as far as practicable in identical terms.

13. Mr. GROS (France) supported that suggestion.

14. Mr. DIAZ GONZALEZ (Venezuela) was also in favour of the suggestion. If the final clauses proposed by the Fourth Committee were discussed in the Plenary Conference before the views of all the other committees on final clauses were known, his delegation would have to make several reservations.

15. Mr. WERSHOF (Canada) thought that the final clauses proposed by the Fourth Committee should be discussed at the current meeting. The discussion on final clauses in other draft instruments could then be very short. He particularly hoped that the draft final clause regarding reservations proposed by his delegation (A/

CONF.13/L.16) would be discussed at the current meeting. The reservation clauses could not be identical in all the instruments adopted at the Conference, and the clause proposed by his delegation provided in effect that reservations might be made to any article but articles 67 to 73.

16. Mr. BOCOBO (Philippines) attached much importance to the question of reservations to the articles proposed by the Fourth Committee. The Philippines could not become a party to the convention on the continental shelf unless States were permitted to make reservations to article 67 in particular, since the provision in that article that the rights of the coastal State should not extend to parts of the continental shelf more than 200 metres below the level of the sea was inconsistent with his country's constitution, which laid down that all natural resources belonged to the State wherever they might be found in Philippine territory, including the whole continental shelf.

17. Mr. FATTAL (Lebanon) was in favour of adopting the suggestion made by the USSR representative, particularly because unnecessary differences between the final clauses in the various instruments adopted at the Conference might make it more difficult for States to ratify those instruments.

18. Mr. SOLE (Union of South Africa) and Mr. JHIRAD (India) hoped that a decision would be taken on the principle of the Canadian proposal at the current meeting.

19. Mr. TUNKIN (Union of Soviet Socialist Republics) said that he was not opposed to discussing the principle of that proposal at the current meeting.

20. Mr. PETREN (Sweden) said that that proposal should not be discussed until it was decided whether article 74 should be included in the convention. He thought it should be included.

21. The CHAIRMAN said that if it were decided to include article 74 in the convention, provision regarding reservations to that article could be included later.

22. Mr. MOUTON (Netherlands) opposed discussion of the Canadian proposal before it was decided whether article 74 should be included in the convention, since that would prejudice the decisions to be made regarding that article.

23. Mr. WERSHOF (Canada) said that the purpose of his delegation's proposal (A/CONF.13/L.16) was to prohibit reservations to articles 67 to 73 whilst allowing reservations to article 74. There was no point in discussing the proposal in so far as it related to article 74 until a final decision had been taken on that article; if the present discussion were limited to articles 67 to 73, it would not prejudice the decisions to be taken on article 74. The reasons why his delegations had made the proposal had been thoroughly discussed by the Fourth Committee.

24. Some governments were in favour of allowing reservations to be made to any of the articles proposed by the Committee. If that were allowed, the convention would have no meaning. Some representatives had expressed the opinion that only reservations to articles

67 to 69 should be prohibited ; if more than one-third of the States represented at the meeting were in favour of permitting reservations to articles 70 to 73, his delegation would agree that only reservations to articles 67 to 69 should be barred. If, however, reservations to articles 67 to 69 were permitted, it would be possible to make such fundamental reservations to the convention that parties would not be able to ascertain their exact contractual obligations, or what the international law on the continental shelf really was.

25. Mr. SOLE (Union of South Africa) said that it would be ideal if all States represented at the Conference ratified the convention without reservation ; but more than one-third of the States represented at meetings of the Fourth Committee were in favour of permitting reservations to the articles adopted by that committee other than articles 67-69. Since the continental shelf was a new subject of international law, it was desirable that a large number of States should become parties to the convention, even if they made reservations to articles other than articles 67 to 69. If reservations to articles 67-69 were permitted, the convention would have very little effect or meaning. He requested a separate vote on the question whether reservations to articles 67-69 should be permitted, and urged that no division of that question should be made.

26. Miss GUTTERIDGE (United Kingdom) said that there should be a clear provision in the convention regarding reservations, since great difficulties had arisen from the lack of such a provision in previous conventions. When the question had been discussed by the Fourth Committee, her delegation had maintained that no reservation to any of articles 67-73 should be permitted, but had distinguished between articles 67-69 and the others. If reservations to articles 67-69 were permitted, the whole basis of the convention would be destroyed and it would have very little meaning. To lay down that reservations might be made to articles 70-73 might well make it easier for some States to become parties to the convention. The question of allowing reservations to article 74 should not be discussed until a final decision had been taken on that article.

27. Mr. MOUTON (Netherlands) said that it would indeed be wrong to discuss at the current meeting the proposal in so far as it related to article 74. He was, however, prepared to vote on it to the extent that it related to articles 67-73.

28. Mr. GROS (France) said that a decision might well be taken at the current meeting on whether reservations to articles 67-73 should be permitted, but not of course on the basis of the actual text of the Canadian proposal which was no longer relevant to the stage reached by the discussion. Concepts of international law were only valid if fully accepted by all concerned. It would be ideal if all States represented at the Conference ratified the planned convention on the continental shelf without reservations because, if there were a large number of reservations, it would not be clear what the international law on the subject was as between the contracting parties. It would not be easy to decide whether certain reservations were compatible with the subject-matter and the purpose of the convention, because then there

would be endless disputes on whether particular reservations were compatible with the convention or not. He was therefore in favour of laying down that no reservation might be made to any of the substantive articles. It was better to have a text ratified without reservation by a limited number of States than a text ratified with numerous reservations by a larger number of States.

29. Mr. TUNKIN (Union of Soviet Socialist Republics) said that in discussing the question of reservations to articles proposed by the Committee, it should be remembered that the Conference had been convened to draw up international standards which would be progressively accepted until they became common to all States.

30. The convention should therefore be worded so that all States could become parties to it. The question of reservations was of fundamental importance. Of course, it was desirable that there should be no need for reservations to international conventions, and that everything concerning international law should be completely clear ; but international law was very complicated and could not be made by any single body. If everything not absolutely clear in international law were scrapped, the harm would be enormous.

31. He did not agree that the basis of the convention would be destroyed if reservations to articles 67-69 were permitted ; but the convention would be valueless if ratified only by a very few States. Frequently, governments wanted to make to a convention reservations which did not affect common standards, and were unwilling to become parties to it unless they could do so. He was convinced that the adoption of a clause barring reservations to articles 67-73 would be harmful in practice, since many States would almost certainly decide not to ratify the convention. The number of parties to the convention should be as large as possible, even at the price of allowing States to make reservations.

32. If reservations to any of the articles 67-73 were permitted, some reservations would probably be cancelled later. Moreover, every party would always be free to declare that it was not bound by the terms of the convention in respect of another party which had made a reservation, because of the reservation. For those reasons, he was in favour of permitting reservations to any of those articles ; but, if the majority were in favour of prohibiting reservations to articles 67-69, he would not vote against such a provision, but merely abstain.

33. Mr GOMEZ ROBLEDO (Mexico) said he could not vote for the Canadian proposal, because his delegation preferred to place reservations on a contractual basis. That was an inherent right of sovereign States. The wording of the Canadian proposal made it quite impossible to distinguish absolute reservations, excluding whole articles, from clarifications of small points.

34. Some representatives had pictured extremely complicated situations which might arise if too many reservations were made. If, however, the Canadian proposal were accepted, the consequences would be just as extreme. Moreover, if the Secretary-General of the United Nations were authorized to receive reservations and there were no other legal control, all parties could deduce their own consequences from the convention. Representatives wishing to permit reservations

had been reproached for defending national interests ; but they were attending the conference for that very purpose. He agreed with the Canadian representative's concession on reservations to article 74, which was not worded as a treaty on the peaceful settlement of disputes, admitting no reservations. Such an agreement must be based on general goodwill.

35. Miss WHITEMAN (United States of America) thought that the Conference should above all be realistic in the matter. Her delegation hoped that the number of reservations would be limited, although it appreciated that a certain amount of freedom should be permitted with respect to reservations. But reservations to some articles would undermine the whole meaning of the convention. She would therefore be prepared to vote for an article which prohibited reservations to articles 67 to 69 only.

36. Mr. JHIRAD (India) said that his delegation in the Fourth Committee had upheld the Canadian view that no reservations should be admitted to articles 67 to 73. It had since decided, however, that other delegations' views must be taken into account and that a common decision should be reached. The debate had shown that, if absolute prohibition were pressed, there could be no agreement. If no reservations were made at the time of signature, ratification might be prevented by the absence of a reservation clause. The problem would be solved by limiting the prohibition to articles 67 to 69, which were so fundamental that a State which could not ratify the convention without making reservations to them should not ratify it at all.

37. Mr. WERSHOF (Canada) replied to the Netherlands representative that if article 74 were included in the group, the Netherlands objection might be valid ; but now that consideration of article 74 had been deferred, the Conference was merely called upon to vote on the prohibition of reservations to all or any of articles 67 to 73.

38. He agreed with the South African suggestion for a separate vote on articles 67 to 69. The Conference would then presumably vote on the prohibition of reservations to the remaining articles, and the Canadian proposal would present no problem to the Drafting Committee.

39. His delegation respected the point of view of governments which opposed on principle the prohibition of reservations, and agreed that prohibition might reduce the number of ratifications. On the other hand, the opposing arguments must be balanced, and the question whether the world community would be best served by the creation of international law subject to reservations must be considered. Moreover, articles 67 to 73 had been adopted by large majorities.

40. Mr. LAZAREANU (Romania) proposed that the meeting should be suspended to enable delegations to consider their positions.

*The meeting was suspended at 5 p.m. and resumed at 5.40 p.m.*

41. Mr. BOCOBO (Philippines) considered that the effect of the Canadian proposal was to state that articles 67 to 73 were sacrosanct while other articles

might be imperfect. It could not be asserted, however, that other groups of articles were less vital than those on the continental shelf, with its petroleum resources. All the groups of articles must stand on their own merit and not be rammed down the throats of delegations.

42. The Philippine delegation would vote against the Canadian proposal. It intended to make a reservation to article 67 when signing the convention. Under the Philippine Constitution, all natural resources were the property of the State, and it therefore claimed unlimited ownership of its continental shelf. International law must of course be built up gradually, but that rule did not preclude attempts to base international instruments on justice and real equality among States.

43. The PRESIDENT observed that the Drafting Committee would deal with the wording of the Canadian proposal. He therefore put to the vote the proposal that reservations to articles 67 to 69 should be prohibited.

*The proposal was adopted by 40 votes to 4, with 19 abstentions.*

44. Mr. LAZAREANU (Romania) explained that he had abstained from voting because his delegation was opposed in principle to preventing reservations to any article and believed that as many States as possible should be enabled to accede to the convention. It would indeed be regrettable if States such as the Philippines were prevented from signing. If they signed the convention and then made reservations to prohibited articles, the legal situation would become extremely difficult. He had therefore abstained merely because his government had no intention of submitting any reservations to the articles concerned.

45. Mr. DIAZ GONZALEZ (Venezuela) observed that the question of reservations had given rise to many difficulties for years and that governments had been prevented by total prohibition of reservations from signing instruments which they might have signed if reservations to one or two articles had been permitted. The Pan-American doctrine, under which reservations could be made to specific articles, made the instruments valid for all parties except for the articles to which the reservations had been made ; he was convinced that that doctrine could have been followed with regard to articles 67 to 69. His delegation had voted in favour of all the articles on the continental shelf, but reserved the right not to sign the convention because the reservation clause had been included.

46. Mr. BOCOBO (Philippines) asked that his negative vote on the prohibition of reservations to articles 67-69 should be recorded. At the time of signature, his government would make a reservation to article 67.

47. The PRESIDENT put to the vote the prohibition of reservations to articles 70-73.

*The proposal was rejected by 30 votes to 16, with 17 abstentions.*

48. Mr. OBIOLS GOMEZ (Guatemala) explained that he had abstained from voting on both parts of the Canadian proposal, with particular reference to article 69, for the reasons he had given in the 27th

meeting of the Fourth Committee when that article had been adopted.

49. Mr. OHYE (Japan) said that, during the voting on the articles considered by the Fourth Committee, his delegation had voted against articles 67 and 68 and had abstained from voting on articles 69 to 73.

50. Mr. CALERO RODRIGUES (Brazil) recalled the argument in the Fourth Committee that it would be contradictory to include a denunciation clause when codifying existing law and making future law. It had later been pointed out, however, that some uncertainty might arise in the absence of a denunciation clause, because some parties might consider that the convention would remain in force forever, while others might consider that, if they were bound by free will, they need only change their mind in order to withdraw from the convention. The Brazilian delegation therefore proposed that the denunciation clause in the draft final clauses (A/CONF.13/L.7) should be re-introduced, denunciation being permitted after twenty years. It would be easier to obtain constitutional approval of ratification if it were made clear that the convention would not remain in force forever.

51. Mr. CARBAJAL (Uruguay) could not agree with the Brazilian representative that the absence of a denunciation clause meant that any State could denounce an instrument at any time. Any State could, however, notify the other parties of its intentions, in order to establish whether the aims of the convention were still the same. The *rebus sic stantibus* clause had been referred to in the Fourth Committee to show that no instrument remained in force forever, but only while the reasons for its conclusion remained valid. Thus unilateral denunciation was not admissible.

52. Mr. BOCOBO (Philippines) considered that, since parties had an inherent right to denounce an instrument if conditions changed before its expiration, no specific time limit should be fixed.

53. Mr. BARTOS (Yugoslavia) thought that the denunciation clause should be retained. Under the *rebus sic stantibus* theory a State could ask for abolition of an instrument, but that was quite different from unilateral withdrawal. The intention voiced in the Fourth Committee to draw up a convention *in perpetuo* was consistent neither with historical precedents nor with the structure of international law. It would always be assumed that the right to denounce an instrument existed; but a party to an instrument might wish to denounce it even if there were no change in the existing circumstances.

54. He did not think it appropriate to prejudge the position of States which would not accept the revision clause, since they would still be bound by their obligations under the preceding clauses. In view of the criticisms levelled at the final clauses, it would be wise to adopt the USSR proposal and refer them to the Drafting Committee for improvement.

55. Mr. BHUTTO (Pakistan) supported the Brazilian representative's proposal. The circumstances in which instruments were signed sometimes changed radically, but the theory of *rebus sic stantibus* should not be

invoked, since it was usually applied arbitrarily and there was no objective way of determining actual changes of circumstance. In the twentieth century it was more suitable to apply the doctrine of *pacta sunt servanda*.

56. Mr. GROS (France) could not agree that the theory of *rebus sic stantibus* was implicit in all long-term treaties. In the practice of the League of Nations it had been admitted that denunciation could not take place without the consent of the parties and he referred to the resolution of the Council of the League of Nations of 19 March 1936 on that point.<sup>1</sup>

57. Mr. CARBAJAL (Uruguay) considered that there should be a denunciation clause in all conventions, in order to establish clearly the right of States to denounce an instrument when they considered that it conflicted with existing circumstances. The absence of such a clause was contrary to natural laws of development.

58. Mr. BARROS FRANCO (Chile) agreed with the Pakistan and French representatives. It would be better to be explicit with regard to denunciation, in order to avoid difficulties of interpretation.

59. Mr. DIAZ GONZALEZ (Venezuela) considered that a middle way must be found between the *rebus sic stantibus* theory and the assumption that an instrument could remain in force *in perpetuo*. The Brazilian proposal was therefore wise, but the time-limit of twenty years seemed too long. Profound changes of circumstances could take place in a short time.

60. Mr. TUNKIN (Union of Soviet Socialist Republics) proposed formally that all the final clauses adopted by the committees should be referred together to the Drafting Committee.

61. Mr. WERSHOF (Canada) opposed the USSR proposal to defer consideration of the final clauses. All the clauses except the denunciation clause proposed by the Brazilian representative had already been before the Drafting Committee, and could be disposed of at once.

62. Mr. GROS (France) did not agree that the Drafting Committee had disposed of the final clauses. Some substantive points had been raised in the Committee and would be brought by it to the Conference. The USSR proposal might be altered so that the Committee should work as a study group and consider those substantive matters.

63. Mr. KANAKARATNE (Ceylon) could see no reason for adopting the USSR proposal. The Fourth Committee had adopted certain recommendations on the final clauses which the Drafting Committee had revised. Apart from the Brazilian proposal, there was no reason to refer the clauses back to the Drafting Committee. Moreover, the USSR proposal was inconsistent with the decision to draft a separate convention, of which the final clauses were an integral part.

<sup>1</sup> *Official Journal, League of Nations, XVIIth year, No. 4 (part I), April 1936, p. 350.*

64. The PRESIDENT recommended the Conference to adopt the USSR proposal to refer to the Drafting Committee all the final clauses adopted by the committees. Those adopted by the First Committee might be deferred until that committee had completed its work.

*It was so decided.*

The meeting rose at 7 p.m.

### TENTH PLENARY MEETING

*Wednesday, 23 April 1958, at 10.15 a.m.*

*President: Prince WAN WAITHAYAKON (Thailand)*

#### Consideration of the report of the Second Committee (A/CONF.13/L.17 to L.19)

1. Mr. MADEIRA RODRIGUES (Portugal), Rapporteur of the Second Committee, submitted the report of the Committee (A/CONF.13/L.17), and regretted that considerations of time had prevented him from presenting a more detailed report. He had tried to be as objective as possible and to take into account all the valuable suggestions made by delegations; but he had unfortunately been unable to satisfy fully the representative of the USSR, who had commented adversely on the position given in the report to the resolution on nuclear tests (paragraphs 71 to 73). The final decision on that point, however, as indeed on the whole report, rested solely with the Conference.

2. The PRESIDENT pointed out that the second report of the Drafting Committee (A/CONF.13/L.19) contained certain recommendations on the texts adopted by the Second Committee. If there were no objections, he would assume that those recommendations had been adopted wherever applicable.

*It was so decided.*

#### Article 26

*Article 26 was adopted by 48 votes to none.*

#### Article 27

*Article 27 was adopted by 51 votes to none with 1 abstention.*

#### Article 28

*Article 28 was adopted by 58 votes to none.*

#### Article 29

3. Mr. LIMA (El Salvador) said that, although the Conference was entitled to lay down certain general conditions governing the grant of nationality to ships, the provisions of the instrument finally adopted should maintain complete respect for national sovereignty. In his delegation's view, the words "Nevertheless, for purposes of recognition of the national character of the ship by other States", appearing in paragraph 1, seemed to offend against the principle of sovereignty and he would therefore ask for a separate vote on that phrase.

4. Mr. SAFWAT (United Arab Republic) and Mr. MATINE-DAFTARY (Iran) supported the motion.

*The phrase "Nevertheless, for purposes of recognition of the national character of the ships by other States" was rejected by 30 votes to 15, with 17 abstentions.*

*Article 29, as amended, was adopted by 65 votes to none.*

#### Article 30

*Article 30 was adopted by 65 votes to none with 2 abstentions.*

#### Article 31

5. Mr. TUNKIN (Union of Soviet Socialist Republics) asked the sponsors of the article to explain its exact purport.

6. Mr. BARTOS (Yugoslavia) explained that the wording of the article had been proposed by the Office of Legal Affairs in consequence of certain difficulties experienced by the United Nations during the Korean war and with the United Nations Emergency Force in the Near East. The purpose of the provision was to emphasize that certain intergovernmental organizations had the right to sail ships under their own flags in the same manner as States. But the provision was admittedly not very well drafted and might be improved by some indication of how the words "intergovernmental organization" were to be understood.

7. Mr. SEYERSTED (Norway) said that, since it had proved impossible to deal with the substance of the question referred to in the article, the sponsors of the text had merely wished to keep the whole question open. The articles on the right to a flag spoke only of States and it would be regrettable if that were construed to mean that an international organization which lacked the attributes of statehood was precluded from sailing ships under its own flag. In those circumstances, since the substance of the complex problem had not been touched upon, he thought that the wording adopted by the Second Committee should be retained, without any attempt to define the organizations contemplated.

8. Mr. LÜTEM (Turkey) regretted that his delegation would have to abstain from voting on the article because its implications were by no means clear. If the text merely referred to the United Nations that fact should have been made clear.

9. Sir Alec RANDALL (United Kingdom) agreed with the Norwegian representative that there was no need to spell out the precise meaning of the term "intergovernmental organization". Any discussion on that point might raise delicate issues, and it would therefore be preferable to retain the article in the form adopted by the Second Committee and to leave the question open.

10. Mr. GIDEL (France) agreed that the problem of ships in the service of an intergovernmental organization was extremely complex, and though that the Conference should not enter into any discussion on the substance of the matter.

11. Mr. TUNKIN (Union of Soviet Socialist Republics) said that his delegation agreed with the speakers who

had stressed that the question of ships operated by certain international organizations should not be prejudged in any way. But the wording of article 31 was open to various interpretations and it might be preferable to indicate that the question was in no way covered, by omitting any reference to it whatever.

12. Mr. DEAN (United States of America) stressed that article 31 deliberately made no attempt for specify what an intergovernmental organization was or what its flag should be. The very purpose of the article was to stress that the question had not been passed upon.

13. Mr. JHIRAD (India) said that, although he fully respected the views of the sponsors of article 31, the text seemed seriously defective. It lent itself even to the extreme construction that ships in the service of an intergovernmental organization did not enjoy the freedoms enumerated in article 27.

*Article 31 was adopted by 50 votes to 9 with 11 abstentions.*

#### *Article 32*

*Article 32 was adopted by 73 votes to none.*

#### *Article 33*

14. Mr. TUNKIN (Union of Soviet Socialist Republics) said that article 33, which implied that government ships on commercial service would be subject to the jurisdiction of States other than the flag State, appeared to be in flagrant contradiction with article 30. If article 33 were adopted, government-owned commercial ships would enjoy less favourable treatment than any other craft.

15. Mr. DEAN (United States of America) recalled that the victims of collisions caused by the negligence of government-owned commercial vessels had often been unable to obtain satisfaction because the ship had claimed immunity. Article 33 was thus specifically designed to place commercial state ships on a footing of absolute equality with privately owned ones. The decisive factor should be not the identity of the owner, but the purpose for which the ship was operated.

16. Mr. MUNCH (Federal Republic of Germany) said that article 33, far from contradicting article 30, followed naturally from it. The USSR representative had not questioned the propriety of article 32, paragraph 1, which recognized the immunity of warships just as article 33 extended that privilege to other non-commercial government ships. Moreover, in suggesting that article 30 reserved the jurisdiction of the flag State in all cases, the USSR representative had apparently overlooked the words "save in exceptional cases expressly provided for in international treaties or in these articles".

17. Mr. TUNKIN (Union of Soviet Socialist Republics) replied that the saving clause in article 30 applied only where an international treaty made an exception in explicit terms. It was thus obviously inapplicable when the purport of the provision concerned was predominantly implicit.

*Article 33 was adopted by 55 votes to 11 with 10 abstentions.*

#### *Article 34*

*Article 34 was adopted by 72 votes to none.*

#### *Article 35*

18. Mr. SOLE (Union of South Africa) said that his government wished to reserve its position on paragraph 1, as under South African law the competent authorities were entitled to waive jurisdiction in penal or disciplinary proceedings. Similar provisions existed in the laws of several other Commonwealth countries.

19. The South African delegation also had doubts on the compatibility of paragraphs 1 and 2. Under paragraph 1, the flag State would be entitled to take proceedings against the master of a ship even though he was not a national of that State, while paragraph 2 stipulated that if there was any question of withdrawing the master's certificate the withdrawal could only be authorized by the State that had issued the certificate. That complication might lead to serious difficulties in practice.

*Article 35 was adopted by 63 votes to 1 with 7 abstentions.*

#### *Article 36*

*Article 36 was adopted by 71 votes to none.*

#### *Article 37*

*Article 37 was adopted by 73 votes to none.*

#### *Article 38*

*Article 38 was adopted by 69 votes to none.*

#### *Article 39*

20. Mr. TUNKIN (Union of Soviet Socialist Republics) said that his delegation found articles 39 to 45 unacceptable, because the concept of piracy adopted in them was wholly obsolete. The International Law Commission and the Second Committee had both ignored the fact that, in modern times, piracy could be committed otherwise than by individual private ships. Even the principles approved in the Nyon arrangement of 14 September 1937 had been omitted. The Conference should reject those articles and not oblige delegations to formulate unwelcome reservations.

*Article 39 was adopted by 54 votes to 9 with 4 abstentions.*

#### *Article 40*

*Article 40 was adopted by 55 votes to 10 with 1 abstention.*

#### *Article 41*

*Article 41 was adopted by 59 votes to 9 with 2 abstentions.*

#### *Article 42*

*Article 42 was adopted by 62 votes to 9 with 1 abstention.*

*Article 43*

*Article 43 was adopted by 60 votes to 9 with 1 abstention.*

*Article 44*

*Article 44 was adopted by 60 votes to 9 with 2 abstentions.*

*Article 45*

*Article 45 was adopted by 60 votes to 9 with 2 abstentions.*

*Article 46*

21. Sir Reginald MANNINGHAM-BULLER (United Kingdom) said that article 45 had been amended in committee to permit ships or aircraft on government service, other than warships, to carry out seizures on account of piracy. Since the purpose of article 46 was to restrict the actions of warships, it must *a fortiori* also restrict the actions of other government ships or aircraft, so that his delegation had not proposed amendments to it consequential on the amendments made to article 45.

22. Mr. SAFWAT (United Arab Republic) and Mr. AL DUGHATHER (Saudi Arabia) asked for a separate vote on sub-paragraph (b) of paragraph 1.

23. Mr. SOLE (Union of South Africa) asked for a separate vote on the phrase "while in the maritime zones treated as suspect... of the slave trade" in that sub-paragraph, because he did not favour the restriction it introduced. If that phrase was rejected, the remainder of sub-paragraph (b) should, of course, be amended to read: "That the ship is engaged in the slave trade; or".

24. The PRESIDENT put to the vote the phrase "while in the maritime zones treated as suspect... of the slave trade" in sub-paragraph (b) of paragraph 1.

*The phrase was rejected by 32 votes to 25 with 15 abstentions.*

25. Mr. SAFWAT (United Arab Republic) said that in view of that decision he would withdraw his request for a separate vote on sub-paragraph (b).

*Article 46 as amended was adopted by 62 votes to none with 9 abstentions.*

26. Mr. ROJAS (Venezuela) asked that the Spanish version of the amended text of sub-paragraph (b) be referred to the Drafting Committee, as it was not clear in its present form.

*Article 47*

*Article 47 was adopted by 67 votes to none with 3 abstentions.*

27. Mr. GARCIA SAYAN (Peru) reserved his government's position on articles 47 and 27 because, by the 1952 Declaration of Santiago concerning the Maritime Zone, Peru, together with Chile and Ecuador, had proclaimed its jurisdiction over specific areas of sea for fishing purposes.

*Article 48*

*Article 48 was adopted by 71 votes to none.*

*New article relating to the pollution of the sea by radioactive waste*

*The new article was adopted by 70 votes to none.*

28. Mr. OHYE (Japan) explained that his support for paragraph 2 of the new article in no way affected his government's position concerning the prohibition of nuclear tests.

*Article 61*

*Article 61 was adopted by 70 votes to none.*

*Article 62*

*Article 62 was adopted by 73 votes to none.*

*Article 63*

*Article 63 was adopted by 71 votes to none.*

29. The PRESIDENT pointed out that article 64 of the Law Commission's draft had been deleted.

*Article 65*

*Article 65 was adopted by 71 votes to none.*

30. Mr. ROSENNE (Israel), referring to paragraph 9 of the report, asked what action was to be taken by the Conference on the decision of the Second Committee to state in principle that the articles in general adopted by it did not override specific conventions in force. It might suffice to take note of that statement and mention it in the final act of the Conference.

31. Mr. BARTOS (Yugoslavia) thought that the matter should be taken up in conjunction with the final clauses.

32. The PRESIDENT invited the Conference to consider the joint proposal by Czechoslovakia, Poland, the Union of Soviet Socialist Republics and Yugoslavia (A/CONF.13/L.18) to add a new article worded as follows: "States are bound to refrain from testing nuclear weapons on the high seas."

33. Mr. DEAN (United States of America), observing that the Soviet Union had recently conducted a series of exceptionally intensive nuclear tests on land, which had greatly increased the volume of radio-active fallout, said that the United States representative had already pointed out in the Second Committee that to adopt an article on nuclear tests might materially jeopardize the delicate negotiations on disarmament in which the United States had played a leading part. His government was not opposed to the prohibition of nuclear tests provided it was accompanied by effective international control, but, unfortunately, owing to the attitude of the Soviet Union Government, no agreement had so far been possible. A declaration of the kind proposed in the new article without adequate arrangements for supervision had serious drawbacks; and the cessation of nuclear tests could only be regarded as one of a number of essential issues forming an inseparable whole, which called for a general settle-

ment. In that connexion, he regretted that the Soviet Union should have boycotted the Disarmament Commission.

34. In view of the Second Committee's adoption of the draft resolution concerning the testing of nuclear weapons submitted by India, he appealed to the sponsors of the proposal to withdraw it, so as not to endanger the work of other United Nations bodies.

35. Mr. TUNKIN (Union of Soviet Socialist Republics) said that his delegation had joined with others in submitting the proposal in the belief that such a prohibition was a logical consequence of the definition adopted in article 27.

36. The proposal was restricted to tests on the high seas because the Conference was concerned solely with the law of the sea; he had not intended to touch upon the wider problem of nuclear tests in general, but was now obliged to do so owing to the United States representative's intervention. He was unable to understand why Mr. Dean should have assumed that the proposal was directed against his country, since it did not seek to impose a unilateral obligation, but one that would apply to all States on an equal footing. The Soviet Union, for its part, was quite prepared to refrain from conducting nuclear tests on the high seas. Indeed, the Supreme Soviet had recently promulgated a decree suspending all nuclear tests, thereby making an important contribution towards a general solution of the problem.

37. His government had continually worked to obtain, as quickly as possible, an international agreement on disarmament providing for supervision, but since it had met with no response and with obstruction by the United States whose strategy and diplomacy were based on nuclear weapons, it had been forced to act alone.

38. The Conference was bound to include a provision on nuclear tests, and it was quite fallacious to argue that that important matter should be left aside because it formed part of the whole problem of disarmament.

39. Sir Reginald MANNINGHAM-BULLER (United Kingdom) said that no government had been more persistent and sincere than his own in its efforts to institute international control and secure abolition of the testing, manufacture and use of nuclear weapons. It had made those efforts in the proper forum—namely, the General Assembly and its Disarmament Commission. To isolate nuclear tests on the high seas from the whole problem of disarmament in general was clearly artificial, and it could be proved that in recent months potentially more harmful radioactivity had been caused by nuclear tests over land than by those on the high seas. His government had conducted its tests, of which due notice had been given, with a scrupulous regard for the interests of users of the high seas, and scientific research had established that they had had no harmful effects on human, animal or marine life.

40. He regretted the introduction of the joint proposal at the present late stage of the Conference and the Soviet Union Government's action in withdrawing from the Disarmament Commission.

41. The draft resolution proposed by the Indian delegation and adopted by the Second Committee, while

acknowledging the apprehensions aroused by nuclear explosions, referred the matter to the General Assembly within whose competence it lay. It seemed inappropriate, at a time when heads of States were engaged in seeking a means of tackling constructively problems that were vital to the peace and security of the world, for the Conference to encroach upon the General Assembly's work. He therefore supported the Indian draft resolution, for the reasons his delegation had given at the 18th meeting of the Second Committee, and associated himself with Mr. Dean's appeal to the sponsors of the joint proposal.

42. Mr. ZOUREK (Czechoslovakia) said that his delegation had joined in sponsoring the proposal because nuclear tests were the most dangerous threat to the freedom of the high seas since that principle had received general recognition. There could be no doubt that such tests were a flagrant violation of the freedom enunciated in article 27, that they closed vast areas to navigation and fishing and would, according to the experts, endanger neighbouring populations, seafarers and the living resources of the sea. Both the United Nations Scientific Committee on the Effects of Atomic Radiation and an expert committee of the World Health Organization had confirmed that nuclear tests had raised the level of natural radiation, and that international control was urgently needed.

43. He was unable to endorse the Second Committee's action in evading the issue by referring it to the General Assembly, because an express prohibition of nuclear tests on the high seas had nothing whatever to do with their general prohibition; tests on the high seas were already contrary to existing international law. The Committee's timorous attitude was particularly inappropriate after the Soviet Union Government's decision of 31 March 1958 to stop nuclear tests, which had been welcomed by men of good-will, and would make the task of the Conference easier. Failure to insert the proposed article, which was no more than a statement of existing law, would certainly be condemned by public opinion and future generations.

44. Mr. JHIRAD (India) said that his government's view that nuclear tests either on land or sea were contrary to humanitarian principles and international law was well known. Moreover, nuclear tests at sea were a serious infringement of the principle of the freedom of the high seas, and were therefore unlawful on that account as well. Though he agreed with the substance of the joint proposal, he believed its introduction at the present juncture would complicate the discussion of other serious issues, and he therefore asked that the Indian draft resolution adopted by the Committee, having been submitted earlier, should be put to the vote first in accordance with rule 41 of the rules of procedure.

45. Mr. OCIOSZYNSKY (Poland) said that his delegation had joined in sponsoring the proposal because the matter definitely lay within the competence of the Conference, and because there was no justification for referring it to the General Assembly. Obviously, nuclear tests on the high seas and the institution of prohibited zones were a violation of the freedom of the seas and a threat to seafarers and the living resources

of the sea. He did not share the Second Committee's pessimism as to the possibility of reaching agreement on the most important problem arising from the use of the high seas; even a partial solution was preferable to inaction. His government had always resolutely opposed the use of atomic weapons, and he commended the joint proposal as a positive contribution to the codification of international law, which must deal with major issues at every stage.

46. Mr. BARTOS (Yugoslavia) said that his government was against any nuclear tests, whether on land or sea, and was prepared to support any effort to prohibit them. He did not see why adoption of the joint proposal should be incompatible with supporting the work of the Disarmament Commission.

47. Mr. KANAKARATNE (Ceylon) said that his government could not view any nuclear tests with equanimity, since their effects knew no boundaries; it associated itself with the apprehension expressed in the draft resolution adopted by the Second Committee. He urged the sponsors of the joint resolution not to press it to a vote, because its rejection might be interpreted by world public opinion as meaning that the Conference had refused to ask States to refrain from nuclear tests on the high seas, which were an obvious infringement of international law.

48. Mr. LOUTFI (United Arab Republic) said that he had already expressed his government's opposition to all nuclear tests, both at the Conference and in the General Assembly. In its view, tests on the high seas were contrary to international law.

49. Mr. LAZAREANU (Romania), supporting the joint proposal, pointed out that the adoption of the Committee's draft resolution would not have the same effect, since one of the objectives of the Conference was to ensure that all States should benefit from the living resources of the high seas and the possibilities offered by the seas for international communication. All the rules that had been discussed would be futile unless a ban were imposed on nuclear tests, which increasingly endangered the living resources of the sea and international navigation, as well as the safety and health of present and future generations. Such a ban would assist other United Nations organs working on disarmament, and would contribute towards a general settlement.

50. Although he did not disagree with the views expressed by the representatives of India and Ceylon in defence of the Committee's draft resolution, he could not support it.

51. The PRESIDENT announced that, in accordance with rule 41 of the rules of procedure, he would put to the vote first the draft resolution submitted by the Committee (A/CONF.13/L.17, annex).

52. Mr. LOUTFI (United Arab Republic) moved that a separate vote be taken on the first two paragraphs of the resolution.

53. Mr. DEAN (United States of America) opposed the motion because the draft resolution was an integral whole and its purpose would be largely defeated if only part of it was adopted.

54. Mr. JHIRAD (India) also opposed the motion because the adoption of only part of the draft resolution would not reflect his government's attitude.

55. Mr. BARTOS (Yugoslavia) supported the motion because he would be unable to vote for the draft resolution as a whole.

*The motion for a separate vote on the first two paragraphs of the draft resolution was rejected by 50 votes to 3 with 18 abstentions.*

*The draft resolution relating to nuclear tests submitted by the Second Committee was adopted by 58 votes to none with 13 abstentions.*

56. The PRESIDENT put to the vote the Second Committee's draft resolution relating to article 48 and dealing with the disposal of radio-active waste in the sea (A/CONF.13/L.17, annex).

*The draft resolution was adopted by 67 votes to 6 with 1 abstention.*

57. Mr. WYNES (Australia) said that he had supported the two draft resolutions and abstained on article 35 for reasons given at the 27th meeting of the Second Committee.

The meeting rose at 1.30 p.m.

## ELEVENTH PLENARY MEETING

*Wednesday, 23 April 1958, at 3.15 p.m.*

*President: Prince WAN WAITHAYAKON (Thailand)*

### Consideration of the report of the Second Committee (A/CONF.13/L.17) (continued)

1. Mr. SOLE (Union of South Africa), referring to paragraphs 74 *et seq.* of the Second Committee's report (A/CONF.13/L.17), said that the work of the International Law Commission fell into two categories. Firstly, there was the progressive development of international law for which the Commission had envisaged a convention or treaty (A/3159, paragraph 25). Secondly, there was the codification of existing rules or practice. The majority of the articles adopted by the Second Committee belonged to the second category. In addition, it was agreed that the principles underlying new articles, such as those on pollution by oil and by radioactive waste, should receive international recognition. Consequently, he thought that all the articles adopted by the Committee could be embodied in an instrument of codification. Inasmuch as a convention would be subject to reservations—probably affecting all the articles it contained—and would not be ratified by as many States as would accept a declaration, he proposed that the results of the work of the Second Committee should be embodied in a declaration with an operative paragraph in the following terms:

“The United Nations Conference on the Law of the Sea declares by a majority in no case of less than two-thirds of the members present and voting that the following are, as of the date of the adoption of

this declaration, principles of international law relating to the high seas. . . .”

That proposal took into account the articles which related to new law.

2. In addition, he proposed that the declaration should be supplemented by a protocol open to States for signature and ratification, under the terms of which they would accept the declaration as binding. Any kind of instrument relating to whatever arbitral procedure the Drafting Committee might recommend should be taken into account in considering the supplementary protocol. In that way, the requirements of as many States as possible would be satisfied.

3. Mr. COLCLOUGH (United States of America) said that his delegation was in favour of a declaration, because the articles adopted by the Second Committee embodied rules of law founded on precedent and accepted practice. However, it would be necessary to consider the question of form before the declaration was adopted.

4. Mr. GARCIA SAYAN (Peru) said that the articles relating to the régime of the high seas were very closely linked with those dealing with the territorial sea, with fishing and the conservation of living resources, and with the continental shelf. Thus, in article 26, the high seas were defined by reference to the territorial sea and internal waters. But the Conference had been unable to reach a decision on the breadth of the territorial sea, and the limits of the high seas were in consequence only vaguely defined. Similarly, it was stated in article 27 that the freedom of the high seas comprised, *inter alia*, freedom of fishing; no limitations were placed on that freedom apart from a reference in general terms to “the conditions laid down by these articles and by the other rules of international law.” Yet the provisions adopted by the Third Committee restricted the scope of the principle enunciated in article 27, as also did the measures taken by certain countries — of which Peru was one — to assert their sovereignty over specific maritime zones in matters of fishing rights.

5. His delegation therefore opposed the adoption of a separate instrument for the articles relating to the régime of the high seas.

6. Mr. GAETANO DE ROSSI (Italy) said that a convention would be the most satisfactory instrument to embody the articles adopted by the Second Committee. It might be necessary to prepare a series of interconnected separate conventions incorporating the articles on the law of the sea. Every such convention would have to be submitted for signature, accession, acceptance and ratification. It should be binding and provide for the arbitration or judicial settlement of disputes. However, the plenary Conference could not take a final decision on the work of any committee until it had examined the results of the work of all the committees.

7. Mr. JHIRAD (India) said that the majority of the articles which the Second Committee had adopted were declaratory of existing law, though some established new law. Thus a declaration might seem suitable, but, since delegations would in any case require the consent of their governments, his delegation favoured a con-

vention with a preamble stating that it was declaratory of existing rules.

8. Mr. OLDENBURG (Denmark) said that his delegation supported the South African proposal for a declaration. A convention which was ratified by a certain number of States only, and to which many reservations might be made, was of limited value. A declaration, on the other hand, merely by formulating certain principles, would influence the law of the sea and would guide the competent authorities of all States in the drafting of provisions of municipal law. Many of the articles adopted by the Second Committee covered subjects already dealt with in existing international conventions in a more detailed form, and the best solution would be for governments which had not already done so to accede to those conventions; at the same time, the States should sign a declaration setting forth the principles of the international law of the sea.

9. The PRESIDENT, replying to a question by the representative of Canada, said that the final instrument to be recommended by the Drafting Committee would require a two-thirds majority in order to be adopted.

10. Mr. WERSHOF (Canada) said that his delegation supported the South African proposal for a declaration and for a protocol open to signature and ratification by States which wished to accept the declaration as binding. The question of reservations would not then arise. He made an informal suggestion that a preliminary vote should be taken on the adoption of a convention because if, as seemed probable, it did not obtain a two-thirds majority, some States might then be prepared to accept the South African proposal as a substitute.

11. Mr. BOCOBO (Philippines) suggested that the Conference might follow a procedure similar to that which the International Labour Organisation had found satisfactory for the last forty years. It might adopt a declaration together with a protocol, for articles which obtained a two-thirds majority, and a declaration without a protocol, for articles for which there was only a simple majority. He thought that probably most of the articles concerning the law of the sea belonged to the first category. It was possible that a simple majority might be obtained on the articles relating to the territorial sea, which could thus be included in a declaration without a protocol.

12. Mr. TUNKIN (Union of Soviet Socialist Republics) expressed support for the Italian proposal for a convention covering all the articles adopted by the Second Committee. A declaration would not be subject to reservations; it would merely be a resolution without binding force, and as such a convenient guide for national law, but it would not have much authority in international law. Public opinion and governments would not welcome such an insubstantial result to the work of the Conference.

13. A convention, on the other hand, would be a definite reflection of the development of international law. A multilateral convention was generally regarded as superior to bilateral agreements, of which there were vast numbers. Moreover, a convention, being an expression of the opinion of the Conference, would also

fulful the function of a declaration, whilst at the same time it would make clear the position of each State, by means of the procedure of signature, accession and ratification. A convention would produce effects even outside the group of States parties, for it would come to be regarded as a source of international law. In addition, the fact that the Conference had adopted a separate convention for the articles adopted by the Fourth Committee established a precedent for such a convention. For those reasons, his delegation was in favour of a separate convention for the articles adopted by the Second Committee.

14. Mr. CAICEDO CASTILLA (Colombia) expressed agreement with the statements made by the representatives of Italy and the USSR.

15. Sir Alec RANDALL (United Kingdom) said that his delegation agreed with those in favour of a declaration. What had been decided with regard to the articles adopted by the Fourth Committee was not a precedent for the articles adopted by the Second Committee, since there were reservations to the former, but none to the latter. His delegation also supported the suggestion by the Canadian representative for a preliminary vote on the adoption of a convention.

16. The PRESIDENT, replying to a question by the Soviet Union representative, said that it was not necessary for the Conference to take a final decision as to the kind of instrument to be adopted until the Drafting Committee had completed its work, though it could do so if it wished. The Conference might ask the Drafting Committee to prepare a draft declaration and a draft convention for purposes of comparison.

17. Mr. TAYLHARDAT (Venezuela) said that the decisive majorities by which the Conference had adopted the Second Committee's articles indicated an overwhelming desire for their codification. Obviously, therefore, they should be embodied in a convention and not in a declaration.

18. Mr. TABIBI (Afghanistan) said that the interests of international law in the matter would be better promoted by a convention than by a declaration. The task of the Conference was to codify the law of the sea and make it universally applicable; a declaration, far from laying down precise rules, would merely lead to confusion and difficulties. He pointed out that the Fifth Committee had adopted the Swiss proposal (A/CONF.13/C.5/L.15) on the understanding that the results of the Second Committee's work would be embodied in a convention.

19. Mr. BARROS FRANCO (Chile) agreed with the Peruvian representative that the idea of preparing separate conventions for the work of each committee was most unsatisfactory. The high seas articles must not be embodied in a separate convention, but in a convention on the law of the sea in general.

20. Mr. GLASER (Romania) pointed out to the South African and United Kingdom representatives that their views were at variance with those reached by the International Law Commission after eight years of work (A/3159, paragraphs 26-28). The task of the Con-

ference was not merely to codify existing rules of international law relating to the sea, but also to promote the "progressive development of international law". In fact, the South African representative had admitted as much since his proposal stated "... the following are, as of the date of adoption of this declaration, principles of international law relating to the high seas." The implication was that the principles in question had not previously existed, and that the Conference was really creating law and not merely codifying existing law.

21. In those circumstances he agreed with the Italian, USSR and Colombian representatives that the results of the work of the Second Committee should be embodied in a convention, and not in a declaration.

22. Mr. GROS (France) agreed wholeheartedly. The task of the Conference was to codify the entire body of the international law relating to the sea, and the necessary unity of the subject could not be preserved if the Conference agreed to a proliferation of instruments. The International Law Commission had submitted its draft as an interrelated whole and it had been subdivided among committees simply for the sake of convenience. Clearly, then, that unity should be preserved and only one instrument adopted. He agreed, however, that the problem could be referred to the Drafting Committee.

23. Mr. PANHUYS (Netherlands) said that, in addition to the choice between a declaration and a convention, a third possibility was open to the Conference; it could adopt an instrument which would be signed and ratified but which would nevertheless be of a declaratory nature. He suggested a preamble for such an instrument in the following terms:

"Considering that the following provisions are to a great extent a faithful reflection of the existing rules of customary international law and that, furthermore, they represent a correct balance between certain divergent national conceptions of the precise content of such customary law;

"Considering, therefore, that these provisions should, by means of codification, be accepted as the common expression of the positive, generally recognized law of the sea,"

24. Mr. TRUJILLO (Ecuador) said he shared the view of the Romanian representative. He referred to the twofold nature of the International Law Commission's work described in paragraph 25 of its report, and summarized the events leading up to the Conference. He pointed out that, had the General Assembly considered that international law on the subject simply had to be endorsed, the Assembly would not have convened a conference. Yet a conference had been called and asked to study all the various aspects of the law of the sea as a whole. In view of the unity of the subject it would be extremely difficult to single out any one particular aspect for treatment in a separate instrument. A declaration would not serve the intended purpose, since experience had shown declarations to be of limited value. He therefore agreed with the Peruvian representative that a single convention should be prepared covering all the work of the Conference.

25. Mr. KANAKARATNE (Ceylon) said that, in view of the terms of reference of the Conference, he was surprised at the South African representative's proposal that the Second Committee's articles should be embodied in a mere declaration. Had it been the intention to adopt a declaration, the International Law Commission's articles could simply have been endorsed and it would have been unnecessary to convene a conference for the purpose of preparing a legally binding instrument. If representatives were being asked to depart from the recommendations of the International Law Commission and of the General Assembly and to adopt a simple declaration, they should be given compelling reasons for doing so.

26. The Netherlands representative had suggested a preamble implying that the instrument embodying the articles was a declaration of existing principles of international law and disregarding the fact that those articles covered much that was new. The Conference could not adopt a declaration which, like so many other declarations, would merely pay lip-service to certain principles.

27. His delegation was therefore unable to accept the South African proposal or the preamble suggested by the Netherlands representative. The high seas articles should be embodied in a specific legal instrument such as a convention.

28. Mr. PANHUYS (Netherlands) explained that the preamble he had suggested implied not only that the instrument would be the expression of existing law but also that the real content of customary law was in dispute and that therefore the ensuing rules were a common expression of the generally recognized law of the sea.

29. He emphasized that he was not in favour of a declaration as such, but of an instrument in the form of a declaration relating only to the high seas articles.

30. Mr. CARBAJAL (Uruguay) said that a declaration would not have the binding force of a convention nor could it state the law so precisely as a convention. He considered that the majorities by which the high seas articles had been adopted implied acceptance of an instrument in the form of a convention. Furthermore, in view of the interrelation of the articles on the law of the sea, it would be unwise to place the high seas articles in a separate convention.

31. Mr. ROSENNE (Israel) said that the phrase "one or more conventions" in paragraph 28 of the International Law Commission's report should be interpreted in the context of General Assembly resolution 899 (IX), as a result of which the Commission had incorporated all its articles on the law of the sea in a single draft. The fact that the Conference had decided to deal with the continental shelf in a separate convention should not create a precedent applicable to the work of other committees. If the same procedure were followed in the case of the high seas articles some very complicated problems of pure law, such as that referred to in paragraph 9 of the Second Committee's report (A/CONF.13/L.17) would arise. The whole question would have to be examined very carefully, and should therefore be referred to the Drafting Committee. The

Conference could then reach a decision in the light of the Drafting Committee's recommendations.

32. Mr. TUNKIN (Union of Soviet Socialist Republics) said that it would be extremely difficult for the Drafting Committee to decide what kind of instrument should be adopted for the high seas articles. In any event, the Drafting Committee was not competent to take decisions on questions of substance.

33. Mr. CARBAJAL (Uruguay) agreed that the Drafting Committee was not competent to reach a decision on so important a question.

34. Mr. JHIRAD (India) suggested the suspension of the meeting in order that representatives might work out a compromise solution.

*It was so agreed.*

*The meeting was suspended at 5.15 p.m., and resumed at 5.40 p.m.*

35. Mr. JHIRAD (India) said that during the recess the delegations which had put forward proposals had arrived at a compromise proposal that there should be a convention with a suitable preambular clause to be drawn up by the Drafting Committee, stating that the majority of the articles were generally declaratory of existing international law. A decision on the question of a separate convention would be deferred.

36. Mr. ROSENNE (Israel) proposed that the decision adopted by the Second Committee and recorded in paragraph 9 of its report should be added to the compromise proposal and that its final wording should be settled by the Drafting Committee.

*It was so agreed.*

37. Mr. GARCIA SAYAN (Peru) said that, in recommending the Drafting Committee to prepare a preamble to the articles on the high seas, the Conference would, in practice, be deciding in favour of a separate convention. He therefore proposed that the decision of the Conference as to the kind of instrument required for the articles on the high seas should be deferred until it had voted on the articles adopted by the First, Third and Fifth Committees.

38. Mr. MÜFTÜGİL (Turkey) said that his delegation agreed with the statement of the representative of Peru.

39. Mr. BARROS FRANCO (Chile) said that his delegation agreed with the statement of the representative of Peru. The adoption of a preamble referring exclusively to the articles adopted by the Second Committee would prejudice the question of a separate convention. If, on the other hand, the preamble referred to all the articles considered by the Conference, it would be premature to take a decision on it.

40. Mr. BOCOBO (Philippines) said that his delegation favoured the compromise proposal because there was only a tenuous distinction between a convention and a declaration, with or without protocol. The authority of the instrument adopted by the Conference did not depend on the name given to it, but on whether it was based on principles of justice and answered the needs of the international community.

41. The PRESIDENT, in reply to questions from Mr. TUNKIN (Union of Soviet Socialist Republics) and Mr. COLCLOUGH (United States of America), said that the purpose of the compromise proposal was to ask the Drafting Committee to prepare a text which delegations could then decide whether to accept. That text would be a convention together with a declaratory preambular clause. If the clause were not applicable, the question of the kind of instrument would be reopened. The compromise proposal did not pre-judge the question of a separate convention. On that understanding, he proposed that the Conference should adopt the compromise proposal together with the proposal of Israel.

*It was so agreed.*

The meeting rose at 6.5 p.m.

## TWELFTH PLENARY MEETING

*Thursday, 24 April 1958, at 3 p.m.*

*President*: Prince WAN WAITHAYAKON (Thailand)

### Consideration of the report of the Fifth Committee (A/CONF.13/L.11, L.20)

1. Mr. TABIBI (Afghanistan), Rapporteur of the Fifth Committee, presented the Committee's report (A/CONF.13/L.11).

2. Mr. SZITA (Hungary) said that the incorporation of the Fifth Committee's recommendations in one of the conventions to be adopted by the Conference was important to the land-locked countries and to the international community alike.

3. His delegation had supported the Fifth Committee's report as a whole, but had voted for part II of its recommendations (A/CONF.13/L.11, para. 26) reluctantly. The Preliminary Conference of Land-locked States had accepted certain principles, the most important being the right of free access to the sea which derived from the fundamental principle of the freedom of the high seas. The principle of the freedom of the high seas would sound hollow indeed to the land-locked countries if the right of free access were not regarded as an inalienable right. Unfortunately, that right had not been expressly recognized in the Swiss proposal adopted by the Fifth Committee.

4. He pointed out in that connexion that neither the memorandum of the Preliminary Conference (A/CONF.13/C.5/L.1) nor the nineteen-power proposal (A/CONF.13/C.5/L.6) had sought to infringe the sovereignty of the States of transit. On the contrary, both documents explicitly safeguarded the rights of those States, and emphasized that they would retain full sovereignty over their territory and further provided that the form in which a land-locked country would exercise its right of access should in each individual case be decided by agreement between the States concerned.

5. In the opinion of his delegation, therefore, the right of the land-locked countries to free access to the sea was something much more positive than the vague

recommendations of the Fifth Committee and, although it would vote for those recommendations, it maintained that the principles adopted at the Preliminary Conference did not go beyond the rules of existing international law.

6. Mr. BHUTTO (Pakistan) pointed out that although, under operative paragraph 3 of General Assembly resolution 1105 (XI), the Fifth Committee should have confined itself to a study of the question of free access to the sea of land-locked countries, it had gone much further and made recommendations.

7. He emphasized that the document prepared by the Secretariat had failed to mention the "rights" claimed by the land-locked countries and, as he had already stated in the Fifth Committee, one eminent jurist had gone so far as to deny that States were under a duty to accord land-locked countries the right of transit. In his delegation's view, the seven principles so strongly defended by the land-locked States, at the Preliminary Conference and subsequently, would tend to destroy completely the concept of national sovereignty, and he thought it strange that the land-locked countries should have regarded as unreasonable the attempts made by the coastal States to protect that sovereignty. Despite those considerations, however, the coastal States had magnanimously displayed a spirit of understanding and compromise and had gone more than half-way to meet the claims of the land-locked countries in the interests of agreement.

8. The seven principles adopted by the Preliminary Conference went too far and failed to take account of the realities of international law and relations; any further attempt to extend the rights of the land-locked countries would jeopardize the compromise reached in the Fifth Committee.

9. Mr. TABIBI (Afghanistan) observed that the seven principles contained in the nineteen-power proposal submitted to the Fifth Committee had been supported not only by the land-locked countries but also by other States, on the understanding that they represented basic elements of the freedom of the high seas. In his view, the freedom of the high seas would be undermined if the right of free access to the sea were ignored.

10. He pointed out that operative paragraph 3 of General Assembly resolution 1105 (XI) should be read in conjunction with General Assembly resolution 1028 (XI); clearly, the Assembly's intention had been that the Conference should not only study the question, but should also take decisions. Moreover, the compromise to which the Pakistani representative had referred had certainly not been one-sided, since the land-locked countries had not pressed the nineteen-power proposal to a vote.

11. In conclusion, he said it was generally agreed that the national sovereignty of a State of transit should not be infringed, and in that connexion he pointed out that all the proposals submitted in the Fifth Committee had contained provisions that safeguarded that sovereignty.

12. Mr. SHAHA (Nepal), referring to the Pakistani representative's view that the Fifth Committee had been competent only to study the question of free access, pointed out that an examination of the secretariat

documents would make it clear that there was no reason why the Fifth Committee could not take decisions and embody the results of its work in a suitable international instrument should it so decide. In his opinion, the seven principles adopted by the Preliminary Conference clearly indicated that the land-locked countries had tried to provide adequate safeguards for the rights of transit States.

13. His delegation would accept the Fifth Committee's recommendations on the understanding that in doing so its position on the seven principles or the nineteen-power proposal would in no way be affected. His government maintained the view that the freedom of the high seas and the principle of equality of States constituted the legal basis of the fundamental right of access to the sea of land-locked countries.

14. The PRESIDENT put to the vote part I of the recommendations contained in the Fifth Committee's report (A/CONF.13/L.11, paragraph 26).

*Part I of the Fifth Committee's recommendations was adopted by 67 votes to none, with 3 abstentions.*

15. Mr. BHUTTO (Pakistan) explained that he had abstained from the vote because the issue had been confused by the reservations expressed by the representatives of Hungary and Nepal.

16. Mr. GUEVARA ARZE (Bolivia) regretted the impression given by the Pakistani representative that the international community was granting certain rights to the land-locked countries as a special favour. That was not the spirit in which the text under consideration should be adopted, for it represented the interests of the land-locked countries and of the transit countries alike. The solution reached was fair and would contribute to the progressive development of international law.

17. Mr. MÜNCH (Federal Republic of Germany), referring to part II of the Fifth Committee's recommendations, said that it would not be possible to vote on the new article recommended by the Committee if the delegations of Nepal and Afghanistan maintained their position that the article, if adopted, would not be part of international law.

18. Mr. BHUTTO (Pakistan) said that the article was based on a Swiss proposal (A/CONF.13/C.5/L.15) which had been the result of a compromise. If reservations were made to the proposed article, there was no longer a compromise. However, his delegation would reconsider its position if the delegations of Nepal and Hungary withdrew their reservations.

19. Mr. VELILLA (Paraguay) said that his delegation supported the seven principles adopted by the Preliminary Conference of Land-locked States because it considered that the right of land-locked States of free access to the high seas was a part of international law recognized by existing practice and by agreements in force.

20. Mr. BACCHETTI (Italy) said his delegation could not accept the view that the land-locked States had a right of free access to the high seas in customary international law; nevertheless, it would support part II of the Fifth Committee's recommendations.

21. The PRESIDENT put to the vote part II of the Fifth Committee's recommendations (A/CONF.13/L.11, paragraph 26).

*At the request of the representative of Afghanistan, a vote was taken by roll-call.*

*India, having been chosen by lot by the President, was called upon to vote first.*

*In favour:* India, Indonesia, Ireland, Israel, Italy, Japan, Liberia, Libya, Luxembourg, Mexico, Monaco, Morocco, Nepal, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Romania, San Marino, Saudi Arabia, Spain, Sweden, Switzerland, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Republic of Viet-Nam, Yugoslavia, Afghanistan, Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Finland, France, Federal Republic of Germany, Ghana, Guatemala, Haiti, Holy See, Hungary, Iceland.

*Abstaining:* Iran, Pakistan, Paraguay, Portugal, Turkey, Venezuela.

*Part II of the Fifth Committee's recommendations was adopted by 67 votes to none, with 6 abstentions.*

22. Mr. MATINE-DAFTARY (Iran) said that his delegation had abstained in the vote because it considered the preparation of a draft convention outside the terms of reference of the Fifth Committee.

23. Mr. BHUTTO (Pakistan) said that his delegation had abstained because of the reservations formulated by the delegations of Nepal and Hungary. He appealed to them to withdraw those reservations before a final vote was taken on the results of the work of the Conference.

24. Mr. ZOUREK (Czechoslovakia) said that, in the absence of a prepared text as a basis for its work, and owing to pressure of time, the Fifth Committee had not succeeded in codifying all the law relating to the free access of land-locked States to the high seas. It was unfortunate that it had not been able to deal as exhaustively as it should have done with the nineteen-power proposal (A/CONF.13/C.5/L.6). Moreover, part II of the Swiss proposal had been weakened by the adoption of an amendment (A/CONF.13/C.5/L.26) and by the adoption of language which was not sufficiently categorical. Nevertheless, his delegation had voted in favour of the provisions just approved by the Conference.

25. Mr. VELILLA (Paraguay) said that his delegation had abstained because the Spanish text of the provisions voted on had not apparently been settled in final form.

26. Mr. MÜNCH (Federal Republic of Germany) said that his delegation had cast a favourable vote on the understanding that the delegations of Nepal and Hungary had withdrawn their reservations. It did not think that the criticism expressed by the representative of Czechoslovakia was justified.

**Consideration of the recommendations adopted by the General Committee concerning the procedure to be followed in connection with the articles relating to the breadth of the territorial sea and the contiguous zone (A/CONF.13/L.23/Rev.1)**

27. The PRESIDENT drew attention to the under-mentioned recommendations (A/CONF.13/L.23/Rev.1) which had been unanimously adopted at the 7th meeting of the General Committee, concerning the procedure to be followed in dealing with article 3 (Breadth of the territorial sea) and article 66 (Contiguous zone):

"1. The order of procedure in relation to voting on articles 3 and 66 in the plenary session is to be decided by the President. Delegations are urged as far as possible not to appeal against the decisions of the President.

"2. All proposals presented in plenary relating to articles 3 and 66 are to be put to the vote at 5 p.m. on Friday, 25 April.

"3. No proposals for postponement of voting on the above proposals relating to these articles shall be considered.

"4. No amendments to, or motions for division of, proposals may be submitted or discussed.

"5. Speeches to be limited to two speakers for and two against each proposal and to ten minutes duration each. Whether or not all speeches are concluded, voting will start at 5 p.m."

28. The procedure was exceptional, the object being to expedite the work of the Conference.

29. Mr. BARTOS (Yugoslavia) said that his delegation was strongly opposed to the General Committee's recommendations, which would deprive delegations of rights to which they were entitled under the rules of procedure.

30. The PRESIDENT explained in answer to questions that paragraph 3 of the General Committee's recommendations meant that any proposal for postponing the final decision of the Conference should not be considered until after the proposals relating to articles 3 and 66 had been put to the vote. Any delegation would be entitled to submit proposals until 1 p.m. on Friday, 25 April. Roll-call votes and explanations of votes would be in order.

31. Mr. DIAZ GONZALEZ (Venezuela) protested against the fact that representatives of sovereign States should be obliged to vote, not only hurriedly, but in the manner decided upon by the General Committee. The recommendations which had been submitted were in conflict with rules 22, 28, 32, 39 and 41 of the rules of procedure. Even if those recommendations were adopted, he requested that the protest of his delegation against such proceedings should be entered in the record.

32. The PRESIDENT explained that, in order to expedite the work of the Conference, the General Committee was merely appealing to representatives to refrain from exercising their rights under the rules of

procedure. No contravention of the rules of procedure was involved.

*The General Committee's recommendations were adopted.*

The meeting rose at 5.15 p.m.

### THIRTEENTH PLENARY MEETING

*Friday, 25 April 1958, at 10.15 a.m.*

*President:* Prince WAN WAITHAYAKON (Thailand)

**Fourth report of the Drafting Committee of the Conference: proposals regarding the judicial settlement of disputes (A/CONF.13/BUR/L.3, L.5, L.6, A/CONF.13/L.24)**

1. Mr. RUIZ MORENO (Argentina) said that his delegation, in accordance with the views it had expressed in the Fourth Committee, maintained that no provision for compulsory jurisdiction of the International Court of Justice should be embodied in any instrument adopted by the Conference. States could not be forced to accept compulsory jurisdiction, and even under the United Nations Charter they were not required to assume an obligation of that kind.

2. Only about thirty States had made the declaration referred to in Article 36 of the Statute of the International Court of Justice, and even those making it were entitled to specify matters which would not be subject to the Court's compulsory jurisdiction. Certain States at the Conference had already stipulated that they could not agree to the submission to compulsory jurisdiction of disputes arising out of certain articles, and in those circumstances it was difficult to see how compulsory jurisdiction could be accepted. Hence, a better procedure would be to include any compulsory jurisdiction provisions in a separate protocol. His delegation would oppose any provision that disregarded the principle of the sovereignty of States and deprived them of their choice between different arbitration procedures.

3. Mr. VERZIJL (Netherlands) said that his government was strongly in favour of compulsory jurisdiction, but would be prepared to accept the principle of compulsory arbitration since it understood the objections of certain States to the compulsory jurisdiction of the International Court of Justice. The principle of compulsory arbitration would, in his view, provide an acceptable alternative for such States.

4. The arguments adduced by the Argentine representative seemed to be without legal foundation. There was no question of forcing States to accept compulsory jurisdiction or arbitration; what the advocates of those methods of settlement were trying to do was merely to persuade States to accept the principle voluntarily.

5. Moreover, the argument that only about thirty States had submitted a declaration under Article 36 of the Statute of the International Court of Justice did not carry much weight, since the scope of the articles

before the Conference was well defined and States would know exactly what obligations they would assume in accepting compulsory jurisdiction or arbitration.

6. He requested a roll-call vote on the first recommendation submitted by the Drafting Committee in its report (A/CONF.13/L.24, para. 4, sub-paragraph (a)).

7. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the question under consideration should be viewed in the light of the common desire to adopt standards of international law acceptable to all States and to ensure that those standards formed a sound basis for the régime of the seas.

8. The Conference should not, therefore, approach the problem of compulsory jurisdiction or arbitration from a purely academic point of view. For example, it had been argued that the insertion of compulsory jurisdiction provisions in any instrument adopted would increase its value; but such provisions would raise practical problems of paramount importance, for it was common knowledge that a large number of States would be unable to sign and ratify an instrument containing them. Those States were simply not prepared to accept compulsory jurisdiction or arbitration clauses, as had been amply demonstrated in the case of several other international instruments. Where they had subscribed to such clauses, their acceptance had invariably been hedged about by numerous reservations. If, therefore, the Conference really wished to give effect to the rules of international law it had adopted and to ensure that as many States as possible were in a position to adhere to the instrument embodying them, no attempt should be made to insert compulsory jurisdiction or arbitration clauses in the body of the text.

9. He understood the purely legal reasons which led some representatives to press for the insertion of such clauses, but felt that the realities of international relations and the position of States in the matter were being disregarded. It might be theoretically desirable to insert compulsory jurisdiction or arbitration provisions in the text, but the mere fact of doing so would greatly reduce its applicability and value; for unless compulsory jurisdiction were accepted, adherence to the instrument would be impossible. States should not be placed in that dilemma, and he suggested that the Conference should choose between three ways of solving the problem.

10. The first was to omit all reference to the settlement of disputes. Many other international agreements and conventions contained provisions on the matter and any disputes that arose in connexion with the articles on the law of the sea could be settled in accordance with the procedure set forth in existing instruments. The second solution was to include a general provision to the effect that any dispute relating to the interpretation or application of the instrument might, if the parties were unable to reach agreement within a reasonable time, be referred to the International Court of Justice or to arbitration in accordance with the Statute of the International Court of Justice and existing agreements. An explicit reference could in fact be made to article 36 of the Statute. The last solution was to annex a separate protocol to each instrument providing for compulsory jurisdiction of the Inter-

national Court of Justice or compulsory arbitration. Governments would not, however, be required to sign such protocols.

11. Any one of those three solutions would be acceptable to the overwhelming majority of States and would ensure that the work of the Conference was not placed in jeopardy. The insertion of compulsory jurisdiction or arbitration provisions in the body of the instrument, however, would nullify that work.

12. Mr. QUADROS (Uruguay) said that his delegation in accordance with article 6 of his country's constitution and its traditional policy, favoured the establishment of a system of automatic and compulsory jurisdiction covering any dispute arising out of the application of the instrument adopted by the Conference, but without prejudice to the arbitration procedure set forth in the fisheries articles.

13. Uruguay had already accepted the compulsory jurisdiction of the International Court of Justice; it was prepared to agree to the settlement of disputes by compulsory arbitration, even at the request of only one of the parties, if that solution was favoured by the majority.

14. Mr. GROS (France) said he acknowledged that, for the reasons already advanced by the USSR representative, a number of countries would be unable to sign and ratify an instrument containing a provision for compulsory jurisdiction. He pointed out, however, that the present problem with respect to the settlement of disputes was not academic or theoretical, but related to the regulation and jurisdictional supervision of international relations and the application of international rules and regulations. That practical aspect of the matter, which had been raised in connexion with the new conventions on the law of the sea, should not be overlooked.

15. He noted that the hesitation of some States to commit themselves in advance to compulsory jurisdiction or arbitration was in large measure due to their uncertainty that disputes would always be of a legal nature, which could be settled in accordance with legal principles. However, the convention to be adopted by the Conference would certainly give rise to numerous disputes of a kind already well known, since those of its provisions which reproduced customary law would be more numerous than those containing new law; hence an opportunity of promoting the settlement of legal disputes by arbitration would be lost if the Conference failed to include compulsory jurisdiction or arbitration provisions in the body of its text.

16. The fears expressed by certain countries were, he thought, unfounded; France had referred numerous disputes to arbitration without in any way feeling that it was sacrificing its national sovereignty. His delegation believed that international jurisdictional control was in fact one of the best guarantees of good international relations and would accordingly vote for the principle of compulsory jurisdiction or arbitration.

17. Mr. PETREN (Sweden) said that his government, having always favoured the judicial or arbitral settlement of international disputes, would regret the omission of any clause on that subject from the

instruments prepared by the Conference. The manner in which the question was settled might greatly influence the final decision of certain governments on ratification, especially as many of the provisions adopted by the Conference granted coastal States rights not previously recognized by international law. Some States might think that the exercise of such rights should be subject to international jurisdictional control and that, without such a safeguard, the risks involved would be excessive. The Swedish delegation would therefore cast an affirmative vote on the first question in the report.

18. Mr. TUNKIN (Union of Soviet Socialist Republics) said that he could not accept the French representative's interpretation of Soviet Union doctrine in the matter of arbitration. The Soviet Union view was not that national sovereignty prevailed over the law of nations, but that the basis of any principle of international law was agreement and that States were bound only by rules to which they had subscribed.

19. Mr. DE LA PRADELLE (Monaco) observed that most of the opponents of compulsory jurisdiction pointed to the lack of support which it enjoyed in the actual practice of States, stressing that only 32 governments had accepted the optional clause in the Statute of the International Court of Justice, and that many of them had made far-reaching reservations. But the opponents of compulsory jurisdiction seemed to have overlooked the vast number of arbitration clauses embodied in multilateral treaties. Those clauses, listed in the *Yearbook of the International Court of Justice*, were a particularly common feature of agreements on air transport, where the possible problems were even more delicate than those pertaining to the law of the sea.

20. His delegation agreed wholeheartedly with the Netherlands proposal, which sought to allay the fears of States by giving them a choice between the Court and arbitration. The arbitral solution, which enabled the parties to appoint referees of their own choice—and which had often been accepted by the USSR in such instruments as frontier agreements—should not, in principle, raise the slightest objection. Certain expressions in the conventions, such as the term “sovereign rights” and “exclusive rights”, would inevitably give rise to differences of opinion, and there was no better way for a State to reaffirm its respect for the rule of law than to place on record its full confidence in a judge or arbitrator.

21. He said that his delegation would also support the Swiss proposal for a separate protocol. It would deplore, however, the inclusion in the conventions of any provision merely calling on States to seek settlement by negotiation and recognizing their right to submit disputes to arbitration if they so desired. Such a clause would only state the obvious and add nothing of value.

22. Mr. GLASER (Romania) said that the question whether the text adopted by the Conference consisted predominantly of restatements of existing law or of new principles was largely irrelevant. In so far as the provisions created new law, even the most ardent champions of compulsory jurisdiction would agree that there was no case-law to afford international tribunals adequate guidance. The old rules, on the other hand,

had been applied by the international community, without any question of compulsion, for several centuries.

23. Some mention had been made of frontier commissions, but those differed from arbitral tribunals in two essential respects. In the first place, an arbitral tribunal consisted not only of the arbitrators, but also of a final umpire, whereas frontier commissions consisted of arbitrators only, chosen in equal numbers by each party. Secondly, when a frontier commission failed to settle a dispute, it was referred back to the governments concerned for diplomatic negotiation.

24. For those reasons, the Romanian delegation supported the third suggestion of the USSR representative. The final text should be acceptable to the greatest possible number of States, and it would be wholly improper to introduce procedural provisions, of an alien character, relating to matters on which views were strongly divided.

25. Mr. GROS (France) hoped that the USSR representative would accept his earlier statement on USSR doctrine as proof of the interest which the legal theories of Soviet Union authors aroused in France. It had been made abundantly clear, however, by authorities as respected as Professor Krylov that USSR doctrine regarded any advance submission to jurisdiction as incompatible with state sovereignty. USSR authorities admittedly affirmed that they accepted the binding force of rules of international law, but apparently that affirmation only referred to the rules of treaty law accepted by the Soviet Union, and perhaps to some aspects of customary law as well; the USSR did not on the other hand accept the interpretation of the rules of international law as binding, unless it had approved that interpretation itself in a specific case. Many passages by Soviet writers made clear that the explanation for a refusal to accept compulsory arbitration was to be found in state sovereignty.

26. Mr. BOCOBO (Philippines) said that his government firmly supported the principle of compulsory jurisdiction and arbitration. All countries admittedly professed a belief in the peaceful settlement of disputes, but for the smaller States, which lacked the power to assert themselves, compulsory jurisdiction clauses afforded the only adequate guarantee of their rights.

27. Mr. DIAZ GONZALES (Venezuela) said that his government fully shared the views of the French representative, but it also realized that a compulsory jurisdiction or arbitration clause would be unacceptable to many States for reasons of municipal law. Those States would be unable to sign the instrument drawn up by the Conference, and two months' work would thus have been wasted.

28. Mr. TUNKIN (Union of Soviet Socialist Republics) thanked the French representative for his interests in the views of USSR authorities. The material fact, however, was that many States did not generally believe in the inclusion of procedural rules in substantive treaties. The instances mentioned by the representative of Monaco, in which the USSR had agreed to compulsory arbitration clauses, were very exceptional.

29. The French representative's argument that there could be no recognition of international law without

advance submission to jurisdiction was wholly unfounded, for the law of nations had never sanctioned the principle of compulsion. Moreover, the States which opposed the inclusion of a compulsory jurisdiction clause in the instruments drawn up by the Conference were prompted primarily by a desire to see the rules as generally accepted and as firmly established as possible.

30. Mr. JHIRAD (India) recalled that his government had always upheld the principle of arbitration and had accepted the compulsory jurisdiction of the International Court of Justice. It could not agree, however, that compulsory settlement clauses were necessary in every context. States which were parties to the convention but which did not otherwise accept the compulsory jurisdiction of the Court should not be permitted to institute proceedings on the sole issue of the convention against a State which had accepted that jurisdiction, without the latter's consent.

31. In the instruments under discussion a compulsory jurisdiction clause might even be totally unnecessary, as the articles consisted largely of statements of existing substantive law and the introduction of adjective rules would merely confuse the issue. One possible exception was the document prepared by the Third Committee, as the new rights recognized therein in the matter of fisheries might give rise to fairly frequent disputes. But outside that one field, conflicts were not so inevitable as to warrant the inclusion of a provision that many States found objectionable.

32. Mr. ZOUREK (Czechoslovakia), after stressing the importance of the Conference's decision on the question of disputes as a precedent for further conferences, urged all delegations to adopt a realistic attitude. It was an undeniable fact that some States supported the principle of compulsory jurisdiction, while others—though equally ardent champions of peaceful settlement—either rejected it or made their acceptance subject to such reservations as would render it nugatory. In each case, the attitude was dictated by reasons which only the government concerned could appreciate. The only solution, therefore, was to maintain a clear distinction between the question of codification and that of settlement of disputes. There already existed numerous multilateral treaties on compulsory settlement, to which any State believing in the principle was free to accede.

33. In those circumstances, the Czechoslovakian delegation would support the suggestions of the Soviet Union representative. If the first two proved unacceptable, the best course would be to follow the third, and adopt a series of protocols, one for each convention, combining the Swiss and Netherlands proposals and providing for recourse either to the International Court of Justice or to arbitration. Minor questions could then be submitted to an *ad hoc* arbitral tribunal set up in conformity with The Hague Convention of 1907 for the Pacific Settlement of International Disputes.

34. In conclusion, he stressed that the protocol might in each case also contain all the other relevant procedural provisions already approved.

35. Mr. PERERA (Ceylon) said that, although the

establishment of the Permanent Court of International Justice and of the International Court of Justice had represented milestones in the development of an international judicial system, that system was not yet sufficiently perfect to permit of the solution contemplated in the Drafting Committee's first suggestion. He would therefore support the second suggestion, which the International Law Commission itself had adopted, after due consideration, in the context of the articles on the continental shelf.

36. Mr. MATINE-DAFTARY (Iran) said that, while compulsory jurisdiction in international law represented a noble ideal, the time was not yet ripe for the inclusion of compulsory settlement clauses in all multilateral treaties. The insertion of such clauses in the instruments adopted by the Conference might even discourage many States from acceding. The only acceptable solution, therefore, seemed to be the separate protocol suggested by the delegation of Switzerland.

37. The PRESIDENT put the first suggestion in the Drafting Committee's report (A/CONF.13/L.24, para. 4 (a)) to the vote.

*A vote was taken by roll-call.*

*Norway, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Pakistan, Panama, Paraguay, Philippines, San Marino, Spain, Sweden, Switzerland, Turkey, Uruguay, Republic of Viet-Nam, Belgium, Bolivia, Canada, Colombia, Costa Rica, Cuba, Denmark, Finland, France, Federal Republic of Germany, Greece, Holy See, Honduras, Ireland, Israel, Italy, Japan, Liberia, Monaco, Nepal, Netherlands, New Zealand.

*Against:* Norway, Peru, Poland, Romania, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, Venezuela, Albania, Argentina, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Chile, Czechoslovakia, Guatemala, Hungary, Iceland, India, Iran, Iraq, Republic of Korea, Libya, Federation of Malaya, Mexico.

*Abstaining:* Portugal, Saudi Arabia, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Afghanistan, Australia, Austria, Burma, China, Dominican Republic, Ecuador, Ghana, Haiti, Indonesia, Jordan, Lebanon, Morocco.

*There voted 33 in favour and 29 against, with 18 abstentions. In the absence of the required two-thirds majority, the suggestion was not adopted.*

The PRESIDENT called for comments on the second suggestion by the Drafting Committee (A/CONF.13/L.24, para. 4 (b)).

39. Mr. BARTOS (Yugoslavia) said that it was impossible to take a decision on that suggestion until the discussion on all the articles had been concluded. He was therefore prepared to vote on that suggestion only in respect of the articles adopted in the reports of the Second, Fourth and Fifth Committees. He moved that the decision in respect of the articles contained in the reports of the First and Third Committees be deferred.

40. Mr. JHIRAD (India) agreed that the second suggestion must be considered separately in relation to each group of articles. It would be acceptable for his delegation in relation to the articles on fishing and the conservation of the living resources of the sea, but not in relation to all the other groups.

41. Mr. MATINE-DAFTARY (Iran) saw no great difference in substance between suggestions in sub-paragraphs (a) and (b), and thought that the Conference should proceed with the voting.

*The Yugoslav motion was rejected by 33 votes to 20, with 16 abstentions.*

42. Mr. PFEIFFER (Federal Republic of Germany) saw some force in the Yugoslav representative's remarks and assumed that a vote on the principle of compulsory jurisdiction would not prejudice the decision on article 57 in the Third Committee's report.

43. The PRESIDENT, referring to paragraph 5 of the Drafting Committee's report, confirmed that that inference was correct.

44. Mr. JHIRAD (India) said that in the light of that explanation his delegation would vote against the suggestion in sub-paragraph (b), which amounted to the same thing as the first suggestion.

45. The PRESIDENT put to the vote the second suggestion in the Drafting Committee's report (A/CONF.13/L.24, para. 4 (b)).

*There voted 32 in favour and 27 against, with 14 abstentions. In the absence of the required two-thirds majority, the suggestion was not adopted.*

46. The PRESIDENT called for comments on the third suggestion by the Drafting Committee (A/CONF.13/L.24, para. 4 (c)).

47. Mr. RUEGGER (Switzerland) said that far from being complementary, the Colombian and Swiss proposals were mutually exclusive and had quite different objects; he therefore asked that they be put to the vote separately. The Colombian proposal in its greatly weakened new form (A/CONF.13/BUR/L.5) would add nothing and did not constitute a compulsory jurisdiction clause; moreover, the amendment introduced by its author, whereby the words "at the request of any of the parties" had been replaced by the words "in conformity with the Statute of the Court", might be misconstrued. Its adoption would be a retrograde step in the light of the advance achieved in articles 57 and 74.

48. After the regrettable rejection of the first suggestion made by the Drafting Committee the Swiss proposal (A/CONF.13/BUR/L.3), originally of an essentially subsidiary character, had acquired great importance and now that the Netherlands proposal had been defeated, he believed the Conference should take up the question of an optional clause for compulsory jurisdiction according to the system, *mutatis mutandis*, laid down in Article 36, paragraph 2 of the Statute of the Court. If the Colombian proposal was put to the vote he would have to oppose it, and if it were adopted he would ask for a vote on the principle of the Swiss proposal. The Conference should not jib at accepting a precise

provision to enable those States that were anxious to encourage resort to arbitration to sign a protocol providing for compulsory jurisdiction.

49. Mr. SOLE (Union of South Africa) agreed that the two proposals must be treated as entirely separate.

50. Mr. CAICEDO CASTILLA (Colombia) observed that, his country being a convinced partisan of compulsory jurisdiction of the Court, he had voted in favour of the first two suggestions made by the Drafting Committee. He had modified his proposal in an effort at conciliation and with the object of averting the undesirable result of there being no provision on the settlement of disputes. The two previous votes had demonstrated the reluctance of many States to accept the Court's jurisdiction, and clearly a rigid formula would have provoked numerous reservations.

51. He did not agree with the Swiss representative that the two proposals were incompatible, because that submitted by his own delegation would in no way preclude a separate protocol, which he would support. Moreover, Mr. Ruegger's criticism applied equally to the Swiss proposal, since the States which refused to accept the compulsory jurisdiction of the Court would not sign the protocol.

52. Mr. TUNKIN (Union of Soviet Socialist Republics) agreed that the two proposals could not be considered together and while he had no objection to their being put to the vote, he pointed out that in substance they did not differ from the second suggestion which had already been rejected, since they both entailed acceptance of the compulsory jurisdiction of the Court. The proposal for a separate protocol, however, was another issue, and, as he had noted from paragraph 5 of the Drafting Committee's report, it would not affect article 57.

53. Mr. JHIRAD (India) said that the change introduced by the Colombian representative in his proposal failed to achieve its object of rendering the Court's jurisdiction optional, so that in its present form it did not differ from the second suggestion by the Drafting Committee.

54. Mr. WERSHOF (Canada) observed that however defective its drafting, the Colombian proposal was clearly intended as an optional clause.

55. Sir Reginald MANNINGHAM-BULLER (United Kingdom) endorsed the Swiss representative's request for a separate vote; if the two proposals, which were not properly complementary, were put to the vote together, it would be impossible to discern what was the principle at issue. There was great force in the Soviet Union representative's argument that a provision on compulsory jurisdiction should not be inserted in the main convention because it might deter many States from ratifying; but that representative's attention should be drawn to the fact that an optional protocol of the type proposed by the Swiss delegation would only be binding on its signatories, and would in no way impede those States that were reluctant to accept compulsory jurisdiction from ratifying the principal instrument.

56. He did not suppose that the Swiss proposal was intended to replace the special procedure laid down in

article 57. If so, he believed its intention would be more accurately expressed by deleting the full-stop at the end of paragraph 2 and adding to it the text in paragraph 3 with the substitution of the words "except that it shall not replace" for the words "With regard to relations between the signatories of this protocol, the procedure of article 1 hereof shall replace that of" at the beginning of paragraph 3. With that change he could accept the proposal.

57. Mr. RUEGGER (Switzerland), pointing out that the Swiss proposal had been submitted on 9 April, some time before the adoption of article 57 by the Third Committee, confirmed that as he had indicated in his introductory statement at the 7th plenary meeting, it was not intended to impair any article adopted on the settlement of disputes that was constructive and devoid of loopholes.

58. Mr. VERZIJJ (Netherlands) observed that there seemed to be some difference of opinion about the exact purport of the Colombian proposal. He had first thought it had been transformed by its author's amendment into an optional clause, but now that it appeared to entail acceptance of compulsory jurisdiction by the Court, whether by means of a unilateral application or a *compromis*, he would support it, particularly as any dispute about jurisdiction would be decided by the Court in accordance with Article 36, paragraph 6, of its Statute.

59. Sir Reginald MANNINGHAM-BULLER (United Kingdom), observing that the Conference would undoubtedly be able to decide whether it was prepared to consider the Colombian and the Swiss proposals, suggested that consideration of the latter be deferred until delegations had received the text amended in the light of the Swiss representative's explicit assurance that it would not prejudice article 57.

60. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the idea of a separate protocol embodying provisions relating to the procedure for the settlement of disputes might be acceptable, but that was not the sense of the Swiss proposal, the effect of which would be to retain in the body of the convention provisions on compulsory jurisdiction by the Court, thus extending their application to all the articles.

61. The PRESIDENT put to the vote the question whether, as a matter of principle, the Conference was prepared to consider the revised Colombian proposal (A/CONF.13/BUR/L.5).

*It was decided by 29 votes to 16, with 29 abstentions, that the Colombian proposal should not be considered.*

62. The PRESIDENT put to the vote the question whether, as a matter of principle, the Conference was prepared to consider the Swiss proposal (A/CONF.13/BUR/L.3).

*It was decided by 51 votes to 7, with 14 abstentions, that the Swiss proposal should be considered.*

The meeting rose at 1 p.m.

## FOURTEENTH PLENARY MEETING

Friday, 25 April 1958, at 2.45 p.m.

President: Prince WAN WAITHAYAKON (Thailand)

### Consideration of the report of the First Committee (Part I: articles 3 and 66) and of proposals relating to articles 3 and 66 (A/CONF.13/L.28/Rev.1, L.29, L.30, L.31, L.34)

1. Mr. DEAN (United States of America), introducing the United States proposal relating to article 3 (A/CONF.13/L.29), wished first to pay a tribute to the untiring and able efforts of the President in presiding over the Conference, to the invaluable work of the Secretariat and to the extremely able work of the Chairman, the Vice-Chairman and the Rapporteur of the First Committee.

2. The United States proposal, which was identical with that in document A/CONF.13/C.1/L.159/Rev.2 submitted to the First Committee, involved the recognition of two main principles: first, that the zone of territorial sea adjacent to the coast over which the coastal State exercised full sovereignty was limited to a maximum breadth of six miles; second, that the coastal State could exercise exclusive fishing rights in the contiguous zone of the high seas to a maximum breadth of twelve miles from the applicable baseline of the coastal State. Such rights were subject to certain limited acquired fishing rights of other States in the outer six miles of that portion of the zone having a continuous baseline and located in the same major body of water. The rights enjoyed in the contiguous zone were further subject to any existing or future applicable agreements, if any, by the coastal State in favour of other States.

3. In order to contribute to the success of the Conference, the United States Government was submitting its proposal (which proposal, because so many delegations had been so helpful with ideas and suggestions, was virtually a joint proposal) for final action with one main objective in view: that of obtaining between nations a fair and reasonable agreement on the matter.

4. The United States Government sincerely believed that its proposal was the only one before the meeting which contained the essential elements of a just, fair and realistic compromise on the paramount issues before the Conference: the breadth of the territorial sea; the nature of the contiguous zone in the high seas; and the rights therein of the coastal States and others.

5. The proposal had slowly evolved during many hours of patient thought and discussion with numerous delegations, including many which had previously opposed it, but which could now support it as meeting their needs.

6. The United States delegation had come to the Conference in an attempt to secure full agreement on the three-mile limit, which it sincerely believed in as a rule of international law, and which, like many other nations, it would have liked to retain.

7. The present proposal was an attempt to meet the desires of many States for a territorial sea in which they

could exercise sovereignty over a breadth of water exceeding three miles, and to give the coastal State in the outer six-mile zone certain other rights, subject to the rights of nationals of other States whose vessels had previously fished in those waters for several years.

8. The United States proposal was being submitted to the Conference without having first been introduced in the First Committee, because his delegation had foregone its admitted right under the rules of procedure to have it reconsidered by that committee. His delegation had decided upon such action to prove its desire to co-operate fully in the Conference's discussions.

9. The proposal now before the Conference deserved the full support of all delegations, since it provided a middle ground on which States with divergent interests could meet and agree.

10. In calling on delegations to support its proposal, the United States delegation was acutely aware of the sacrifice which it entailed for its own country and people. It was equally aware that acceptance of the proposal might entail equal sacrifice on the part of others. However, his delegation was convinced that the aim of achieving a sound and lasting agreement among nations on the issues before the meeting fully justified any such sacrifice.

11. He was sure that the United States proposal would eliminate what had in the past proved a flagrant source of confusion and friction among States and peoples. It placed all States on a basis of full equality, and called for a reasonable measure of give and take by all concerned. Under its provisions, all States would be sure of their rights and obligations. Masters of ships and fishermen of all nations would no longer be plagued by the confusion created by the conflicting claims and differing régimes obtaining in various parts of the world — confusion which contributed to the lowering of the standards of living of all mankind.

12. He believed that adoption of the United States proposal would crown the achievements of the Conference, make the latter a milestone in the development of the law of the nations and make a great contribution to the cause of peace.

13. He urged all delegations to vote against the Canadian proposal relating to a fishing zone, adopted by the First Committee as article 3 (A/CONF.13/L.28/Rev.1, para. 25), and the eight-power proposal (A/CONF.13/L.34).

14. Mr. SHUKAIRI (Saudi Arabia) emphasized that the United States proposal was completely devoid of any elements of compromise or conciliation, and that the Conference would be defeating the very purposes and principles of the Charter of the United Nations if it adopted it.

15. It was true that a few States supported the three-mile limit, but many more supported greater breadths. As the International Law Commission had recognized, international practice was not uniform as regards the delimitation of the territorial sea. The Commission had also recognized that the breadth of the territorial sea might be extended to twelve miles. It was therefore a violation of international law for the United States delegation to propose that the maximum breadth should be six miles.

16. He recalled that an eminent United States jurist had stated that an established rule of practice was an accepted rule of law. It followed that what was not a rule of practice was not a rule of law. Therefore, the six-mile rule was not a rule of law.

17. The United States proposal was a flagrant contradiction of the jurisprudence, practice and doctrine of the United States of America itself. In 1807, the United States president had been authorized and requested to make a survey round the country's shores and coasts within sixty miles of the coastline. In certain treaties between the United States of America and the United Kingdom, and between the United States of America and Mexico, breadths of sixty miles and of nine nautical miles respectively had been mentioned as the breadth of the United States territorial sea.

18. He had the greatest respect for the United States of America and its people, but considered that the United States proposal was an insult to the intelligence of those who knew United States jurisprudence.

19. The confused background of the United States proposal proved that its purpose was merely to gather votes. That was not the way to codify international law, which could be codified only when all countries accepted principles already recognized by international law. The delegation of Saudi Arabia could not therefore support the United States proposal. If it were approved by the Conference and embodied in a convention, the Government of Saudi Arabia would not become a party to such convention, since it had already adopted the twelve-mile limit for its territorial sea.

20. Mr. NGUYEN-QUOC-DINH (Republic of Viet-Nam) emphasized the importance of a just and efficacious international order. As a newcomer to the community of nations, the Republic of Viet-Nam was convinced that only through such order could the peaceful development of international relations be assured.

21. His delegation had supported certain proposals because of their intrinsic merits and in an endeavour to contribute loyally to the formulation of fair rules. It was in that same spirit that the Viet-Nam delegation now supported the United States proposal, which provided for a uniform breadth for the territorial sea. Although his delegation had been prepared to accept a breadth of three miles, it believed that if the United States proposal were accepted a compromise would be effected which would be wholly in accordance with international law.

22. His delegation would have preferred the coastal State to be granted exclusive fishing rights in the contiguous zone, but was ready to support paragraph 2 of the United States proposal in a spirit of compromise. It also supported the principle of compulsory jurisdiction laid down in paragraph 3.

23. He urged all representatives to put their own interests on one side and vote for the United States proposal in the interests of the international community as a whole.

24. Mr. DREW (Canada) felt that the Conference had achieved a truly remarkable measure of success in reaching agreement on the essential rules to be included

in a comprehensive code of the law of the sea. It seemed likely that the Conference would be in a position to draft a convention, or group of conventions, which could be placed before all governments represented at the Conference for subsequent ratification.

25. He was convinced that no agreement was possible on a uniform breadth of the territorial sea. That view was reflected in the letter addressed to the President of the Conference by the head of the Cuban delegation (A/CONF.13/L.25) suggesting that the General Assembly be requested to convene a further conference to consider the questions left unsettled by the present conference. The Canadian delegation was in complete agreement with that proposal but would like the matter to be considered by the General Assembly at its thirteenth rather than at its fourteenth session. That would allow ample time for governments to exchange opinions with a view to reaching agreement in advance on the one vital question of the breadth of the territorial sea. A further conference would also be of value for the discussion of considerations relating to the twelve-mile fishing zone. He hoped that the First Committee's recommendation on the latter point would win the required two-thirds majority in the Conference. There would then be ample time for all nations which believed that that decision would cause them hardship to exchange ideas on the occasion of a second conference as to how their problems might best be solved.

26. Turning to the Canadian proposal which had been adopted by the First Committee (A/CONF.13/L.28/Rev.1, para. 25), he pointed out that the differences between it and the United States proposal were perfectly clear, easily understood and had far-reaching consequences.

27. Quoting the Canadian proposal as adopted by the First Committee, he emphasized that it contained no provision specifying the breadth of the territorial sea. Its definition of the fishing zone was, however, completely effective, whether the Conference agreed on a breadth for the territorial sea or not. Every coastal State represented at the Conference already had a fixed limit for its territorial sea. Under the Canadian proposal, States which now had a twelve-mile limit would acquire no rights in respect of fishing additional to those they already possessed. He hoped that those States which already had a broader territorial sea would recognize the justice of permitting fishing rights to a uniform width of twelve miles.

28. The Canadian proposal was specific in every way. As all States had full rights over fishing within their territorial sea, the result of the adoption of that proposal would be to ensure that all coastal States could control their fishing up to a uniform breadth of twelve miles. Within that zone, each State would have the full and exclusive rights with regard to fishing that it now had in its territorial sea.

29. The effect of the United States proposal would be very different. It made no attempt to protect established fishing rights in the measure to which they were at present exercised. If that proposal were adopted, the fact that a few small vessels had fished in certain waters for a period of five years would allow the fishing of a coastal State's waters to be extended to any number of craft wherever the original right could be established.

The new nations would be helpless to protect their own waters, and would never acquire any fishing rights elsewhere.

30. He urged every representative, no matter what his particular interests might be, to consider precisely what the United States proposal entailed. All States represented at the Conference had been considering the rights of land-locked States. Acceptance of the principles which were of such vital interests to those States had only been made possible by the understanding and good will of the great majority of coastal States. He was confident that the landlocked States would in turn make their decision on the issue before the Conference in a similar spirit, guided only by considerations of justice and equality between nations.

31. He urged those nations which considered that the Canadian proposal would be detrimental to their interests to examine the situation carefully, and to ask themselves whether it was reasonable to expect other nations to deny themselves for all time the opportunity and the right to protect their own fishermen and their own fishing waters.

32. The Canadian Government sought equal justice and equal rights for all nations, large and small, to protect their own interests. Only under the Canadian proposal would many of the new nations be able to exercise a measure of fisheries control consistent with their new status as nations.

33. Mr. TUNKIN (Union of Soviet Socialist Republics), introducing the proposal submitted by his delegation (A/CONF.13/L.30), emphasized that the breadth of the territorial sea was one of the main problems facing the Conference, and that, in reaching a decision on it, delegations must bear in mind not only the interests of their own governments, but also those of all other governments.

34. The International Law Commission had clearly indicated the diversity of practice with regard to the breadth of the territorial sea, and the synoptic table prepared by the Secretariat at the request of the First Committee (A/CONF.13/C.1/L.11) clearly showed that no uniformity existed in that respect. He was convinced that the International Law Commission had intended paragraph 2 of article 3 to imply that it saw no obstacle to an extension of the breadth of the territorial sea to twelve miles.

35. The discussions in the Conference had shown that there was no rule in international law governing the breadth of the territorial sea. The three-mile rule had not been accepted by all governments, and consequently was not a rule in international law. The twelve-mile rule was far better qualified to be called a rule of existing international law. The United States proposal suggested a six-mile limit. That was a backward step which could not succeed, whatever decision the Conference might reach on the proposal.

36. In submitting its proposal, the Soviet Union delegation was firmly convinced that the only living, realistic rule on the territorial sea must provide that governments had the right to establish the breadth of their territorial sea between limits of three and twelve nautical miles. The proposal was intended to reflect existing international practice and the complex situations

which might, and which did, arise. The expression "as a rule" meant that in certain exceptional cases the breadth of the territorial sea might exceed twelve miles.

37. His delegation also supported the eight-power proposal (A/CONF.13/L.34).

38. Sir Reginald MANNINGHAM-BULLER (United Kingdom) agreed with the Soviet Union representative that the breadth of the territorial sea was one of the main problems confronting the Conference and that it should be approached with a full feeling of responsibility. Representatives should not shrink from that task, and should not allow themselves to be mistakenly induced by persuasive eloquence to postpone a decision on the issue until a later conference. The Conference should do its best to reach a settlement itself.

39. He considered that the Soviet Union proposal lacked vitality and was devoid of any element of compromise. It would lead to the complete abandonment of any rule of international law concerning the breadth of the territorial sea. He could not agree that the report of the International Law Commission implied that a breadth of twelve miles could be claimed for the territorial sea. In the United Kingdom delegation's view, the limit clearly established in law stood at three miles.

40. It was untrue to say that a proposal for a six-mile limit was no compromise. While it was true that some States had claimed twelve miles for a number of years, it was also true that others had claimed it for a matter of weeks. It was not so much the making of the claim that was of importance for the purposes of international law; it was its recognition. The compromise in the United States proposal was the recognition of claims of up to six miles of territorial sea by States which did not recognize, and had not hitherto recognized, such claims.

41. The Soviet Union proposal did not reflect current international practice. It prescribed no limit at all for the breadth of the territorial sea, and was entirely silent about the settlement of conflicts which might arise between the interests of one State and that of another. With the greatest respect for the representative who had submitted it, he wished to point out that the proposal made no contribution to the easing of friction between the nations of the world. He urged representatives to think of the interests of other States, and to realize that the Soviet Union proposal was no compromise. There was only one true compromise proposal before the Conference—that of the United States delegation.

42. After paying a tribute to the President for the manner in which he had presided over the meetings, he expressed the hope that a decision would be reached on what was the main issue of the Conference. Otherwise, the whole world would consider that the Conference had followed the unfortunate precedent set by the Conference for the Codification of International Law held at The Hague in 1930.

43. Mr. LAZAREANU (Romania) could not agree that the three-mile limit was a rule of international law; nor could he agree that the United States proposal (A/CONF.13/L.29) was a compromise. If an international rule existed, there was no need for a com-

promise. Romania had already fixed the limit of its territorial sea at twelve miles and, like many other States which had taken similar action, would be called upon to renounce its sovereignty over a certain part of that area if the United States proposal were adopted. The discussions had clearly shown that no agreement could be reached on the basis of a proposal which failed to take existing realities into account.

44. The synoptic table prepared by the Secretariat for the First Committee (A/CONF.13/C.1/L.11/Rev.1) showed that the number of States which had adopted a breadth exceeding three miles greatly exceeded the number which had adopted the three-mile rule. In adopting a broader limit, the former group of States had not infringed international law, but had merely taken into account their historical and geographical conditions, economic interests and interests of security, as was noted in the Soviet Union proposal, which was flexible and took account of the interests of all States. His delegation therefore supported it, together with the eight-power proposal.

45. Mr. BHUTTO (Pakistan) said that his delegation supported the United States proposal because it represented the only compromise solution which struck a balance between the various interests at stake.

46. His delegation could not support the Soviet Union proposal because it lacked the clarity, precision and certainty which every rule of law should have. It appeared to leave every coastal State free to determine the breadth of its territorial sea in accordance with its own subjective opinions about its historical and geographical conditions and economic and security interests.

47. His delegation hoped that it would be possible for the Conference to unite on an issue of peace such as the subject under discussion.

48. Mr. BA HAN (Burma), introducing the proposal of the eight Powers (Burma, Colombia, Indonesia, Mexico, Morocco, Saudi Arabia, United Arab Republic and Venezuela) (A/CONF.13/L.34), appealed to those States which had already accepted a six-mile limit to agree to the twelve-mile maximum specified in it.

49. His delegation opposed the United States proposal, which was a step away from the earlier United States proposal; in particular, it provided for the protection of foreign fishing interests on the basis of five-year instead of ten-year usage. The United States proposal established certain alleged prescriptive rights in perpetuity, and could therefore not be described as a just and fair compromise.

50. It was idle to expect States which had exercised sovereignty over a twelve-mile belt of territorial sea for many years to give up part of the area under their jurisdiction. The solution of the problem of the territorial sea must correspond to the factual situation by recognizing that a great many States had already adopted a breadth of between three and six miles for their territorial sea.

51. He could not accept the suggestion that abandonment of the three-mile rule was a concession. That alleged rule had been established by others at a time when his own country, for one, had been completely

helpless under foreign rule. No concession was entailed in giving back to coastal States what had been taken from them in the past.

52. Mr. GROS (France) said that his delegation opposed paragraph 2 of the eight-power proposal because in positive international law there was no contiguous zone with respect to fisheries; he recalled that he had made this clear at the 37th meeting of the First Committee. The United States proposal embodied the only acceptable provisions dealing with fishing outside territorial waters, and it represented a considerable concession when compared with existing international law.

53. With regard to the proposals relating to the breadth of the territorial sea, his delegation opposed all those which purported to authorize its extension to twelve miles. A State might profess to fix the breadth of its territorial sea at twelve miles, but that delimitation would not be binding on States which did not accept it. The decision of the International Court of Justice in the *Anglo-Norwegian fisheries case*<sup>1</sup> made it clear that the delimitation of the territorial sea was subject to international law; claims by States in respect of the breadth of the territorial sea were not therefore valid *erga omnes*. A claim by a State did not create international law.

54. In a spirit of compromise, France was prepared to recognize by convention a maximum breadth of six miles for the territorial sea provided other States renounced all claims to a territorial sea beyond that distance. That offer, if not accepted, would lapse and could not be quoted against the States which had made it; his country would resume its former position.

55. The sea had played an important part in the history of international law since the sixteenth century. He appealed to delegations which had so strenuously defended the interests of their respective countries and which now found themselves in the role of judges when considering the draft conventions, to give their decisions on those texts with the wisdom and impartiality of a judge, so that a real task of international co-operation could be accomplished.

56. Mr. KORETSKY (Ukrainian Soviet Socialist Republic), Rapporteur of the First Committee, introduced part I of that Committee's report dealing with articles 3 and 66 (A/CONF.13/L.28/Rev.1).

57. The Committee had adopted as article 3 only the text for a contiguous fishing zone appearing in its report (A/CONF.13/L.28/Rev.1, paragraph 25).

58. With regard to the contiguous zone, he introduced the text of article 66 as adopted by the Committee (A/CONF.13/L.28/Rev.1, paragraph 28).

59. The PRESIDENT put to the vote article 3 as adopted by the First Committee (A/CONF.13/L.28/Rev.1, para. 25).

*A vote was taken by roll-call.*

*Norway, having been drawn by lot by the President, was called upon to vote first.*

*In favour: Panama, Paraguay, Peru, Philippines,*

*Saudi Arabia, Tunisia, Turkey, United Arab Republic, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Burma, Cambodia, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Ghana, Guatemala, Iceland, India, Indonesia, Iran, Iraq, Ireland, Jordan, Republic of Korea, Libya, Mexico, Morocco, Nepal.*

*Against: Pakistan, Poland, Portugal, San Marino, Spain, Sweden, Thailand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Bolivia, Brazil, China, Cuba, Dominican Republic, France, Federal Republic of Germany, Greece, Haiti, Honduras, Israel, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Nicaragua.*

*Abstaining: Norway, Romania, Switzerland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Republic of Viet-Nam, Albania, Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Denmark, Finland, Holy See, Hungary, Laos, Lebanon, Liberia, Federation of Malaya.*

*The result of the vote was 35 votes in favour and 30 against, with 20 abstentions. Article 3 was not adopted, having failed to obtain the required two-thirds majority.*

60. The PRESIDENT put to the vote the United States proposal for article 3 (A/CONF.13/L.29).

*A vote was taken by roll-call.*

*San Marino, having been drawn by lot by the President, was called upon to vote first.*

*In favour: San Marino, Spain, Sweden, Switzerland, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Republic of Viet-Nam, Australia, Austria, Belgium, Bolivia, Brazil, Cambodia, Ceylon, China, Cuba, Denmark, Dominican Republic, France, Federal Republic of Germany, Ghana, Greece, Haiti, Holy See, Honduras, India, Iran, Ireland, Israel, Italy, Laos, Liberia, Luxembourg, Federation of Malaya, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Portugal.*

*Against: Saudi Arabia, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela, Yugoslavia, Albania, Argentina, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Chile, Colombia, Czechoslovakia, Ecuador, El Salvador, Guatemala, Hungary, Iceland, Indonesia, Jordan, Republic of Korea, Lebanon, Libya, Mexico, Morocco, Panama, Peru, Poland, Romania.*

*Abstaining: Afghanistan, Costa Rica, Finland, Iraq, Japan, Nepal, Philippines.*

*The result of the vote was 45 in favour and 33 against, with 7 abstentions. The United States proposal was not adopted, having failed to obtain the required two-thirds majority.*

61. The PRESIDENT put to the vote the eight-power proposal (A/CONF.13/L.34).

*A vote was taken by roll-call.*

*Portugal, having been drawn by lot by the President, was called upon to vote first.*

<sup>1</sup> *I.C.J. Reports, 1951, p. 116 et seq.*

*In favour:* Romania, Saudi Arabia, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela, Yugoslavia, Afghanistan, Albania, Argentina, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Chile, Colombia, Costa Rica, Czechoslovakia, Ecuador, Ghana, Guatemala, Hungary, Iceland, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Federation of Malaya, Mexico, Morocco, Nepal, Panama, Peru.

*Against:* Portugal, San Marino, Spain, Sweden, Switzerland, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Republic of Viet-Nam, Australia, Austria, Belgium, Brazil, Canada, China, Cuba, Denmark, Dominican Republic, El Salvador, France, Federal Republic of Germany, Greece, Haiti, Honduras, Ireland, Israel, Italy, Japan, Liberia, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Pakistan, Paraguay.

*Abstaining:* Finland, Holy See, India, Republic of Korea, Laos, Nicaragua, Philippines, Poland.

*The result of the vote was in 39 in favour and 38 against, with 8 abstentions. The eight-power proposal was not adopted, having failed to obtain the required two-thirds majority.*

62. The PRESIDENT put to the vote the Soviet Union proposal (A/CONF.13/L.30).

*A vote was taken by roll-call.*

*The United Kingdom of Great Britain and Northern Ireland, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Yugoslavia, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia, Ecuador, Hungary, Iceland, Indonesia, Iraq, Morocco, Peru, Poland, Romania, Saudi Arabia, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic.

*Against:* United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Republic of Viet-Nam, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, El Salvador, France, Federal Republic of Germany, Greece, Haiti, Honduras, Ireland, Israel, Italy, Japan, Republic of Korea, Lebanon, Liberia, Luxembourg, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Portugal, San Marino, Spain, Sweden, Switzerland, Thailand, Turkey, Union of South Africa.

*Abstaining:* Venezuela, Afghanistan, Cambodia, Ceylon, Finland, Ghana, Guatemala, Holy See, India, Iran, Jordan, Laos, Libya, Federation of Malaya, Mexico, Nepal, Philippines.

*The Soviet Union proposal was rejected by 47 votes to 21, with 17 abstentions.*

63. The PRESIDENT put to the vote article 66 as approved by the First Committee (A/CONF.13/L.28/Rev.1, paragraph 28).

*The result of the vote was 40 in favour and 27 against, with 9 abstentions.*

*Article 66 was not adopted, having failed to obtain the required two-thirds majority.*

64. The PRESIDENT put to the vote the United States proposal for article 66 (A/CONF.13/L.31).

*The United States proposal was adopted by 60 votes to none, with 13 abstentions.*

65. Mr. SHAHA (Nepal) said that, in spite of its limited interests in the issues involved, his country had been eager to help the Conference to reach a solution on the breadth of the territorial sea.

66. Mr. CAABASI (Libya) said that his delegation had voted against the United States proposal because it contained provisions which were contrary to his country's interests.

67. Mr. COMAY (Israel) said that the votes cast by his delegation had been based on three principles: First, in the Mediterranean and Red Sea areas, which were those affecting his country, the balance of advantage lay with the three-mile rule and there was no geographical or economic reason which could possibly justify a territorial sea of more than six miles. His delegation had therefore voted against all proposals to extend the breadth of the territorial sea beyond that distance.

68. Second, in the same sea areas, his government saw no justification for exclusive fishing rights in favour of the coastal State outside the area of its territorial sea.

69. Third, despite this, his delegation had voted for the United States proposal because it offered the most prospect of stabilizing the breadth of the territorial sea at six miles and because it gave only qualified recognition to a twelve-mile fishery zone.

70. The votes cast by his delegation did not imply any change in the views of his country concerning existing rules of international law on the permissible maximum breadth of the territorial sea. Israel would accept only those changes in the relevant rules of international law which had been embodied in a convention duly accepted and ratified by its government.

71. Mr. RUEGGER (Switzerland) said that his delegation had voted in favour of the United States proposal, although its provisions were not entirely satisfactory. His delegation would have preferred the proposals by Italy (A/CONF.13/C.1/L.137) and the United Kingdom (A/CONF.13/C.1/L.134) which had been withdrawn during the discussion in the First Committee. It had supported the United States proposal because it offered a prospect of setting up a barrier to unwarranted extensions of the territorial sea which threatened the freedom of the seas.

72. His delegation viewed with sympathy the Canadian appeal about the fishing needs of certain States, particularly in the under-developed areas of the world and hoped that the matter would be the subject of further study and that a satisfactory solution would eventually be reached by negotiation or arbitration.

73. Mr. DEMEUR (Holy See) said that his delegation had voted in favour of the United States compromise proposal for article 3 because its adoption would have helped to prevent future disputes. The proposal constituted a contribution to the maintenance of peace

and international co-operation which were the Holy See's constant concern.

74. Mr. WILLFORT (Austria) said that the attitude of the Austrian delegation to the various proposals voted upon in the First Committee and in the Conference had been determined solely, and regardless of the identity of their sponsors, by the consideration that Austria would still prefer to see the three-mile principle retained as the formal rule of the law of the sea. It was evident, and indeed natural, that any extension of the breadth of the territorial sea would inevitably reduce the area of the high seas—the *res communis*, the common property of all States—a consideration which Austria, as a non-coastal State, believed to be valid not only for itself but for all non-coastal States.

75. The Austrian delegation had therefore noted with great appreciation the declarations of the many delegations which still recognized the three-mile limit and which had even proposed that it be generally accepted as the conventional rule. That applied to the Greek proposal (A/CONF.13/C.1/L.136) and to the relevant part of the first Canadian proposal (A/CONF.13/C.1/L.77/Rev.1), both of which provided for a territorial sea of three miles.

76. However, no proposal that the breadth be three miles having been put to the vote, the Austrian delegation, notwithstanding its traditional adherence to that principle, had been prepared, having regard to the general consensus of opinion revealed by the debate and in a desire to help to achieve a compromise which would be acceptable to the great majority of States, to support those proposals which involved the least deviation from the three-mile principle, that was to say, all proposals the purpose of which was to fix the breadth of the territorial sea at six miles. It had therefore voted in the First Committee for the Swedish proposal (A/CONF.13/C.1/L.4) and for the United States proposal (A/CONF.13/C.1/L.159/Rev.3) and at the present meeting for the United States proposal (A/CONF.13/L.29); it had voted against all proposals entailing a further extension of the territorial sea, that was to say, those which would have enabled States to fix the breadth of their territorial sea up to a maximum of twelve miles.

77. On the final Canadian proposal, adopted by the First Committee as article 3, the Austrian delegation had abstained from voting, because, in its view, States primarily engaged in fishing should determine whether the provisions pertaining in particular to exclusive fishing rights were more acceptable to them than the corresponding provisions in the United States proposal.

78. Mr. MATINE-DAFTARY (Iran) explained that his delegation had first voted for the Canadian proposal recommended to the Conference by the First Committee because it granted the coastal State a fishing zone contiguous to its territorial sea up to a limit of twelve nautical miles in which such State had the same rights in respect of fishing and the exploitation of the living resources of the sea as in its territorial sea, without restrictions or subjection to other States—principles which his delegation considered to be fair and equitable.

79. Subsequently, the Iranian delegation had voted for

the United States proposal (A/CONF.13/L.29) fixing the breadth of the territorial sea at six miles, which was in conformity with the provisions of Iranian law. But his delegation had abstained from voting in the First Committee on the provision in that proposal for a zone in which rights to fish and exploit the living resources of the sea would be exercised, subject to the acquired rights of other States whose craft had fished there for the previous five years, because it sought to perpetuate an unjust practice which many under-developed or former non-self-governing countries had been unable to combat. Such prescriptive rights were not recognized even in municipal law. Nonetheless, his delegation had voted for the United States proposal in the plenary meeting out of a desire to assist a general compromise on a breadth of six miles and thus ensure the success of the Conference. Moreover, it was obvious that Iran was not affected by the provision reserving the acquired rights of other States. In that connexion, he formally declared that no such subjection to other States existed, either in the Persian Gulf or in the Sea of Oman. Foreign fishermen had not so far been admitted to the waters that washed his country's shores. Accordingly, his delegation had voted for the United States proposal with the intention of signing the relevant convention subject to the formulation of reservations protecting his country in that respect.

80. As to the proposals intended to extend the breadth of the territorial sea to twelve miles, the Iranian delegation had abstained from voting on the Soviet Union proposal (A/CONF.13/L.30) because it seemed too vague and too elastic. But it had voted for the eight-power proposal (A/CONF.13/L.34) to secure its freedom of action, provided that proposal succeeded in gaining the required two-thirds majority, with the object of avoiding discrimination in the régime of the territorial sea, particularly as it effected the geographical region in which Iran was situated.

81. Mr. QUADROS (Uruguay) explained that his delegation had voted against the United States proposal, against the Soviet Union proposal and in favour of the eight-power proposal, because, as it had stated at the third meeting of the Inter-American Council of Jurists (tenth meeting of Committee I held on 27 January 1956), it considered that the territorial sea, as an area subject to full national jurisdiction, should be extended to a breadth of at least twelve miles, measured from the baseline applicable in articles 4 and 5 of the International Law Commission's draft.

82. In addition, with reference to paragraph 2 of the United States proposal, he pointed out that the period of five years' regular fishing specified therein could in no way constitute adequate title under international law.

83. The Soviet Union proposal, which was vague and imprecise, merely established entirely relative criteria for the breadth of the territorial sea, without specifying any maximum limit therefor, and thus bore within it the seeds of future controversy between States.

84. Mr. RUIZ MORENO (Argentina), explaining his delegation's votes on article 3, pointed out that the position it had taken at the Conference was reflected in the fact that it had voted in the First Committee for

the Canadian proposal, which proposed that the breadth of the territorial sea be fixed at six miles and that of the contiguous zone at twelve miles. In the hope that a uniform international rule would result, the Argentine delegation had voted for the joint proposal submitted by India and Mexico (A/CONF.13/C.1/L.79) and for the Colombian proposal (A/CONF.13/C.1/L.82 and Corr.1). It would have voted for the United States proposal (A/CONF.13/C.1/L.29) had the references to compulsory arbitration and the period required for the acquisition of fishing rights in foreign territorial waters been amended as the Argentine delegation had suggested to the authors.

85. Mr. GARCIA AMADOR (Cuba) said that his delegation had voted against article 3 adopted by the First Committee (A/CONF.13/L.28/Rev.1, paragraph 25) which established exclusive fishing rights for coastal States in a contiguous zone of twelve miles, as it considered that proposal unjustified and unjustifiable as a generally applicable rule. In the Third Committee, the Cuban delegation had expressed itself in favour of granting preferential fishing rights in situations in which they were justified mainly on economic grounds. In the opinion of the Cuban delegation, international law could not permit all coastal States to enjoy rights in the high seas regardless of the needs of every other State or to ignore the interests and rights acquired by other States in the zone in question, in particular, the historic fishing rights a State had acquired by reason of the fact that its nationals had engaged in fishing from time immemorial and without interruption. For these reasons his delegation had voted against the other proposals formulated at the Conference, and in favour of the proposal submitted by the United States of America.

86. Mr. ULLOA SOTOMAYOR (Peru) explained that, in accordance with the statement made by his delegation at the 56th meeting of the First Committee on withdrawing its proposal relating to article 3 (A/CONF.13/C.1/L.133 and Add.1 and 2), it had again voted on the present occasion in favour of certain proposals which, although they were not identified with the position of Peru on the matter, were more consistent with Peruvian views or represented some advance on the positions furthest from those of his country which had been maintained at the Conference. Those votes in no way changed the position of Peru, which remained intact, as did the acts of positive law in which it was expressed, as a result of which Peru, together with Chile and Ecuador, exercised jurisdiction over a maritime zone of 200 miles for the purpose of the conservation and utilization of the resources of the sea.

87. His delegation had voted against the United States proposal (A/CONF.13/L.29) because it was the furthest removed from Peruvian views and was, in particular, contrary to the interests and rights of that country, since it provided that States whose nationals had engaged in fishing near the coasts of another State for a period of five years would have acquired historic rights. Such a proposal, which was calculated to favour certain interests and to confer legitimacy on any kind of intrusion in fisheries, would have meant granting a privilege to the great fishing powers, which had been able to carry out such operations without any inter-

national control and without the consent of the coastal State.

The meeting rose at 6.35 p.m.

## FIFTEENTH PLENARY MEETING

Friday, 25 April 1958, at 8.50 p.m.

*President*: Prince WAN WAITHAYAKON (Thailand)

### Consideration of the report of the First Committee (Part I: articles 3 and 66) and of proposals relating to articles 3 and 66 (A/CONF.13/L.28/Rev.1, L.29, L.30, L.31, L.34) (continued)

1. Mr. BOCOBO (Philippines) explained that he had abstained from the vote on the United States proposal (A/CONF.13/L.29), because it was contrary to the Philippine Constitution.

2. Mr. BING (Ghana) said that his delegation had voted for five of the six proposals before the Conference, but each time with some misgivings. Ghana had a protein shortage and needed a wide and exclusive fishing zone. Article 3, as proposed by the First Committee (A/CONF.13/L.28/Rev.1, para. 25) had therefore suited it best, but it regretted that that text did not provide for the case of States whose large fishing industries depended upon fishing rights in waters which the article would have closed to them. It had voted for the United States proposal (A/CONF.13/L.29), as a compromise, but realized that the Conference could be successful only if its conclusions were generally accepted and that the adoption of the United States proposal would scarcely compel certain States, including three African countries, to abandon six miles of territorial sea. Moreover, his delegation could not accept without qualification the absolute sanctity of traditional fishing rights. The less-developed countries, such as his own, could not use traditional fishing grounds, whereas the countries already using those grounds were in a position to come and fish in Ghana's waters. His delegation had abstained from voting on the USSR proposal (A/CONF.13/L.30) because it was a mere restatement of that country's former position and not an attempt at compromise, and also because Ghana could see nothing in existing international law which prevented the establishment of a twelve-mile limit. It had voted for the eight-power proposal (A/CONF.13/L.34), although it did not represent enough of a compromise; he would have preferred an attempt at a regional compromise. In conclusion, he said he was sure that a compromise could be reached and hoped that a short debate would be permitted on the Cuban representative's suggestions on the subject.

3. Mr. TUNKIN (Union of Soviet Socialist Republics) said he had voted for the eight-power proposal as well as for his own delegation's proposal. He was convinced that it was the right of each State to establish the width of its own territorial sea. A width of three to twelve miles satisfied historical, geographic and economic interests, as well as those of coastal States and of international navigation.

**Consideration of the report of the Third Committee  
(A/CONF.13/L.21, L.22, L.26, L.27, L.33)**

4. The PRESIDENT observed that several proposals had been put forward concerning the articles adopted by the Third Committee (A/CONF.13/L.21, annex).
5. Mr. HERRINGTON (United States of America) drew attention to the close interrelationship between the articles on conservation. It had been evident in the Third Committee that some delegations would not be able to accept articles 54 and 55 unless the procedure provided for in articles 57 to 59 concerning the settlement of disputes was approved, while others would not accept articles 57 to 59 unless articles 54 and 55 were adopted. It was therefore obvious that if a separate vote was taken on each article, a two-thirds majority could not be obtained in every case. The rejection of certain articles would, however, so alter the balance of the group that all the work done by the Third Committee would be lost.
6. The Third Committee in its report (A/CONF.13/L.21, para. 64) had recommended that the convention should consist of two parts, the first dealing with articles 49 to 59 A and the second with article 49, paragraph 1, article 60, article 60 A and any other new articles that might be adopted. The United States delegation considered, however, that article 49 as a whole did not relate to conservation, but primarily to fishing rights, and he moved that articles 50 to 59 A should be voted upon together, and the remainder separately.
7. Mr. CASTAÑEDA (Mexico) agreed in principle with the United States representative, but thought that the latter's idea should be followed to its logical conclusion and all the articles proposed by the Third Committee should be voted on together. Although article 60 A did not deal strictly with conservation measures, the differences between the various articles in the group suggested by the United States representative were even greater. He formally moved as an amendment to the United States motion that the Conference should vote on articles 49 to 60 A as a single group.
8. Mr. GOLEMANOV (Bulgaria) said that his delegation could not agree to the procedure proposed by the United States and Mexican delegations. For example, it would be difficult for it to vote on a group containing article 52, since that article contained the compulsory arbitration clause.
9. Mr. TREJOS FLORES (Costa Rica) supported the motions of the United States and Mexican delegations. The articles adopted by the Third Committee were the result of long negotiations and constituted an integral whole. If the articles were considered separately, some articles would not obtain the necessary majority and the whole convention would be jeopardized.
10. Mr. CORREA (Ecuador) also supported the United States and Mexican motions. The conservation articles were so closely interdependent that the elimination of any one article would disrupt the whole system. Moreover, the adoption of article 60 A was for some delegations an essential prerequisite for the adoption of articles 57 and 58, and it would therefore be unfair to exclude article 60 A from a block vote. Approval of the two motions would in no way preclude delegations from expressing their specific views on individual articles, before the vote was taken.
11. Mr. CARMONA (Venezuela) observed that, in view of the different interests of coastal and fishing States, the articles had originally been divided into four or five groups for purposes of discussion. At the present stage, however, there was no need for such detailed division. The substantive provisions might be voted on together and then all the articles dealing with the settlement of disputes. In that way the interests of coastal and non-coastal States could be taken into account.
12. Mr. VERZIIL (Netherlands) said his delegation was anxious about the problem of reservations to the articles adopted by the Third Committee. According to paragraph 65 of the Committee's report, it was for the Conference to decide on the admissibility and extent of reservations. The decision of the Conference might considerably influence the votes of many delegates. For example, if no reservations were to be admitted to articles 49 to 60 A, some delegations might be obliged to vote against all the articles.
13. Mr. CORREA (Ecuador) observed that, if a vote was taken on articles 49 to 60 A *en bloc* and a subsequent vote was taken on the admissibility of reservations, the problem could be settled by a vote on the convention as a whole, which might include a reservations clause.
14. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the logical consequence of the views put forward by the United States representative was to vote on all the articles adopted by the Third Committee as a whole. But those views were based on a wrong premise. Any convention might be nullified by the rejection of one article; nevertheless, it was the invariable practice of international conferences to vote on articles separately. It had been said that all the articles were interrelated, but that was also true of the articles on the continental shelf, which the Conference had voted on separately. The purpose of the Conference was to work out rules of international law which would be acceptable to all States, and the articles adopted by the Third Committee should therefore be put to the vote separately, so that each delegation could make its position clear. An exception could only be made in the case of the procedural articles.
15. Mr. OZERE (Canada) said that the articles adopted by the Third Committee represented progressive development of international law. If an agreement was not reached, there would be no international law concerning conservation. Some delegations had accepted the special rights granted to coastal States on the condition that the safeguard against any abuse of those rights contained in the article on compulsory arbitration was also adopted. His delegation therefore supported the United States motion, but it could not support the Mexican amendment, because the inability of some delegations to accept article 60 A might jeopardize the whole convention.

16. Mr. SÖRENSEN (Denmark) said that the articles adopted by the Third Committee were a well-balanced whole, in which the wide powers granted to coastal States were offset by guarantees against the abuse of those powers. The substantive and procedural articles should therefore be taken together. Article 60 A, in particular, was a safeguard for countries whose economy depended on their fisheries. For those reasons his delegation supported the Mexican amendment.

17. Sir Reginald MANNINGHAM-BULLER (United Kingdom) said that his delegation supported the United States motion, but not the Mexican amendment, since it could not accept article 60 A. That article did not deal with conservation, but with economics. In the Third Committee it had been adopted by a small majority after a short discussion, and the provision was not necessary to the balance of the articles as a whole. Many delegations preferred the South African draft resolution (A/CONF.13/L.27), and might have to vote against the articles as a whole if article 60 A were included.

18. Mr. SIKRI (India) said that his delegation supported the United States motion because the articles adopted by the Third Committee represented a delicate balance between the interests of coastal States and fishing States. He proposed an amended motion to the effect that articles 49 to 60 should be put to the vote as a whole, and article 60 A separately, since it had only obtained a small majority and did not deal solely with conservation.

19. Mr. ANDERSEN (Iceland) said that his delegation supported the United States motion as amended by Mexico, for the reasons given by the representative of Denmark. Those who did not favour article 60 A would be able to make reservations to it.

20. Mr. GANDJI (Iran) said that all the articles adopted by the Third Committee were interrelated and should be put to the vote together. His delegation therefore supported the United States motion together with the Mexican amendment. If the Mexican amendment were rejected, his delegation would support the Indian motion. His delegation intended to support article 60 A, but articles 49 to 60 were a whole. It was not necessary to put the articles to the vote individually because all the delegations had had ample opportunity to make the positions of their governments clear.

21. Mr. GOLEMANOV (Bulgaria) said that under rule 39 of the rules of procedure any delegation could ask for a proposal or amendment to be voted by division. Presumably, that rule applied to final texts as well.

22. The PRESIDENT said that a request for a vote by division was not enough. A formal motion to that effect would have to be made and put to the vote.

23. Mr. LAZAREANU (Romania) said that the procedure of voting *en bloc* had not been adopted by any of the committees, nor was it usual at international conferences. Although it was intended to enable the Conference to reach a concrete result, it would prevent those delegations whose views did not coincide with the division into groups from explaining

their position. The articles should therefore be put to the vote separately.

24. Mr. NGUYEN-QUOC-DINH (Republic of Viet Nam) said that his delegation attached great importance to article 60 A. It had withdrawn its joint proposal (A/CONF.13/C.3/L.60) in favour of the Icelandic proposal (A/CONF.13/C.3/L.79/Rev.1) which had been adopted as article 60 A. For that reason it supported the United States motion together with the Mexican amendment.

25. Mr. ASANTE (Ghana) expressed support for the Indian amendment. Although article 60 was not strictly concerned with conservation, it had been adopted by a large majority, and it would be a pity to associate it with article 60 A, which had not.

26. Mr. LUND (Norway) said that his delegation supported the Indian amendment, but not the Mexican amendment.

27. Mr. DEAN (United States of America) said that his delegation could not accept the Mexican amendment to its motion for the reasons given by the representatives of Canada and the United Kingdom. It could, on the other hand, accept the Indian amendment, since although article 60 A was of a different nature from the other articles, its inclusion would not affect the over-all balance.

28. Mr. DE OLIVEIRA RUIVO (Portugal) said that his delegation supported the United States motion together with the Indian amendment. If all the articles adopted by the Third Committee were voted *en bloc*, many delegations would have to vote against them because of their opposition to article 60 A.

29. The PRESIDENT suggested that the vote should first be taken on the Indian amendment to the Mexican motion, then on the Mexican motion and finally on the United States motion.

30. Mr. CORREA (Ecuador) considered that the Indian amendment was really a separate motion and that the Mexican motion should be voted on first.

31. After a brief procedural discussion, the PRESIDENT put to the vote the Mexican motion that articles 49 to 60 A should be put to the vote as a whole.

*The motion was defeated by 36 votes to 20, with 15 abstentions.*

32. The PRESIDENT put to the vote the Indian motion that the Conference should vote on articles 49 to 62 together and separately on article 60 A.

*The motion was adopted by 44 votes to 11, with 14 abstentions.*

33. Mr. TUNKIN (Union of Soviet Socialist Republics) protested against the working method, which placed States before a difficult choice. The procedure was contrary to the important principle of the equal sovereignty of States. Although his delegation had supported most of the articles concerned, it would be obliged to vote against the whole group.

34. Mr. GOLEMANOV (Bulgaria), Mr. LAZAREANU (Romania), Mr. LAMANI (Albania) and

Mr. OCIOSZYSKI (Poland) said they would be obliged to vote against articles 49 to 60 for the reasons given by the USSR representative.

35. The PRESIDENT called upon the Rapporteur of the Third Committee to introduce the report (A/CONF.13/L.21).

36. Mr. PANIKKAR (India), Rapporteur of the Third Committee, drew special attention to the recommendation in paragraph 64 of the report concerning the type of instrument to be adopted and its possible division into two parts. With regard to the question of reservations mentioned by the Netherlands representative, he said the Committee had left it to the Conference to decide the question. The general consensus had been that articles 49 to 59 formed a whole and that, if some delegations only accepted articles 54 and 55 without articles 57 to 59, and vice versa, it would be impossible to achieve a useful convention. With regard to reservations, it had been felt that reservations would be undesirable in respect of articles 49 to 50 A and that signatories should accept that set of articles completely or not at all. Some representatives had urged that no reservations whatever should be admitted.

37. Mr. TUNKIN (Union of Soviet Socialist Republics) withdrew his delegation's amendment (A/CONF.13/L.22) to article 55, because the new situation which had arisen would compel his delegation to vote against articles 49 to 60 as a group.

38. Mr. CORREA (Ecuador) said he would vote for the articles adopted by the Third Committee, owing to his delegation's wish to participate in the Conference's historic decision to consecrate as a legal principle the right of coastal States to the living resources of the waters adjacent to their territorial seas. That vote would also be an expression of his government's satisfaction at the fact that the policy of Ecuador and other countries bordering on the Pacific Ocean concerning the conservation of marine resources had constituted a precedent for decisions which were to become rules of international law.

39. His favourable vote would not mean, however, that his delegation approved of all the provisions that had been adopted, particularly those of articles 57 and 58. It was a pity that those provisions were so rigid as to make it difficult for some States to sign the convention. Nevertheless, the general principles underlying the group of articles were satisfactory, and articles 54 and 55, in particular, represented a step forward. It was a welcome development that provisions had been approved which required all States fishing in the high seas to observe conservation measures in the interests of the international community. In conclusion, he expressed support for article 60 A, as a legitimate recognition of the preferential rights of coastal States dependent primarily on fishing for their subsistence or economic development.

40. Mr. SOLE (Union of South Africa) introducing his delegation's draft resolution (A/CONF.13/L.27) said that he had abstained on all the votes on preferential rights in the Third Committee because, although South Africa sympathized with the position of countries

dependent on their fisheries, it could not support the argument that a specific article on the purely economic aspect of the problem was justified in a general convention. The draft resolution would be submitted to the Conference if article 60 A, based on the Icelandic proposal, failed to obtain the requisite two-thirds majority. The first preambular paragraph related in particular to Iceland, the Faroe Islands and Greenland and the second preambular paragraph to a larger group of countries economically dependent on fisheries. The purpose of the draft resolution was to secure the acceptance of a moral obligation for the opponents of article 60 A to take steps to agree with coastal States on fisheries regulations, having special regard to those States' dependence on the fishing industry. It was true that the resolution would not be binding, but States would at least assume a moral obligation by casting their votes. He asked that the vote should be taken by roll-call.

41. To dispel doubts that had been expressed concerning the use of the words "legitimate interests" in operative paragraph 1, he explained that the words should be construed to mean legitimate interests in accordance with recognized principles of international law, and not particular claims put forward by States.

42. Mr. CORREA (Ecuador) said that the South African draft resolution (A/CONF.13/L.27) reproduced some of the provisions contained in the draft resolution which his delegation had submitted to the Third Committee (A/CONF.13/C.3/L.89) but not the principal ones. His delegation had withdrawn its draft resolution in order not to prejudice the adoption of article 60 A. But if that article were not adopted, his delegation would propose amendments to the South African draft resolution, in particular to replace the operative paragraph by the operative paragraph of his delegation's draft resolution.

43. Mr. ANDERSON (Iceland) appealed to delegations to vote in favour of article 60 A, which was very important to his country, rather than in favour of the South African draft resolution.

44. Mr. BOCOBO (Philippines) said that, in the Third Committee, his delegation had withdrawn the joint Philippines and Viet-Nam amendment (A/CONF.13/C.3/L.60) in favour of the original Icelandic proposal (A/CONF.13/C.3/L.79). In its revised form, however, the Icelandic proposal, which had since become article 60 A, referred only to the case of Iceland. His delegation therefore supported the South African draft resolution.

45. Mr. PETREN (Sweden) said that despite its sympathy for the special situation of Iceland, his delegation would have to vote against article 60 A; firstly, because the full effect of that article could not be estimated until a decision was reached regarding the territorial sea and fishing zones; secondly, because it was too vague, especially in referring to the vast concept of economic development, and in placing no limitation on the area of the high seas to which it would apply.

46. Mr. MÜNCH (Federal Republic of Germany)

proposed that no reservations should be allowed to articles 49 to 60.

47. Mr. TUNKIN (Union of Soviet Socialist Republics) said that if no reservations were allowed, governments would either have to accept a convention which they did not fully support, or reject it entirely. Past experience showed that if a convention was freely accepted at an international conference, reservations were not dangerous. If, however, a convention did not answer the needs of some States, a limitation concerning reservations would not save it from failure. For those reasons, he opposed the proposal of the Federal Republic of Germany.

48. Mr. MÜNCH (Federal Republic of Germany) proposed that his delegation's proposal that no reservations should be allowed to articles 49 to 60 should be put to the vote before the articles themselves.

*It was so agreed.*

49. The PRESIDENT put the proposal of the Federal Republic of Germany to the vote.

*The result of the vote was 31 in favour and 24 against, with 10 abstentions. The proposal was not adopted, having failed to obtain the required two-thirds majority.*

50. The PRESIDENT put articles 49 to 60 (A/CONF.13/L.21, annex) as a whole to the vote. He drew attention to the drafting changes to those articles proposed by the Drafting Committee of the Conference (A/CONF.13/L.26) and announced that, in the absence of any objection, those changes would be considered as having been adopted together with the articles.

*A vote was taken by roll-call.*

*Canada, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Canada, Ceylon, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, Ghana, Guatemala, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Liberia, Mexico, Nepal, New Zealand, Nicaragua, Norway, Pakistan, Panama, Philippines, Portugal, Spain, Switzerland, Thailand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Republic of Viet-Nam, Yugoslavia, Argentina, Australia, Bolivia, Brazil, Burma.

*Against:* Czechoslovakia, France, Federal Republic of Germany, Greece, Hungary, Japan, Monaco, Netherlands, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Albania, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic.

*Abstaining:* Republic of Korea, Peru, Saudi Arabia, Sweden, Tunisia, Turkey, United Arab Republic, Venezuela.

*Articles 49 to 60 were adopted by 44 votes to 16, with 8 abstentions.*

51. Mr. PFEIFFER (Federal Republic of Germany), explaining his vote on articles 49 to 60, pointed out that those articles granted very important rights of unilateral control over fishing in the high seas to the coastal State. In spite of the drawbacks for German

fisheries contained in some of the provisions, his delegation, to show its readiness to co-operate and to accept a compromise solution, had been prepared to vote in favour of the articles as a whole, on condition that the powers of the coastal State were made subject to strict arbitral control. It had indeed been for that reason that he had proposed that no reservations should be allowed to those articles. The Conference had voted to reject that proposal immediately prior to adopting articles 49 to 60, and, as a result, his delegation feared that the purpose of the articles as a whole could be undermined by reservations. Accordingly, it had been reluctantly obliged to vote against articles 49 to 60.

52. The PRESIDENT put article 60 A to the vote.

*At the request of the representative of Iceland, a vote was taken by roll-call.*

*Denmark, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Denmark, Ecuador, El Salvador, Ghana, Guatemala, Iceland, India, Indonesia, Iran, Mexico, Nepal, Nicaragua, Panama, Peru, Saudi Arabia, Tunisia, United Arab Republic, Uruguay, Venezuela, Republic of Viet-Nam, Yugoslavia, Argentina, Bolivia, Brazil, Burma, Canada, Chile, Colombia, Costa Rica, Cuba.

*Against:* France, Federal Republic of Germany, Italy, Japan, Monaco, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Romania, Spain, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Albania, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic.

*Abstaining:* Dominican Republic, Finland, Hungary, Ireland, Israel, Republic of Korea, Liberia, Philippines, Switzerland, Thailand, Turkey, Union of South Africa, United States of America, Australia, Austria, Ceylon, China, Czechoslovakia.

*The result of the vote was 30 in favour and 21 against, with 18 abstentions. Article 60 A was not adopted, having failed to obtain the required two-thirds majority.*

53. Mr. SIKRI (India), referring to the additional article proposed by the Drafting Committee (A/CONF.13/L.26, part III), said that many delegations found the term "fishing boats", used in that article, too restrictive. He therefore proposed an amendment replacing the words "fishing boats" by the words "fishing vessels, boats or craft", and adding after the word "concerned" the words "according to the law of that State".

*It was so agreed.*

54. The PRESIDENT put the Drafting Committee's amended proposal for an additional article (A/CONF.13/L.26) to the vote.

*The proposal was adopted by 65 votes to none, with 1 abstention.*

55. Mr. CORREA (Ecuador) observed that, since article 60 A had not been adopted, only article 49, paragraph 1 and article 60 remained in the second section of the convention recommended by the Third Committee. It might therefore be unnecessary to provide for a second section.

56. Mr. SIKRI (India) said that his delegation, which had made the original proposal for a division into two sections, agreed with the Ecuadorian representative's views.

57. Mr. WALL (United Kingdom) asked whether there were likely to be any new articles for inclusion in the second section of the convention.

58. The PRESIDENT said that the First Committee might produce some other articles, but that they would not reach the Conference until later. He suggested that the Conference should now decide on the principle of embodying the articles in a convention and should leave it to the Drafting Committee to establish the contents.

*It was so agreed.*

59. Mr. GARCIA AMADOR (Cuba), introducing his delegation's proposal for a preamble to the convention (A/CONF.13/L.33), said that the International Law Commission had approved such a text at its seventh session,<sup>1</sup> but had decided to delete it at the eighth session, when the articles had been amalgamated in a single draft. His delegation had redrafted some of the paragraphs of the preamble to adjust them to the deliberations of the Conference. The proposed preamble referred to all the basic ideas and economic and scientific considerations taken into account in the articles.

60. Mr. TUNKIN (Union of Soviet Socialist Republics) suggested that the Cuban proposal should be referred to the Drafting Committee.

*It was so agreed.*

61. The PRESIDENT invited the Conference to give its decision on the draft resolution on international fishery conservation conventions (A/CONF.13/L.21, annex).

*The draft resolution was adopted.*

62. The PRESIDENT invited the Conference to give its decision on the draft resolution on the procedure of abstention (A/CONF.13/L.21, annex).

63. Mr. TUNKIN (Union of Soviet Socialist Republics) requested a vote on the draft resolution.

*The result of the vote was 31 in favour and 20 against, with 8 abstentions. The draft resolution was not adopted, having failed to obtain the required two-thirds majority.*

64. The PRESIDENT invited the Conference to give its decision on the draft resolution on conservation measures in the adjacent high seas (A/CONF.13/L.21, annex), with the amendments proposed by the Drafting Committee (A/CONF.13/L.26).

*The draft resolution was adopted.*

65. The PRESIDENT invited the Conference to give its decision on the draft resolution concerning humane killing of marine life (A/CONF.13/L.21, annex).

*The draft resolution was adopted.*

66. The PRESIDENT called upon the Conference to consider the South African draft resolution (A/CONF.13/L.27).

67. Mr. CORREA (Ecuador) said that there were certain differences between his delegation's proposal on the subject in the Third Committee (A/CONF.13/C.3/L.89) and the South African draft resolution. If article 60 A had been approved, Ecuador would have wanted it to be supplemented by a general recommendation to States to lend their co-operation to the fair settlement of special situations, by regional or other international means. The South African draft, however, merely restated article 60 A in the form of a recommendation.

68. Moreover, the South African draft resolution provided that the objectives concerned should be achieved by "establishing agreed measures". The Ecuadorian delegation considered it necessary to avoid the implication that a coastal State could not take measures without outside consent, and would therefore ask for a separate vote on the words "agreed". Secondly, it wished to introduce another operative paragraph, based on the operative part of its own proposal in committee, to the effect that States should collaborate to secure just treatment of the situations concerned by regional agreements, by the recognition of duly justified unilateral measures or by other means of international co-operation. The South African draft as so amended would contain both general and specific conditions. Finally, he suggested that the word "overwhelmingly" in the first preambular paragraph should be replaced by "primarily" to facilitate translation into French and Spanish.

69. Mr. SOLE (Union of South Africa) urged the Conference to take into account the main purpose of his delegation's draft resolution, which was to obtain a two-thirds majority. The first two preambular paragraphs covered the most needy groups of countries. If the scope of the text were extended in accordance with the Ecuadorian suggestion, the chance of obtaining the requisite majority would be diminished. His objection applied in particular to the deletion of the word "agreed" and to the inclusion of the operative part of the earlier Ecuadorian proposal.

70. The PRESIDENT suggested that the Ecuadorian amendments should be submitted in writing at the next meeting.

The meeting rose at 12.20 a.m.

## SIXTEENTH PLENARY MEETING

*Saturday, 26 April 1958, at 10.30 a.m.*

*President: Prince WAN WAITHAYAKON (Thailand)*

### **Consideration of the report of the Third Committee (A/CONF.13/L.21, L.27, L.24) (continued)**

1. Mr. LLOSA (Peru), explaining the vote of his delegation on articles 49 to 60 at the previous meeting, said that he had abstained from voting because, although

<sup>1</sup> *Official Records of the General Assembly, Tenth Session, Supplement No. 9 (A/2934), p. 13.*

those articles represented some progress in that they recognized the legitimate interests of the coastal State, they were far from perfect and took no account of many historical, economic and geographic considerations nor would they protect the coastal State from uncontrolled exploitation of its maritime resources by other States. Finally, he had been unable to accept the provisions for compulsory arbitration which weakened the whole system of the peaceful settlement of disputes under the United Nations Charter, and did not provide sufficient safeguards for weaker States.

2. Mr. CASTAÑEDA (Mexico) said the Third Committee had adopted the joint proposal submitted by Burma, the Republic of Korea, Mexico and Venezuela (A/CONF.13/C.3/L.49) for the insertion of the phrase "Subject to the interests and rights of the coastal State, as provided for in this convention" and had placed it in article 49, paragraph 1; but that proviso was equally applicable to article 51, 52 and 53.

3. Mr. AYCINENA SALAZAR (Guatemala) said he would have reservations to make to the articles relating to compulsory arbitration.

4. Mr. LEE (Republic of Korea) said that he had abstained from voting on articles 49-60 when put to the vote as a whole because articles 57-59 were unacceptable to his delegation. As his delegation had explained in the Third Committee, it had no objection to the settlement of disputes by arbitration but could not agree to it being compulsory. States must be left some latitude in selecting the most appropriate procedure in accordance with Article 33 of the United Nations Charter.

5. The PRESIDENT invited the Conference to resume its consideration of the South African draft resolution (A/CONF.13/L.27).

6. Mr. TRUJILLO (Ecuador) said that, after informal discussions with the South African representative, he had decided to withdraw the two drafting changes he had proposed at the previous meeting, and to submit instead an amendment (A/CONF.13/L.42) for the insertion of the following new paragraph between the two operative paragraphs for the purpose of giving moral support to States in a special situation:

*"Recommends that States should collaborate to secure just treatment of such situations by regional agreements or by other means of international co-operation."*

The legal position would in no wise be affected.

7. Mr. SOLE (Union of South Africa) agreed with the principle of the Ecuadorian amendment but believed that the balance of the draft resolution would be better preserved if the amendment were inserted as a last paragraph in the preamble with the substitution of the words "Believing that States should collaborate" for the words "Recommends that States should collaborate". He thanked the Ecuadorian representative for withdrawing his other amendments, a step which would do much towards securing the requisite two-thirds majority.

8. Mr. TRUJILLO (Ecuador) accepted the South African representative's suggestion.

9. Mr. MALLIN (Ireland) proposed the deletion of the word "legitimate" in operative paragraph 1 because that word might be misconstrued as prejudicing the issue, whereas it was intended to strengthen the paragraph.

10. Mr. SOLE (Union of South Africa) accepted the Irish representative's amendment.

11. Mr. WALL (United Kingdom) said that during the general debate in the Third Committee his delegation had emphasized the need to safeguard the livelihood of coastal fishing communities which usually operated with small boats only. That object would not be achieved by article 58 and his delegation had, in the course of informal consultations, undertaken to support the South African draft resolution provided that the changes did not go further than those introduced at the previous meeting. The present Ecuadorian and Irish amendments were more limited in scope and would be acceptable.

12. The PRESIDENT put to the vote the South African draft resolution (A/CONF.13/L.42) as amended.

*A vote was taken by roll-call.*

*Argentina, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Ghana, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Jordan, Republic of Korea, Lebanon, Liberia, Luxembourg, Mexico, Monaco, Morocco, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Romania, Saudi Arabia, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia, Afghanistan, Albania.

*Against:* None.

*Abstaining:* Bulgaria, China, Federal Republic of Germany, Greece, Holy See, Italy, Japan, Netherlands, Poland, Portugal.

*The South African draft resolution, as amended, was adopted by 67 votes to none, with 10 abstentions.*

13. Mr. ANDERSEN (Iceland) expressed his gratitude to the delegations which had shown their sympathy for the Icelandic people in connexion with the voting on article 60 A. It was a sorry chapter in the history of the United Nations that an appeal by one of its smallest members went unheeded by so many. He hoped that there would be a change in that attitude when the next opportunity presented itself. He wished to thank the South African delegation for having been instrumental in securing the adoption of the principles contained in their resolution; it would have been a sad affair indeed had the Conference rejected that resolution. The Icelandic delegation had voted in favour of the resolution because it felt that the procedure suggested in it might

become helpful as regards the area outside the limits of coastal fisheries jurisdiction.

14. Mr. TRUJILLO (Ecuador) observed that the resolution on the procedure of abstention, which had been adopted at the 40th meeting of the Third Committee by 38 votes to 17 with 8 abstentions had at the previous plenary meeting failed to secure a two-thirds majority, there having voted 31 in favour with 20 against and 8 abstentions, showing that at that late hour some twenty delegations had already left the meeting. Although he believed that rule 32 of the rules of procedure should be applied with the greatest circumspection, he moved that the discussion on the resolution be reopened since the vote had clearly not been representative.

15. Mr. KRYLOV (Union of Soviet Socialist Republics) said that the vote had been perfectly in order and the fact that it had been taken very late in the evening gave no ground for such a motion.

16. Mr. TSURUOKA (Japan) also opposed the motion which had surprised him greatly in view of the determined opposition in the First Committee to the United States motion for reconsideration of its proposal on the breadth of the territorial sea.

17. The PRESIDENT put the motion of the representative of Ecuador to the vote.

*The result of the vote was 43 in favour and 26 against, with 11 abstentions. The motion was not adopted, having failed to obtain the required two-thirds majority.*

18. Mr. GARCIA-AMADOR (Cuba) moved the reconsideration of the proposal of the Federal Republic of Germany which had been submitted at the 15th plenary meeting, that reservations to the articles on fisheries should not be admitted. He believed the proposal had been rejected at the previous meeting because many delegations had assumed that article 60 A would be adopted.

19. As he had indicated in the Fourth Committee, because international conventions were increasingly assuming a legislative character, the modern trend was to restrict the right to make reservations, which in the past had been regarded as absolute; his view was supported by the International Court of Justice in its advisory opinion on reservations to multilateral conventions.<sup>1</sup> The instrument under discussion was certainly one in which the right to stipulate reservations should be restricted because, the articles being so closely interdependent, reservations to one would destroy the efficacy of the whole, and that was particularly true of articles 54 and 55 and 57 to 60.

20. Mr. RUIZ MORENO (Argentina) opposed the Cuban representative's motion because, although Argentina had voted in favour of the fisheries articles and had no reservations to make to those articles, he believed it would be impossible to secure agreement on what were in effect novel rules of international law if reservations were disallowed.

21. Mr. ULLOA SOTOMAYOR (Peru) opposed the motion and was unable to understand how the Cuban representative could suppose that governments would sign the instrument if their legitimate right to make reservations were not recognized.

22. The PRESIDENT put to the vote the Cuban representative's motion for the reconsideration of the German proposal concerning reservations.

*A vote was taken by roll-call.*

*Denmark, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Denmark, Dominican Republic, Finland, France, Federal Republic of Germany, Ghana, Haiti, Honduras, India, Indonesia, Iran, Ireland, Israel, Italy, Lebanon, Luxembourg, Monaco, Nepal, Netherlands, New Zealand, Norway, Pakistan, Panama, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Afghanistan, Australia, Canada, China, Colombia, Costa Rica, Cuba.

*Against:* Ecuador, Greece, Guatemala, Hungary, Republic of Korea, Federation of Malaya, Mexico, Peru, Philippines, Poland, Romania, Saudi Arabia, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Venezuela, Albania, Argentina, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Chile, Czechoslovakia.

*Abstaining:* El Salvador, Holy See, Iceland, Iraq, Japan, Liberia, Morocco, Nicaragua, Paraguay, Thailand, Union of South Africa, Republic of Viet-Nam, Yugoslavia, Austria, Belgium, Ceylon.

*The result of the vote was 37 in favour and 26 against, with 16 abstentions. The motion was not adopted, having failed to obtain the required two-thirds majority.*

23. Mr. DEAN (United States of America), explaining his vote on the Ecuadorian proposal that discussion of the resolution on the procedure of abstention should be re-opened, said that the articles on fisheries were a significant step towards achieving conservation and the maximum utilization of resources to the general benefit. His government very much regretted the fact that the resolution on the procedure of abstention had not secured a majority because such an essential provision was the only means of encouraging States to spend time and money on research and to impose restraints on their own fishermen. The United States for its part would continue to work towards the acceptance of the principle, was prepared to enter into agreements giving it effect, and would pursue its own research making the results available to all other countries.

#### **Consideration of the report of the Credentials Committee (A/CONF.13/L.35)**

24. Mr. WERSHOF (Canada), Chairman of the Credentials Committee, introduced the Committee's report (A/CONF.13/L.35). Referring to paragraph 15, he explained that the Committee had reported the facts on Yemen's credentials and had adopted the United States motion that it take no decision regarding the

<sup>1</sup> *Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports, 1951, pp. 21-55.*

credentials submitted on behalf of the representative of Hungary.

25. Mr. SZITA (Hungary) regretted that a credentials committee consisting of such eminent lawyers should not have restricted itself to purely legal considerations according to its terms of reference as laid down in rule 4 of the rules of procedure. He pointed out that the Hungarian People's Republic as a Member of the United Nations had a rightful claim to be invited under paragraph 5 of General Assembly resolution 1105 (XI), and indeed such an invitation had been received at the Ministry of Foreign Affairs. There was no other Hungarian government, and the credentials had been issued in accordance with the prescribed formalities by the competent Hungarian authority. He referred to paragraph 12 of the Committee's report, and said that his government took the strongest exception to the terms of the United States motion mentioned in that paragraph and to the Committee's endorsement of the motion, which violated the principles of the Charter concerning international co-operation and the sovereign equality of States. In addition, it infringed the Conference's rules of procedure. Accordingly, he protested against the course taken by the Committee, and said he would vote against its report.

26. Mr. LAZAREANU (Romania) said that the majority decision of the Credentials Committee on the question of the representation of China wrongfully endorsed the discredited Kuomintang régime, and suggested that a group of imposters possessed genuine authority. Equally deplorable was the Committee's attempt to cast doubt on the legitimacy of the Hungarian Government.

27. The report itself contained some serious inconsistencies. So far as the representation of China was concerned, paragraph 9 stated that the only question within the Committee's competence had been to determine whether the credentials issued to the alleged representatives of China were "in order", when in reality the Committee should first have ascertained whether the invitation to attend the Conference had been sent to the correct address. In the case of Hungary, on the other hand, the Committee had adopted exactly the opposite approach; it had greatly exceeded its authority, by introducing strictly political issues, and had deliberately overlooked the fact that nobody's credentials could be more in order than those of the Hungarian representative. The Hungarian Government had been duly represented in the General Assembly at the time of the adoption of resolution 1105 (XI), pursuant to which the Conference had been convened, and had received a formal invitation from the Secretary-General.

28. The Committee's decision on the representation of China thus merely reflected the views of those who—mindless of the rights of one-quarter of the world's inhabitants—tried to transform a fiction into reality. On the other hand, the refusal to take any decision on the credentials of the Hungarian representative was an act of gratuitous interference in the internal affairs of a country with which practically all governments, including those of the delegations represented on the Credentials Committee, maintained normal relations.

29. In conclusion, he stressed that his delegation's vote on the Committee's report as a whole would in no way signify any change in its position on the question of China's representation or on the lawfulness of the Hungarian Government.

30. Mr. ZOUREK (Czechoslovakia), Mr. OCIOS-ZYNSKI (Poland), Mr. SIKRI (India), Mr. BARTOS (Yugoslavia), Mr. LOUTFI (United Arab Republic), Mr. LAMANI (Albania), Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic), Mr. NIKOLAEV (Union of Soviet Socialist Republics) and Mr. RADUILSKY (Bulgaria) associated themselves with the Romanian representative's statement.

31. Sir Claude COREA (Ceylon) said that paragraphs 15 and 16 of the Committee's report were somewhat unfortunate, as they suggested that the Conference should challenge the validity of invitations issued to representatives whose credentials were in themselves unimpeachable.

32. Mr. SHAHA (Nepal), while regretting that the Conference had reopened the discussion on certain largely irrelevant issues, said that his delegation would vote for the Credentials Committee's report on the understanding that the Nepalese Government's position on the question of the representation of China remained unchanged.

33. Mr. GUNDERSEN (Norway) said that paragraph 15 raised a difficult point. The Hungarian delegation having participated in the Conference's work and voted, it was necessary to clarify whether the votes thus cast had been valid. While that point remained unsettled, the Norwegian delegation might find it very difficult to vote on the report as a whole.

34. Mr. ASANTE (Ghana) observed that the Conference was not qualified to challenge the legitimacy of governments. It should therefore confine itself to the strictly legal aspect of the question and recognize the validity of the Hungarian representative's credentials.

35. Mr. DEAN (United States of America) said that the question of China's representation had been duly settled at the first two plenary meetings of the Conference. With regard to Hungary, the Credentials Committee had merely followed the precedent established by the General Assembly at its eleventh and twelfth sessions. The reasons for the Assembly's action were well known, and neither the Hungarian authorities nor the Government of the Soviet Union had since made any real effort to regain the confidence of the international community.

36. Mr. LIU (China) said it was regrettable that certain speakers, instead of merely making reservations to the Credentials Committee's report, had attempted to distort historical facts. The question of his right to represent the Chinese people having been decided at the first two plenary meetings, he would merely refer those gentlemen to the statement he had made on that occasion.

37. Mr. DIAZ GONZALEZ (Venezuela) and Mr. KUSUMAATMADJA (Indonesia) shared the Norwegian representative's views on paragraph 15.

38. Mr. BOCOBO (Philippines) urged the Conference to desist from an unnecessary and repetitious debate and to approve the Credentials Committee's report forthwith.

39. Mr. COMAY (Israel) said that, in his government's opinion, the question of China's representation could be decided only by the General Assembly. His delegation would support the credentials of the Hungarian delegation. Lastly, there was no denying the right of Yemen to attend the Conference on a footing of equality with all other States, provided that its representative produced credentials in good and due form.

40. Mr. SZITA (Hungary) asked for a separate vote on the reference to Hungary in paragraph 15.

41. Sir Gerald FITZMAURICE (United Kingdom) said that, in the circumstances, he would vote for the deletion of the words "and Hungary", a vote which would amount in practice to recognition of the Hungarian representative's credentials. He would do so very reluctantly, as no decision on the question had been reached by the General Assembly, but a negative vote would not be warranted from the strictly legal point of view, for representatives of the Hungarian authorities participated in the work of the Assembly itself.

42. *The PRESIDENT put to the vote the words "and Hungary" in paragraph 15 of the Credentials Committee's report (A/CONF.13/L.35).*

*A vote was taken by roll-call.*

*Monaco, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Netherlands, New Zealand, Nicaragua, Paraguay, Philippines, Portugal, Spain, Thailand, United States of America, Republic of Viet-Nam, Argentina, Australia, China, Colombia, Costa Rica, Dominican Republic, Ecuador, France, Federal Republic of Germany, Greece, Guatemala, Haiti, Iceland, Italy, Republic of Korea, Mexico.

*Against:* Morocco, Norway, Poland, Romania, Saudi Arabia, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Afghanistan, Albania, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Denmark, Finland, Hungary, India, Indonesia, Israel.

*Abstaining:* Monaco, Nepal, Pakistan, San Marino, Uruguay, Venezuela, Canada, Chile, Honduras, Iran, Japan, Jordan, Liberia, Libya.

*The words "and Hungary" in paragraph 15 of the Credentials Committee's report were rejected by 27 votes to 26 with 14 abstentions.*

*The Credentials Committee's report as a whole, as amended, was adopted by 58 votes to 1, with 3 abstentions.*

The meeting rose at 1.15 p.m.

## SEVENTEENTH PLENARY MEETING

*Saturday, 26 April 1958, at 3 p.m.*

*President:* Prince WAN WAITHAYAKON (Thailand)

### **Sixth report of the Drafting Committee of the Conference: final clauses (A/CONF.13/L.32)**

1. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the rules of the law of the sea were universal, not regional, in character. His delegation therefore objected to the signature clause, which excluded certain States from participation. That clause was contrary to the principle of the equality of States, which was a basic principle of international law.

2. Sir Gerald FITZMAURICE (United Kingdom) said that the signature clause was based on General Assembly resolution 1105 (XI) under which the Conference had been convened. It was normal that the convention or conventions should be open to signature by the States which had participated in the Conference. In any event, it was specified in the signature clause that any other State could be invited by the General Assembly to become a party to the convention or conventions.

3. Mr. LEE (Republic of Korea) said that the signature clause was fully in accordance with General Assembly resolution 1105 (XI) under which the Conference had been convened.

4. Mr. TUNCEL (Turkey) said that his delegation did not share the doubts expressed by the representatives of Czechoslovakia and France regarding the accession clause.

5. With regard to the reservations clause, he said that, if alternative II was put to the vote, his delegation would ask for a separate vote on the words "other than to articles... inclusive". His delegation's instructions had been drawn up with reference to the International Law Commission's draft. That text having been amended in several important respects, his delegation was no longer in a position to know which articles called for reservations by Turkey.

6. The revision clause put all questions of revision on the same footing. In fact, a distinction should have been drawn between major and minor revisions; in the case of minor revisions, an international meeting should not be necessary. In that connexion, his delegation hoped that the proposal submitted by Peru regarding the periodic reconvening of the United Nations Conference on the Law of the Sea (A/CONF.13/L.10) would be examined at the same time as the revision clause.

7. Mr. KORETSKY (Ukrainian Soviet Socialist Republic) said that the restrictive terms of General Assembly resolution 1105 (XI) concerning invitations to the Conference did not justify a restrictive approach on the part of the Conference itself with regard to the signature of the convention or conventions. States which desired to accept the rules of international law codified by the Conference should not be prevented from doing so.

8. The same remarks applied to the accession clause, which should have been wider than the signature clause. As drafted by the Drafting Committee, both clauses were equally restrictive.

9. Sir Gerald FITZMAURICE (United Kingdom) said that the figure of twenty-two for the minimum number of ratifications required for entry into force was too low. That figure, which had become a standard one in United Nations practice, had originally been specified at a time when the organization had had only some sixty Member States. Since the convention or conventions would be open for signature by all States Members of the United Nations — at present over eighty — and of specialized agencies, it was desirable that the minimum number of ratifications should be higher — say, twenty-five or even thirty. It had to be remembered that some fifteen land-locked States would have a very special interest in a section of one of the conventions which would deal with their particular problems; if those land-locked States ratified that particular convention promptly, the result would be that the whole convention might enter into force after ratification by no more than about seven maritime States — an undesirable situation. He proposed that in the clause relating to entry into force the word “twenty-second” should be replaced by dots.

10. Moreover, it was probable that some four or five separate conventions would result from the work of the Conference. Where a convention codified existing rules of international law, it was perhaps appropriate to be content with a small number of ratifications. The situation was, however, quite different in the case of conventions dealing with more controversial questions involving the progressive development of international law.

11. It was very difficult to discuss the reservations clause in a general manner because each convention, according to its contents, would probably call for different treatment. Thus, in the convention on the continental shelf prepared by the Fourth Committee, it might be advisable to allow reservations. In some other instruments, it might be desirable not to permit any reservations. He proposed that the first paragraph of alternative II of the reservations clause should be revised to read:

“At the time of signature, ratification or accession, reservations may be made only to articles...”

12. Mr. ZOUREK (Czechoslovakia) said that the signature clause was unsatisfactory. The proposed rules affected the interests of all States and hence should ultimately become universal. *A fortiori*, the accession clause should likewise aim at universality.

13. His delegation opposed alternative I for the reservations clause. It was impossible to deny to a sovereign State, without its consent, the right to make reservations.

14. The second paragraph of the revision clause made provision for action by the General Assembly. The normal practice was to leave the matter to the signatories of the convention.

15. Mr. JHIRAD (India) said that perhaps there were technical difficulties in the way of opening the

instrument to signature by States other than those which had participated in the Conference or which might be invited by the General Assembly to become parties to the convention or conventions.

16. No such technical difficulty, however, arose in the case of the accession clause and his delegation agreed with the Czechoslovak delegation's criticism of the words “mentioned in article...” in that clause.

17. Mr. DEAN (United States of America) said that it was hardly possible to open the convention or conventions to signature by entities which flouted the very principles of the United Nations and which had been characterized as aggressors by United Nations decisions.

18. Mr. STAR BUSMANN (Netherlands) supported the drafting amendment proposed by the United Kingdom representative to alternative II of the reservations clause. As drafted by the Drafting Committee, that clause seemed to invite reservations, whereas it was desirable to discourage them.

19. It had been considered that the revision clause made a denunciation clause unnecessary. The Netherlands delegation did not share that view and considered that some of the conventions would require a denunciation clause.

20. The five-year period mentioned in the revision clause was not suitable to all the conventions. It could apply to a convention such as that on the continental shelf which dealt with a subject in constant development. With regard to other subjects, a longer period might be necessary.

21. Mr. MELO LECAROS (Chile) said that the signature clause appeared to make the convention or conventions open for signature by States which would be members of the United Nations or of any of the specialized agencies on 31 October 1958. The accession clause referred to the States mentioned in the signature clause, and in that manner, seemed to limit accession to those States which would be Members of the United Nations or of any of its specialized agencies on 31 October 1958. It was desirable to make accession possible for States which might become members of the United Nations or of any of its specialized agencies after that date.

22. He drew attention to the different conceptions of accession in the Latin American and in the Anglo-Saxon systems of law. According to the Anglo-Saxon system, accession was equivalent to ratification, and was binding on States. In accordance with the Latin American system, accession was equivalent merely to signature; the treaty did not become binding until subsequently ratified. In accordance with Chilean law, it was not easy to submit to Congress a treaty which had not yet been signed. That situation might lead to practical difficulties which his delegation would do its best to solve. While drawing attention to the difficulties in question, his delegation wished to make it clear that it did not intend to oppose the accession clause as drafted.

23. His delegation opposed any clause which excluded reservations altogether. It was desirable to permit reservations and so to facilitate the signature and

ratifications of the conventions. Many ratifications would thus take place subject to reservations which would ultimately be withdrawn. That process would lead to the gradual entry into force of the conventions.

24. With regard to the revision clause, his delegation considered that the five-year period should be reckoned from the date of signature. If, at the end of that period, the requisite number of ratifications had not been obtained, it would become apparent that the text had some serious defect which prevented it from being generally acceptable; the text would then be revised.

25. Mr. GUNDERSEN (Norway) said that the reservations clause could not really be discussed sensibly except with reference to each particular convention. It had now become apparent that, although the work of the First and Second Committees, together with some of the provisions drafted by the Fifth Committee, might be incorporated in one instrument, two other instruments would embody the work of the Third and Fourth Committees. In view of that situation, the Norwegian delegation could not accept at that stage a general reservations clause to the effect that no reservations could be made, and would support alternative II as reworded by the United Kingdom representative.

26. Mr. KUSUMAATMADJA (Indonesia) proposed that the accession clause be voted upon before the signature clause. In that manner, the objects of certain delegations which applied to both clauses would be disposed of in one vote.

27. With regard to the reservations clause, his delegation considered that the question of drafting it in negative or positive terms was merely a matter of convenience. A different drafting might be adopted for each one of the conventions. What mattered was that reservations should be limited, lest an excessive number of reservations destroy the work of the committees.

28. The PRESIDENT said, in reply to the Indonesian representative, that the amendments relating to the signature clause and to the accession clause would be voted upon first.

29. Mr. CORREA (Ecuador), Chairman of the Drafting Committee, said, with reference to the question raised by the Chilean representative, that the intention of the Drafting Committee had been to make the convention or conventions open for accession by all States who were members of the United Nations or of any of the specialized agencies at the time of their accession.

30. Mr. BARTOS (Yugoslavia) said that his delegation had serious doubts with respect to the words "if any" in the second paragraph of the revision clause.

31. With regard to the question of a denunciation clause, his delegation shared the views of the Netherlands delegation.

32. With regard to the reservations clause, his delegation supported the proposal that the clause should state explicitly which articles could be made the subject of reservations.

33. It was desirable to include a provision concerning

the effects of reservations, an extremely complex question on which opinion was divided. In the opinion of the Yugoslav delegation, a State which, by making reservations, failed to assume obligations under the convention which it had signed, could not well expect other States to carry out all the terms of that convention.

34. With regard to the clause on entry into force, he drew attention to the technical difficulties arising from the inevitable delay in the notification reaching the interested governments. There was no specified period for ratification, which might take place at any time. It was, however, specified that the convention would enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession. When a convention containing such a clause entered into force, the Secretary-General informed the permanent delegations concerned in New York which had to inform their governments. Thus it sometimes happened that a State was bound by a convention before its competent authorities had taken cognizance of the fact.

35. Mr. JHIRAD (India) recalled that it had already been decided that reservations would be permitted to articles 67, 68 and 69. He therefore suggested that the reservations clause should be considered when the various conventions were discussed. It would be unnecessary to discuss the revision clause when those conventions were considered, since the Conference would decide upon the question of revision in respect of each article.

36. Sir Gerald FITZMAURICE asked that the clause relating to entry into force should also be considered when the various conventions were studied.

37. The preoccupations of certain speakers with regard to the phrase "States mentioned in article..." could easily be met by amending the text of the clause relating to accession to read "This convention shall be open for accession by any States belonging to any of the categories mentioned in article..."

*It was so agreed.*

38. Mr. GLASER (Romania) said that any State excluded from acceding to the proposed conventions could certainly not be obliged to respect their provisions. The conventions should be open for the signature of all States.

39. Turning to the reservations clause, he pointed out that if States were not allowed to make reservations they would not sign the conventions. The right of States to formulate reservations should not therefore be limited since in many cases reservations to a treaty had later become the general rule of international law.

40. His delegation could accept the revision clause, although it felt that the wording could be improved.

41. Mr. WERSHOF (Canada) urged representatives to support the text recommended by the Drafting Committee.

42. Mr. OCIOSZYNSKY (Poland) recalled that the report of the Drafting Committee was based on a document prepared by the Secretariat (A/CONF.13/L.7) which had contained several alternatives for the reservations clause, but no alternative text for the

signature clause. Many important conventions contained signature clauses allowing all States to become parties, and he had been surprised to hear the United States representatives suggest that certain States should not be allowed to become parties to the proposed conventions on the law of the sea. Every effort should be made to ensure that the provisions of the proposed conventions became universally applicable. The conventions should therefore be open to accession by all States.

43. He recalled that the advisory opinion of the International Court of Justice concerning reservations to the Convention on Genocide<sup>1</sup> had been very liberal. He therefore considered that all States should have the right to make reservations to the proposed conventions.

44. Mr. SÖRENSEN (Denmark) moved the closure of the debate on the question under discussion.

45. Mr. GOMEZ ROBLEDO (Mexico) and Mr. KUSUMAATMADJA (Indonesia) opposed the motion.

46. The PRESIDENT put the motion for the closure of debate to the vote under rule 28 of the rules of procedure.

*The motion was adopted by 45 votes to 1, with 2 abstentions.*

47. Mr. KUSUMAATMADJA (Indonesia) proposed that the accession clause should be voted on first.

*The proposal was rejected by 37 votes to 11 with 9 abstentions.*

48. Mr. TUNKIN (Union of Soviet Socialist Republics) proposed a separate vote on the phrase "members of the United Nations or of any of the specialized agencies" in the signature clause.

49. Sir Gerald FITZMAURICE (United Kingdom) opposed the USSR representative's proposal.

50. The PRESIDENT put the USSR representative's proposal to the vote.

*The USSR proposal was rejected by 40 votes to 16, with 8 abstentions.*

51. Mr. ZOUREK (Czechoslovakia) proposed a separate vote on the phrase "belonging to any of the categories mentioned in article..." in the accession clause, as amended during the meeting.

*The Czechoslovak proposal was rejected by 43 votes to 17, with 8 abstentions.*

52. The PRESIDENT put to the vote the United Kingdom amendment to replace the word "twenty-second" by dots in the clause relating to entry into force.

*The amendment was adopted by 51 votes to none, with 4 abstentions.*

53. Mr. TUNKIN (Union of Soviet Socialist Republics) thought that it would be better to leave the question of the reservations clause until later.

54. Mr. TUNCEL (Turkey) emphasized that it was a general principle of international law that a State should be permitted to submit reservations unless a convention contained provisions to the contrary. He could not therefore support the United Kingdom representative's amendment regarding the reservations clause and would support the Drafting Committee's proposal.

55. Mr. SOLE (Union of South Africa), associating himself with the remarks of the representative of Turkey, said that the reservations clause should be considered in connexion with each convention.

56. Sir Gerald FITZMAURICE (United Kingdom) withdrew his amendment to the reservations clause on the understanding that it would be dealt with in connexion with each of the conventions.

57. Mr. JHIRAD (India) formally proposed that voting on the reservations clause be deferred until each convention was considered.

*It was so agreed.*

58. Mr. STAR BUSMANN (Netherlands) proposed that voting on the revision clause be deferred until the various conventions were considered.

*The proposal was adopted by 41 votes to 5, with 16 abstentions.*

59. The PRESIDENT put to the vote the remaining clauses contained in the Drafting Committee's report (A/CONF.13/L.32).

*The clause relating to signature was adopted by 58 votes to 8, with 3 abstentions.*

*The clause relating to ratification was adopted.*

*The clause relating to accession, as amended, was adopted by 56 votes to 5, with 9 abstentions.*

*The clause relating to entry into force as amended was adopted by 61 votes to none.*

*The clause relating to notifications was adopted.*

*The clause relating to the deposit of the convention and languages was adopted.*

**Eighth report of the Drafting Committee of the Conference: judicial settlement of disputes (A/CONF.13/L.40)**

60. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the first paragraph of the preamble of the proposed optional protocol of signature (A/CONF.13/L.40) was incorrectly drafted, and should begin with the words "The States Parties" and not "The States represented..."

61. Mr. DEAN (United States of America) proposed that in article V the words "the convention(s)" should be replaced by "any convention".

*It was so agreed.*

62. The PRESIDENT, replying to a question by Mr. BARTOS (Yugoslavia), said that it would be possible for States to accede to any of the proposed conventions without having to sign the optional protocol.

63. Sir Gerald FITZMAURICE (United Kingdom) agreed with the USSR representative regarding the

<sup>1</sup> I.C.J. Reports, 1951, p. 15.

wording of the first paragraph of the preamble, and suggested that it should be redrafted to read: "States Parties to any of the conventions on the Law of the Sea, signed..." Not all States represented at the Conference would become parties to the conventions. It was possible, however, that States not represented might become parties. The protocol of signature should be capable of being signed by all States which became parties to the conventions. In that respect, article V was correctly worded.

*The United Kingdom amendment was approved.*

64. Mr. CAICEDO CASTILLA (Colombia) pointed out that, under article 73 of the International Law Commission's draft, States were not necessarily bound to submit their disputes to the International Court of Justice but had the right to agree on other methods of peaceful settlement. The Latin American States had agreed to resort to certain methods of peaceful settlement of disputes under certain treaties and conventions; Article 1 of the Charter of the United Nations also called for the settlement of international disputes by peaceful means. Article III of the protocol should therefore be amended accordingly, and the reference to an arbitral tribunal deleted.

65. Mr. THOMAS (Austria) suggested that a clause relating to accession should be inserted in the protocol.

66. Sir Gerald FITZMAURICE (United Kingdom) pointed out that such a clause was unnecessary since article V provided that the protocol should remain open for signature by all States which became parties to any convention on the law of the sea.

67. He considered that the point raised by the representative of Colombia was covered by the second paragraph of the preamble.

68. Mr. CAICEDO CASTILLA (Colombia) said he would still prefer his point to be taken into account by an amendment to article III, since the preamble would have no legal force.

69. The PRESIDENT put to the vote the optional protocol of signature (A/CONF.13/L.40), as amended.

*The optional protocol of signature, as amended, was adopted by 52 votes to none, with 13 abstentions.*

#### **Consideration of the report of the Fourth Committee A/CONF.13/L.12) (continued)<sup>1</sup>**

70. Mr. JHIRAD (India), speaking on a point of order, said that it was his understanding that, at its 13th plenary meeting, the Conference, when taking decisions on the report of the Drafting Committee regarding proposals for the judicial settlement of disputes (A/CONF.13/L.24), had rejected the principle of article 74 as submitted by the Fourth Committee (A/CONF.13/L.12, annex). It would therefore not be in order for the Conference to take up that article again.

71. Mr. CORREA (Ecuador), Chairman of the Drafting Committee of the Conference, drew attention

in that connexion to the final sentence of paragraph 5 of the Drafting Committee's fourth report (A/CONF.13/L.24).

72. Mr. CARMONA (Venezuela) said that the adoption of the optional protocol on the settlement of disputes (A/CONF.13/L.40) had rendered article 74 completely unnecessary.

73. The PRESIDENT said that all doubts would be removed if article 74 was put to the vote. He therefore called for a vote on that article.

*The result of the vote was 38 in favour and 20 against, with 7 abstentions. Article 74 was not adopted, having failed to obtain the required two-thirds majority.*

The meeting rose at 6.35 p.m.

### **EIGHTEENTH PLENARY MEETING**

*Saturday, 26 April 1958, at 8.50 p.m.*

*President:* Prince WAN WAITHAYAKON (Thailand)

#### **Consideration of the report of the Fourth Committee (A/CONF.13/L.12, L.32) (concluded)**

##### **ADOPTION OF THE CONVENTION ON THE CONTINENTAL SHELF**

##### *Clause relating to entry into force*

1. Mr. WERSHOF (Canada) said that more than twenty-two ratifications might be necessary in the case of some of the conventions adopted by the Conference, but not in the case of the convention on the continental shelf. He therefore proposed that the word "twenty-second" should be entered in the appropriate space in the clause relating to entry into force (A/CONF.13/L.32).

2. Mr. MÜNCH (Federal Republic of Germany) said that, in adopting the convention on the continental shelf, the international community was disposing of common property in favour of the coastal States, and hence a larger number of ratifications should be stipulated. For that reason he proposed that the word "fiftieth" should be inserted in the appropriate space in the clause in question.

3. Mr. WALL (United Kingdom) said that although the number of twenty-two ratifications suggested by the Drafting Committee was too low for some conventions, the number proposed by the German representative was too high for the convention on the continental shelf.

4. Mr. JHIRAD (India) said that his delegation supported the Canadian proposal, since the number proposed by the German representative was so high that the convention might never enter into force.

5. Mr. TUNKIN (Union of Soviet Socialist Republics) said that to the best of his knowledge no convention had ever required a minimum of fifty ratifications. For that reason, his delegation opposed the German proposal, and supported the Canadian proposal.

<sup>1</sup> Resumed from the 9th plenary meeting.

6. Mr. MÜNCH (Federal Republic of Germany) amended his delegation's proposal to read "fortieth" instead of "fiftieth". He said that he was, on principle, unable to reduce the number further.

7. The PRESIDENT put the amended proposal of the Federal Republic of Germany to the vote.

*The proposal was rejected by 49 votes to 6, with 6 abstentions.*

#### *Reservations clause*

8. Mr. TUNKIN (Union of Soviet Socialist Republics) proposed that, in conformity with the decisions taken by the Conference at its 9th plenary meeting, alternative II of the reservations clause (A/CONF.13/L.32), with the insertion of "67 to 69" in the appropriate space, should be adopted.

9. Mr. BOCOBO (Philippines) said that his delegation was opposed to a clause which would disallow reservations to any article; such a clause would make States wonder why some articles could form the subject of reservations whereas others could not, and in any case the conclusions of the Conference were not infallible. In view of the separation of powers in his country, the President of the Republic could do no more than propose a convention to the Senate, which was entitled to make reservations if it decided to ratify it.

10. Mr. AGUERREVERE (Venezuela) agreed with the views of the representative of the Philippines.

11. Mr. DEAN (United States of America) said that articles 67 to 69 contained definitions relating to the continental shelf on which the other articles depended. It was thus logically impossible to allow reservations to those articles.

12. The PRESIDENT put the Soviet Union proposal to the vote.

*The proposal was adopted by 43 votes to 5, with 19 abstentions.*

13. Mr. AYCINENA SALAZAR (Guatemala) said that his delegation had abstained, because it opposed the exclusion of reservations to article 69 for the reasons given by his delegation at the time when that article had been adopted by the Fourth Committee (27th meeting).

14. Mr. BOCOBO (Philippines) said that his delegation had voted against the Soviet Union proposal.

#### *Revision clause*

15. Mr. ROSENNE (Israel) proposed the adoption of the revision clause as recommended by the Drafting Committee (A/CONF.13/L.32).

16. The PRESIDENT put the Israel proposal to the vote.

*The proposal was adopted by 57 votes to 2, with 9 abstentions.*

#### *Denunciation clause*

17. Mr. GOMEZ ROBLEDO (Mexico) proposed that the Conference should decide in principle that a denunciation clause should be adopted, the wording to be left to the Drafting Committee.

18. Mr. SOLE (Union of South Africa) supported the Mexican proposal. The Drafting Committee's report (A/CONF.13/L.32) said that the inclusion of the revision clause made any clause on denunciation unnecessary, but no reasons were given.

19. Mr. GROS (France) explained that the reason for the position taken by the Drafting Committee regarding a denunciation clause was that, to a very large extent, the task of the Conference was to codify customary law; by its nature, such law could not be denounced. Where new law had been made, it had been adopted by general consent, and there would be no point in providing for its denunciation.

20. Mr. LIMA (El Salvador) agreed with the statement of the French representative.

21. Mr. RIGAL (Haiti) agreed with the representatives of France and El Salvador. Denunciation was only practicable in the case of instruments intended to be effective for a specified term but made no sense in the case of an instrument intended to be permanent.

22. Mr. JHIRAD (India) said that there were two different reasons for a denunciation clause: firstly, it would enable a State to denounce the convention if it wished; secondly, it would prevent any State from denouncing the convention without due notice. His delegation did not think that a denunciation clause was necessary, but if such a clause was adopted, the period before denunciation took effect should be at least fifty years.

23. Mr. GAETANO DE ROSSI (Italy) agreed with the French representative that it was absurd to have a denunciation clause in an instrument which was giving written form to existing law. New law was being added, with a view to making it as generally applicable as the existing rules. The convention was not merely a treaty based on reciprocal rights; as the Drafting Committee had pointed out, the nature of the convention was incompatible with unilateral withdrawal.

24. Mr. BARTOS (Yugoslavia) thought it was dangerous, in scientific and political matters, to take a rigid position on a complex question. The Conference was concerned not only with a restatement of existing law, but also with much incidental matter which had arisen during its deliberations. True, the convention was a law-making treaty, but it also included some technical rules which could not yet be regarded as principles of international law. While he agreed with those who argued that the right to denounce could not be absolutely unqualified, he thought that their views conflicted with those of representatives who wanted reservations admitted, since unless reservations were made at a specific time, there would be no possibility of denouncing the convention in respect of the provisions to which reservations have been made.

25. It was in no way incompatible with the spirit of a

law-making treaty to provide for denunciation. In the convention, rules of customary law would be linked with provisions which did not belong to customary law — for example, it could not be said that such matters as the composition of the arbitral body, the competent organ in questions of fishing rights and the settlement of disputes, had been formulated in accordance with customary law.

26. Moreover, if all the rules laid down in the convention were sacrosanct and obligatory, what need was there for States to sign? Signature was obviously a voluntary act evidencing the will to accede, and some provision should be made for cases in which States no longer wished to accede. The obligatory and customary rules of the convention would naturally remain in force, but the contractual obligations must depend on the willingness of States to sign. A denunciation clause would not give the States licence to ignore the rules of international law; States could be counted on to observe customary law on the basis of goodwill. But all treaties, whether law-making or not, remained subject to the same rules. Denunciation was an institution which remained applicable even if not specific provision for it was made. No court in the world could declare denunciation illegal, unless the withdrawal took place before the expiry of the period specified in the instrument in question. His delegation was convinced that the Conference had no right to lay down obligations binding *in perpetuo*.

27. Mr. GOMEZ ROBLEDO (Mexico) said he could not agree that there was anything absurd about proposing a denunciation clause. Although no definite provision had been made for denunciation in the United Nations Charter, any State might withdraw from its obligations; the main point, as the Yugoslav representative had said, was whether or not a State signed a convention. Moreover, an instrument could not be said to be based on customary law if there were no denunciation clause, for denunciation itself was a recognized institution of customary law, and in addition some provision should be made for withdrawal from provisions which had not yet become principles of international law. The convention should be an instrument entered into freely, not under compulsion.

28. Mr. AGUERREVERE (Venezuela) said that the revision clause was a compromise formula, but it did not compensate for the absence of a denunciation clause. It was unwise to provide for permanent commitment, or for commitments for as long as thirty years, for circumstances might change radically. He therefore considered that the revision clause should be replaced by the denunciation formula consecrated by United Nations practice.

29. Mr. GAETANO DE ROSSI (Italy) pointed out that the United Nations Charter contained no denunciation clause, but only provisions for revision.

30. The PRESIDENT put to the vote the Mexican proposal concerning the inclusion of a denunciation clause.

*The proposal was rejected by 32 votes to 12, with 23 abstentions.*

31. The PRESIDENT put to the vote, as a whole, the convention on the continental shelf, as adopted in the course of the meeting and during the 8th, 9th and 17th plenary meetings.

*The convention was adopted by 57 votes to 3, with 8 abstentions.*

32. Mr. GIHL (Sweden) said he had abstained from voting on the convention because article 74 had not been adopted. In his delegation's opinion the rights of coastal States should be subject to international control.

33. Mr. AGUERREVERE (Venezuela) said he had voted in favour of the convention, which was probably the most constructive instrument that would emerge from the Conference. His delegation had been unable to accept the restrictions of article 74. It was opposed to the division of the continental shelf laid down in article 72, and would make reservations to that article at the appropriate time.

34. Mr. GROS (France) and Mr. SEYERSTED (Norway) said they had abstained from voting on the convention for the same reasons at those given by the Swedish representative.

35. Mr. VAN DER ESSEN (Belgium) and Mr. MUNCH (Federal Republic of Germany) said they had voted against the convention because they considered that the criterion of exploitability in article 67 was incorrect and because they could not support the convention without article 74.

36. Mr. TSURUOKA (Japan) said he had voted against the convention because no reservations were admitted to articles 67 and 68 and because article 74 had been rejected.

#### Consideration of the report of the Third Committee (A/CONF.13/L.21, L.32, L.33, L.45) *(concluded)*<sup>1</sup>

#### ADOPTION OF THE CONVENTION ON FISHING AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS

##### *Clause on entry into force*

37. Mr. SEYERSTED (Norway) proposed that the number of ratifications required for entry into force should be thirty.

38. Mr. GARCIA AMADOR (Cuba) pointed out that some United Nations conventions required only twenty ratifications, and proposed that that figure should be applied to the fishing convention.

39. Mr. LIU (China) said there was no valid reason for requiring different numbers of ratifications for the various conventions. Twenty-two represented approximately one-quarter of the participants in the Conference, and seemed to be a reasonable figure. He proposed that the number of ratifications required for the fishing convention should be twenty-two.

40. The PRESIDENT put the Norwegian proposal to the vote.

<sup>1</sup> Resumed from the 16th plenary meeting.

*The proposal was rejected by 25 votes to 14, with 26 abstentions.*

41. The PRESIDENT put the Cuban proposal to the vote.

*The result of the vote was 22 in favour and 12 against, with 36 abstentions. The proposal was not adopted, having failed to obtain the required two-thirds majority.*

42. The PRESIDENT put the Chinese proposal to the vote.

*The proposal was adopted by 49 votes to 2, with 16 abstentions.*

#### *Reservations clause*

43. The PRESIDENT drew attention to the question of reservations, recalling that the German proposal that no reservations should be admissible had not been adopted when it had been submitted at the 15th plenary meeting.

44. Mr. GANDJI (Iran) said that his delegation had been in favour of the German proposal, but now wished to achieve a compromise solution, in view of the importance attached by many delegations to certain articles of the convention. He therefore proposed that alternative II of the reservations clauses recommended by the Drafting Committee in its report (A/CONF.13/L.32) should be used and that articles 54, 55, 57, 58, 59 and 59 A, should be inserted in the blank space.

45. Mr. LAZAREANU (Romania), speaking on a point of order, considered that the rejection of the German proposal and the discussion at the 16th plenary meeting of the Cuban motion to reconsider that proposal had disposed of the problem. Reservations to the convention must be admissible.

46. The PRESIDENT pointed out that the Conference's deliberation on reservations had only excluded further consideration of a motion for the absolute inadmissibility of reservations. A proposal on reservations to specific articles was still in order.

47. Mr. LETTS (Peru) and Mr. GARCIA AMADOR (Cuba) supported the Iranian proposal.

48. Mr. JHIRAD (India) also supported the Iranian proposal. The Third Committee had been mainly concerned with articles 54 and 55, and 57 to 59 A. Articles 54 and 55 established the rights of coastal States, which represented an essential step in the development of international law. Those rights were further strengthened by the procedure set forth in articles 57 to 59 A. If those articles were separated at the time of ratification, the convention would be rendered ineffective.

49. Mr. ROSENNE (Israel) said that, since the German proposal that no reservations should be allowed had been rejected, his delegation would support the Iranian proposal.

50. Mr. DEAN (United States of America) said that his delegation supported the Iranian proposal.

51. Mr. TUNKIN (Union of Soviet Socialist Republics) said that any limitation placed on the right to formulate reservations was wrong in principle, because it put governments in the position either of not accepting the convention or of abandoning their principles. It would not be in the interests of the international community if some States with large fishing fleets were prevented from accepting the convention because they were not able to make reservations to it, and were thus not bound by it.

52. Mr. WALL (United Kingdom) said that his delegation had voted against article 55 in the Third Committee, but had supported it in the plenary Conference because a satisfactory balance had been achieved by the adoption of the articles on arbitral procedure. His delegation therefore supported the Iranian proposal, which maintained that balance.

53. Mr. GAETANO DE ROSSI (Italy) agreed with the statement made by the United Kingdom representative.

54. The PRESIDENT put the Iranian proposal to the vote.

*The proposal was adopted by 49 votes to 13, with 10 abstentions.*

55. Mr. TUNKIN (Union of Soviet Socialist Republics) said that the convention contained a series of provisions which his delegation could not support, and it had therefore abstained.

56. Mr. AGUERREVERE (Venezuela) said that his delegation was instructed by its government not to accept any clause which would exclude the possibility of reservations to any article. For that reason his delegation had voted against the Iranian proposal.

#### *Revision clause*

57. The PRESIDENT proposed that the revision clause suggested by the Drafting Committee (A/CONF.13/L.32) should be adopted.

*It was so agreed.*

#### *Denunciation clause*

58. Mr. VERZIJL (Netherlands) observed that the convention on fishing and conservation of the living resources of the high seas dealt with new matters of such importance that a denunciation clause was necessary. For that reason he proposed the adoption of the denunciation clause suggested by the Secretariat (A/CONF.13/L.7), with the insertion of the word "three" in the appropriate space.

59. Mr. WALL (United Kingdom) said that his delegation did not oppose the Netherlands proposal, but considered that a period of ten years would be more suitable, since three years would not give States sufficient experience of the practical application of the convention.

60. Mr. BARTOS (Yugoslavia) said that the convention established new law; denunciation should not therefore be allowed.

61. Mr. GROS (France) said that the convention was based on a system of negotiation between States, which should be compulsory. That system would be undermined if States were able to denounce the convention. For that reason his delegation opposed the Netherlands proposal.

62. Mr. GAETANO DE ROSSI (Italy) said that his delegation opposed the Netherlands proposal for the reasons given by the French representative.

63. Mr. SEYERSTED (Norway) said that his delegation supported the Netherlands proposal because the convention established new rights and new duties which would have to be tried out in practice. He proposed an amendment to the proposal to the effect that a period of five years instead of three should be required to elapse before denunciation.

*It was so agreed.*

64. The PRESIDENT put the amended Netherlands proposal to the vote.

*The proposal was rejected by 25 votes to 6, with 35 abstentions.*

65. The PRESIDENT reminded the Conference that the Cuban proposal (A/CONF.13/L.33) to add a preamble to the convention had been referred to the Drafting Committee at the 15th plenary meeting. That committee had now submitted its report (A/CONF.13/L.45), which also contained certain recommendations relating to the convention.

66. Mr. GARCIA AMADOR (Cuba) asked why the Drafting Committee had deleted paragraphs 2, 3 and 4 of the preamble proposed by his delegation.

67. Mr. GROS (France) said that the Drafting Committee had felt that since a preamble was not an absolute necessity, it should be brief. Moreover, the preamble proposed by Cuba repeated provisions that were already contained in the articles.

68. Mr. GARCIA AMADOR (Cuba) said that he did not think the Drafting Committee should take decisions of substance. Nor had it understood the purpose of a preamble, which was to state the principles on which the articles which followed were based. That was the case with the preamble proposed by the International Law Commission in the report on its seventh session,<sup>1</sup> and with the preamble of the Charter of the United Nations.

69. He proposed that in the first preambular paragraph recommended by the Drafting Committee the words "has not only increased" should be replaced by the words "by increasing" and that the phrase "but has also exposed" should read "has exposed".

*It was so agreed.*

70. The PRESIDENT put to the vote the recommendations of the Drafting Committee contained in document A/CONF.13/L.45, as amended.

*The Drafting Committee's recommendations were adopted by 58 votes to 1, with 7 abstentions.*

71. The PRESIDENT put to the vote, as a whole, the convention on fishing and conservation of the living resources of the high seas, as adopted in the course of the meeting and during the 15th and 16th plenary meetings.

*The convention was adopted by 45 votes to 1, with 18 abstentions.*

72. Mr. LAZAREANU (Romania) reiterated his earlier objection to a procedure whereby his delegation and others had been prevented from expressing views on the highly important issues raised in the convention. He had been obliged to abstain from voting on the convention as a whole for that reason, and also because the Conference had disallowed reservations to some disputable articles.

73. Mr. TUNKIN (Union of Soviet Socialist Republics) said he had abstained from voting on the convention as a whole because he was unable to support several of its provisions and had been obliged to withdraw an amendment which his delegation had proposed to article 55 (A/CONF.13/L.22). Furthermore, he could not agree to the Conference's decision concerning the reservations clause.

74. Mr. PFEIFFER (Federal Republic of Germany) explained that his delegation was unable to agree to certain features of the preamble of the convention. The living resources of the sea were not, generally speaking, in danger of being exhausted. On the contrary, those resources could contribute on an ever-increasing scale to the nourishment of the human race and should be developed, to a much greater extent than they had been in the past, by well-found fisheries.

75. He had no objection to the coastal State being granted certain rights over the conservation of the living resources of the sea, provided that those rights were clearly defined, limited in extent, and did not discriminate against other nations. Moreover, his delegation, true to the principle of the freedom of the high seas, had opposed any tendency to place unnecessary restrictions on their use, for the benefit of the coastal State. It was in that spirit that it had taken an active part in the preparation of the convention on fishing and conservation of the living resources of the high seas.

76. In its opinion, however, the meaning and purpose of the convention had been impaired by the Conference's failure to reach an agreement on the breadth of the territorial seas. As a result, the rights accorded to the coastal State were not precisely defined and there was insufficient restraint on monopolistic tendencies.

77. In consequence, his delegation had been reluctantly obliged to vote against the convention.

#### **Consideration of the report of the Second Committee (A/CONF.13/L.17, L.37) (concluded)<sup>2</sup>**

##### **ADOPTION OF THE CONVENTION ON THE HIGH SEAS**

78. Mr. ZOUREK (Czechoslovakia) observed that the term "generally declaratory" in the preamble recom-

<sup>1</sup> Official Records of the General Assembly, Tenth Session, Supplement No. 9 (A/2934), p. 13.

<sup>2</sup> Resumed from the 11th plenary meeting.

mended by the Drafting Committee (A/CONF.13/L.37, para. 2) was inaccurate, since some of the articles could not be described as declaratory of established principles of international law. He suggested that the phrase "for the most part" should be used instead of "generally".

79. Mr. TUNKIN (Union of Soviet Socialist Republics), referring to the same passage in the preamble, thought it would be better to use the words "which are" instead of "as". The text as drafted suggested that the Conference had adopted the articles because they were declaratory, whereas the real intention was merely to describe the articles.

80. Mr. DEAN (United States of America) said that the text suggested by the Czechoslovak representative would change the whole meaning of the paragraph, for the suggested phrase would make it doubtful which part of the convention was declaratory. The USSR suggestion, too, would weaken the idea that the articles in the Second Committee's report were in fact generally declaratory.

81. Mr. SOLE (Union of South Africa) agreed with the United States representative's comments on the USSR suggestion. As drafted, the preamble clearly stated that it was the Conference which recognized the provisions based on existing law as generally declaratory. If the USSR suggestion were carried, however, only the States parties to the convention would recognize the articles as declaratory, and no account would be taken of the fact that the Conference had thus qualified them.

82. Mr. GLASER (Romania) pointed out that the word "essentiellement" used in the French text of the preamble did not correspond with the English "generally".

83. He could not agree with the South African representative that all the articles considered by the Second Committee were based on existing law. For example, article 48 on the pollution of the high seas could not be said to be formulated in accordance with traditional principles. Accordingly, some of the articles would be obligatory only for the signatory States.

84. Mr. MELO LECAROS (Chile) thought that there was some confusion of principle between the two paragraphs of the preamble. The Conference was not solely concerned with codification; under General Assembly resolution 1105 (XI) it was to examine the law of the sea, taking account not only of the legal but also of technical, biological, economic and political aspects. One of its essential objectives was to lay down new rules, and reference to established principles should therefore be avoided.

85. Mr. GROS (France) thought that the Drafting Committee could be left to deal with the language point raised by the Romanian representative.

86. He could not agree with the Chilean representative that the preamble was contradictory, since the essential purpose of the Conference should, in fact, be described as codification.

87. Mr. LETTS (Peru) observed that, when the report

of the Second Committee had been referred to the Drafting Committee, the Conference had implied that the intention was to secure agreement on the type of instrument to be adopted. However, no such agreement had been reached and there had been some opposition to including new articles in a separate instrument. It had been urged that the results of the Second Committee's work should be included in a single instrument together with the articles adopted by the First and Third Committees. His delegation considered that the concept of the high seas was closely linked with that of the territorial sea. Moreover, article 27, defining the "high seas", referred to freedom of fishing in absolute terms, in conformity with which the Third Committee had drafted its articles on fishing. A separate instrument on the high seas would therefore be injudicious. The Conference should not prejudge the question of the final form of the articles considered by the Second Committee.

88. The PRESIDENT endorsed the Peruvian representative's views. The only other decision that the Conference had to take in connexion with the Drafting Committee's report was that concerning the new article in paragraph 5 of that report.

89. Mr. GROS (France) observed that the fact that the new article had been submitted in connexion with the articles adopted by the Second Committee did not imply that it should not be added to other conventions emerging from the Conference. The article was needed as a safeguard against unnecessary confusion in the application of parallel provisions.

90. Mr. BOCOBO (Philippines) considered the new article quite unnecessary, since it merely complicated the text.

91. Mr. DEAN (United States of America) observed that some of the States which would become parties to the convention might not be parties to other agreements. However, about thirty-five other international agreements were involved and, in order to avoid complications, it was only logical to insert a new article such as that recommended by the Drafting Committee.

92. The PRESIDENT put to the vote the new article contained in paragraph 5 of the seventh report of the Drafting Committee's report (A/CONF.13/L.37).

*The new article was adopted by 58 votes to 1, with 5 abstentions.*

93. Mr. JHIRAD (India) recalled that, when the Conference had considered the report of the Second Committee (A/CONF.13/L.17) at the 11th plenary meeting, it had been suggested, as a compromise proposal, that the work of the Second Committee should be embodied in a convention which would include a declaratory clause as suggested by the Drafting Committee. It had also been decided to defer the question whether the results of the Second Committee's work should be embodied in a separate convention or whether a combined convention covering the work of several committees should be adopted. It might, for example, be possible to embody the work of the First and Second Committees in a single convention. Subject to that possibility he proposed that the work of the Second Committee should be embodied in a convention.

94. Mr. LETTS (Peru) said that the work of the First, Second and Third Committees was closely interrelated. Accordingly, he proposed that the results of their work should be combined in a single instrument.

95. Mr. SOLE (Union of South Africa) said his delegation considered that the work of the Second Committee should be embodied in a separate single instrument and would therefore vote for the Indian representative's proposal. In view of the absence of agreement on the territorial sea articles, however, it would be undesirable to combine the work of the First and Second Committees in the same convention.

96. Mr. SALAMANCA (Bolivia) suggested that the Conference might embody the work of the First and Second Committees in a single convention and that of the Third Committee in a separate convention.

97. Mr. SEYERSTED (Norway) considered that the work of the Third Committee should appear in a separate instrument and must not be combined with that of the Second. The suggestion that the work of the First and Second Committees should be included in a single separate convention could be examined more profitably when the Conference considered the First Committee's report. He supported the Indian representative's proposal, that the Conference should adopt the preamble suggested by the Drafting Committee (A/CONF.13/L.37) and should then decide to embody the results of the Second Committee's work in a convention.

*The preamble was adopted by 52 votes to none, with 2 abstentions.*

*The proposal that the work of the Second Committee should be embodied in a convention was adopted.*

#### Ratification

98. The PRESIDENT noted that the Canadian representative had proposed that the convention should enter into force after twenty-two ratifications had been received.

*The Canadian representative's proposal was adopted by 59 votes to none, with 2 abstentions.*

#### Reservations

99. Mr. JHIRAD (India) observed that, according to the preamble, the Second Committee's articles were generally declaratory of established principles of international law. He therefore proposed that no reservations clause should be included in the convention.

*The Indian representative's proposal was adopted by 54 votes to none, with 8 abstentions.*

#### Revision

100. The PRESIDENT suggested a period of five years for purposes of revision.

*The President's suggestion was adopted by 59 votes to 2, with 3 abstentions.*

101. Mr. THOMAS (Austria), referring to paragraph 5 of the Drafting Committee's seventh report (A/CONF.13/L.37), proposed that the new article adopted by the

Fifth Committee should be inserted after article 27 in the convention embodying the Second Committee's work.

102. Mr. TABIBI (Afghanistan) supported the proposal because, in his view, the work of the Fifth Committee was closely related to that of the Second.

*The Austrian representative's proposal was adopted by 61 votes to none, with 2 abstentions.*

103. The PRESIDENT put to the vote, as a whole, the convention on the high seas, as adopted in the course of the meeting and during the 11th plenary meeting, on the understanding that if it was decided to adopt a combined convention the preamble and final clauses would be adapted, *mutatis mutandis*.

*The convention as a whole was adopted by 65 votes to none, with 1 abstention.*

The meeting rose at 12.15 a.m.

## NINETEENTH PLENARY MEETING

*Sunday, 27 April 1958, at 11.30 a.m.*

*President*: Prince WAN WAITHAYAKON (Thailand)

### Consideration of the report of the First Committee (Part II: articles 1, 2, and 4 to 25) (A/CONF.13/L.28/Rev.1, L.38, L.39, L.44, L.46, L.47)

1. Mr. KORETSKY (Ukrainian Soviet Socialist Republic), Rapporteur of the First Committee, introduced part II of the Committee's report (A/CONF.13/L.28/Rev.1). He recalled that some regret had been expressed at the 14th plenary meeting that the report was not to contain a legal analysis of, or comments on, the articles. Such treatment might have been desirable, especially in view of the very thorough work done by the First Committee on the basis of the earlier labours and comments of the International Law Commission, but might equally have entailed fresh discussion of the way in which the material had been organized. When the articles as a whole were finally published in their new form, jurists would be able to examine in detail the official records of the Conference, and would have a clear picture of the position of all delegations.

2. The PRESIDENT invited the Conference to take a decision on articles 1, 2, and 4 to 25 contained in the annex to the report of the First Committee (A/CONF.13/L.28/Rev.1). He drew attention to the report of the Drafting Committee of the Conference (A/CONF.13/L.47); if there were no objection, he would assume that the changes recommended by the Drafting Committee had been adopted together with the articles to which they referred. Finally, he reminded the Conference that four proposals had been submitted in connexion with the articles adopted by the First Committee (A/CONF.13/L.38, L.39, L.44, L.46).

#### Article 1

*Article 1 was adopted by 72 votes to none.*

*Article 2*

*Article 2 was adopted by 75 votes to none.*

*Article 4*

*Article 4 was adopted by 75 votes to none, with 1 abstention.*

*Article 5*

3. Mr. SIKRI (India) asked that a separate vote be taken on the phrase "as a whole" in article 5, paragraph 1. The phrase had not appeared in the original text proposed by the International Law Commission, and it was implicit in the phrase "in localities where the coastline... is deeply indented". Its retention might create confusion.

4. Mr. DREW (Canada) asked that a separate vote be taken on the second sentence of paragraph 2 of article 5. The text before the Conference was a redraft of that prepared by the Commission, but it had now been specified that the length of the straight baseline should not exceed fifteen miles. Such a provision was neither necessary nor desirable, since the decision of the International Court of Justice in the Anglo-Norwegian fisheries case<sup>1</sup> had established the jurisprudence and defined the circumstances in which cases coming under paragraph 2 might be considered. To depart from a firm legal basis would be undesirable. The International Law Commission had begun by considering a specified limit for the straight baseline, but, on maturer consideration, had decided against it. Now an attempt was being made to impose an arbitrary mathematical limit in a provision which was intended to be flexible.

5. Mr. NIKOLAEV (Union of Soviet Socialist Republics) supported the Canadian representative's view. The text proposed by the International Law Commission was certainly preferable.

6. Sir Gerald FITZMAURICE (United Kingdom) urged that the sentence in question be retained. Admittedly, no definite limit had been suggested in the decision on the Anglo-Norwegian fisheries case, but to decide that there should be such a limit would not be incompatible with that decision. The sentence had been carefully drafted to allow the coastal State some latitude in the matter. The length of fifteen miles was not laid down as an absolute limit, since exceptions were provided for in the same sentence.

7. Mr. STABELL (Norway) asked that a separate vote be taken on article 5, paragraph 3.

8. Mr. AGO (Italy) objected in all three cases to a separate vote. The second sentence of paragraph 2 had been accepted after exhaustive discussion, and article 5 as a whole was the outcome of long and difficult negotiation. If separate votes were now permitted on certain parts of the article, and, as a result, those parts were deleted, many delegations would be unable to accept the article as a whole.

9. Mr. SUBARDJO (Indonesia) observed that the fifteen-mile limit specified for the straight baseline had

been made arbitrary by the fact that no decision had been taken on the breadth of the territorial sea. He therefore agreed with the Canadian and Soviet Union representatives that the second sentence of paragraph 2 did not allow the coastal State sufficient latitude. Furthermore, the final phrase of paragraph 4 with its reference to "long usage", could hardly be expected to prove acceptable to a new State which had had no say in the matter in the past.

*The Indian motion was adopted by 34 votes to 28, with 12 abstentions.*

*The Canadian motion was adopted by 35 votes to 31, with 10 abstentions.*

*The Norwegian motion was rejected by 29 votes to 20, with 16 abstentions.*

10. The PRESIDENT called for a vote on the phrase "as a whole" in paragraph 1.

*The result of the vote was 38 votes in favour and 32 against, with 7 abstentions. The phrase was not adopted, having failed to obtain the required two-thirds majority.*

11. The PRESIDENT called for a vote on the second sentence of paragraph 2.

*The result of the vote was 34 votes in favour and 30 against, with 12 abstentions. The sentence was not adopted, having failed to obtain the required two-thirds majority.*

12. Sir Gerald FITZMAURICE (United Kingdom) pointed out that if all those delegations which had voted against the principle of separate votes and against the retention of the texts involved also voted against the article as a whole, it would not receive the required two-thirds majority. The United Kingdom delegation would therefore vote for article 5 as a whole, impaired though it was by the deletions, since the principle had been sanctioned by the International Court of Justice in the Anglo-Norwegian fisheries case and ought to be embodied in any convention adopted by the Conference.

13. Mr. AGO (Italy) regretted that separate votes had been taken. He would abstain from voting on the article as a whole. He deprecated the amended text, but did not wish to see the principle abandoned.

14. Mr. DREW (Canada) observed that the Italian representative had been wrong in referring to the text of article 5 as the outcome of negotiation. The text had been voted upon in the ordinary way, and in voting on the present occasion the Canadian delegation would be re-affirming the exact position which it had maintained at all times.

15. Mr. VERZIJL (Netherlands) said that he would vote against article 5 as it now stood. Consolation was to be found in the fact that the decision by the International Court of Justice would subsist and could always be relied upon.

16. Mr. NIKOLAEV (Union of Soviet Socialist Republics) said that the deletion of the second sentence from paragraph 2 had virtually restored the article to the satisfactory state in which it had been drafted by the International Law Commission. His delegation would therefore vote for it as a whole.

<sup>1</sup> *I.C.J. Reports, 1951, p. 116.*

17. Mr. BAILEY (Australia) said that he had voted against the motions for separate votes, but would vote for the article as a whole, for the same reasons as the Soviet Union representative. The text was now substantially the same as the Commission's, but the drafting had been improved.

18. Mr. GROS (France) said that he would vote against the article as a whole. He must draw attention to the undesirability of making changes in plenary meeting at the very last moment. The principle at issue had been carefully studied in the First Committee, but had now been impaired by the deletion of the precise stipulation of the length of the straight baseline.

19. Mr. STABELL (Norway) observed that his delegation had been placed in an embarrassing position by the Conference's refusal to take a separate vote on paragraph 3, which embodied a provision which was inconsistent with the decision taken by the International Court of Justice in 1951, when the Norwegian straight baselines had been recognized as based on certain low-tide elevations. As, however, he realized that the Conference would find itself in a very unfortunate situation if the article as a whole were rejected, he would, albeit with considerable reluctance, vote for article 5 as amended. But he would reserve his government's right to consider in due course whether it would not be obliged to make a reservation to the paragraph in any convention embodying such an article.

20. Mr. GARCIA AMADOR (Cuba) explained that his delegation could not have voted for article 5 had paragraph 2 been retained as approved by the First Committee. But it now conformed with the International Law Commission's draft and with the decision in the Anglo-Norwegian fisheries case. His delegation still had some reservations about paragraph 3, but would vote for article 5 as a whole.

21. Mr. BOCOBO (Philippines) said that he would abstain from voting on the article as a whole since it conflicted with the Constitution of the Philippine Republic. The doctrine embodied in it was, however, sound, and he would therefore not oppose the article.

22. Mr. DAHLMAN (Sweden) observed that the voting had seriously impaired the article; but the Swedish delegation would vote for it, since it would be very valuable to retain at least some stipulations regarding the straight baseline.

23. Mr. BARTOS (Yugoslavia) said that he had supported both the motions for separate votes and the retention of paragraph 2 as it stood, but wished to safeguard the principle involved. He would therefore vote for the article as a whole, even in its weakened state.

*At the request of the representative of Greece, a vote was taken by roll-call.*

*Norway, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Norway, Pakistan, Panama, Paraguay, Poland, Portugal, Romania, Saudi Arabia, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic,

United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia, Afghanistan, Albania, Argentina, Australia, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, Ghana, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Israel, Republic of Korea, Lebanon, Federation of Malaya, Mexico, Morocco, New Zealand, Nicaragua.

*Against:* Uruguay, Belgium, France, Federal Republic of Germany, Japan, Luxembourg, Monaco, Netherlands.

*Abstaining:* Peru, Philippines, Spain, Greece, Holy See, Iran, Italy, Liberia.

*Article 5 was adopted by 63 votes to 8, with 8 abstentions.*

#### *Article 5 A*

24. Mr. NIKOLAEV (Union of Soviet Socialist Republics) asked that a separate vote be taken on paragraph 2.

*Paragraph 2 was adopted by 55 votes to 16, with 6 abstentions.*

*Article 5 A as a whole was adopted by 68 votes to none, with 9 abstentions.*

#### *Article 6*

*Article 6 was approved by 74 votes to none.*

#### *Article 7*

25. Mr. KRISPIS (Greece) asked that separate votes be taken on paragraphs 4 and 5. The original text proposed by the International Law Commission had provided that the length of the closing line across the bay should be fifteen miles, and in the First Committee lengths of ten, and even twenty-four miles had been suggested. A small majority had been in favour of a twenty-four-mile line. The Conference itself should therefore take the final decision on the length of the closing line.

*Paragraph 4 was adopted by 49 votes to 19, with 9 abstentions.*

*Paragraph 5 was adopted by 47 votes to 19, with 8 abstentions.*

26. The PRESIDENT observed that, paragraphs 4 and 5 having been adopted, there was no need for the Conference to examine the proposal submitted by Greece, Italy and Liberia (A/CONF.13/L.44) to put to the vote the original text of the International Law Commission, should those paragraphs not be adopted.

*Article 7 as a whole was adopted by 63 votes to 6, with 5 abstentions.*

#### *Article 8*

*Article 8 was adopted by 78 votes to 1.*

#### *Article 9*

27. Sir Gerald FITZMAURICE (United Kingdom) asked that a separate vote be taken on the words

“buoyed channels”, which occurred twice in paragraph 1. Whereas roadsteads were natural formations, buoyed channels were artificial, and there was no case for treating them on the same footing, since they were situated outside the normal territorial sea.

28. Mr. LEDESMA (Argentina) opposed the United Kingdom representative's motion for a separate vote. Buoyed channels and roadsteads served a common purpose: that of enabling ports to be used. If the coastal State was unable, in cases where it alone had sovereignty over the waters in the neighbourhood of ports, to issue regulations regarding buoyed channels, there was a danger that certain ports might lose all their utility. In some cases, there was only one course giving access to the open sea, and the absence of regulations might entail risk of accidents.

*The motion for a separate vote on the words “buoyed channels” was carried by 38 votes to 17, with 18 abstentions.*

*At the request of the representative of Argentina, a vote was taken by roll-call.*

*Yemen, having been drawn by lot by the President, was called upon to vote first.*

*The result of the voting was as follows:*

*In favour:* Yugoslavia, Albania, Argentina, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Ecuador, El Salvador, Greece, Guatemala, Haiti, Honduras, Hungary, India, Iran, Iraq, Republic of Korea, Liberia, Libya, Federation of Malaya, Mexico, Morocco, Panama, Peru, Philippines, Poland, Romania, Saudi Arabia, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela.

*Against:* Australia, Belgium, Cambodia, Canada, Ceylon, Denmark, Finland, France, Federal Republic of Germany, Ghana, Holy See, Ireland, Israel, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Afghanistan, Austria, Burma, China, Dominican Republic, Iceland, Indonesia, Lebanon, Nepal, Pakistan, Switzerland, Turkey, Union of South Africa.

*The result of the vote was 41 in favour and 26 against, with 13 abstentions. The words “buoyed channels” were not adopted, having failed to obtain the required two-thirds majority.*

29. Sir Gerald FITZMAURICE (United Kingdom) pointed out that the words “buoyed channels” having been rejected, paragraph 2 was no longer necessary.

30. The PRESIDENT put to the vote article 9 as amended.

*Article 9 as amended was adopted by 77 votes to none, with 1 abstention.*

#### Article 10

31. Mr. BOCOBO (Philippines) asked that a separate vote be taken on paragraph 2, which his delegation was

unable to accept, because, under the Constitution of the Philippine Republic all waters between the islands constituting the Philippine archipelago were regarded as internal waters, irrespective of the distance between the islands. He would request that his negative vote be explicitly recorded.

*Paragraph 2 was adopted by 73 votes to 1, with 1 abstention.*

*Article 10 as a whole was adopted by 75 votes to none, with 2 abstentions.*

#### Article 11

*Article 11 was adopted by 77 votes to none.*

#### Article 12

32. Mr. KRISPIS (Greece) said that he would vote for article 12 on the understanding and in the sense that under no conditions might it, or any other article of the convention, or such other convention as the Conference might adopt, be interpreted or applied in such a way as to deprive, in whole or in part, any State of any of the territorial sea over which it exercised sovereignty along any coast.

*Article 12 was adopted by 76 votes to none, with 1 abstention.*

#### Article 13

33. Mr. TRUJILLO (Ecuador) asked that separate votes be taken on each of the two paragraphs. His delegation would vote against paragraph 2, because the case dealt with therein was covered either by paragraph 1 in its latest form or by article 7. He recalled that, during the discussion in the First Committee, the Netherlands delegation had requested the deletion of the entire article on the grounds that it was superfluous, and that the United States delegation had moved the deletion of paragraph 2. Mr. François, the special rapporteur of the International Law Commission, had expressed the view that article 13 was one of the least satisfactory of the entire draft.

34. Mr. BOAVIDA (Portugal) could not agree with the representative of Ecuador. In the First Committee, paragraph 2 had been approved by 26 votes to 7, with 10 abstentions.

35. Mr. SIKRI (India) opposed the motion for separate votes.

*The motion for separate votes was carried by 29 votes to 22, with 14 abstentions.*

*Paragraph 1 was adopted by 72 votes to none, with 1 abstention.*

*The result of the vote on paragraph 2 was 37 in favour and 20 against, with 17 abstentions. Paragraph 2 was not adopted, having failed to obtain the required two-thirds majority.*

36. The PRESIDENT put article 13, as amended, to the vote.

*Article 13, as amended, was adopted by 73 votes to none, with 3 abstentions.*

The meeting rose at 1.45 p.m.

## TWENTIETH PLENARY MEETING

*Sunday, 27 April 1958, at 3.30 p.m.*

*President* : Prince WAN WAITHAYAKON (Thailand)

**Consideration of the report of the First Committee  
(Part II: articles 1, 2, and 4 to 25) (A/CONF.13/  
L.28/Rev.1, L.38, L.39, L.46, L.47) (concluded)**

*Proposal by Japan and the Netherlands  
for an additional article*

1. Mr. YOKOTA (Japan) introduced the joint proposal by Japan and the Netherlands (A/CONF.13/L.38) to add the following text as article 14 A:

“Any disputes that may arise between States concerning the implementation or application of articles 5, 7 and 12 may be submitted by any of the parties to the International Court of Justice by unilateral application, unless they agree on another method of peaceful settlement.”

2. Articles 5, 7 and 12 made use of a number of vague expressions, such as: “deeply indented and cut into” “immediate vicinity”, “depart to any appreciable extent”, “economic interests peculiar to the region concerned”, “clearly evidenced by a long usage” “well-marked indentation”, “more than a mere curvature of the coast”, “so-called ‘historic’ bays”, “historic title” and “by reason of special circumstances”. Most States would be unlikely to accept obligations so framed unless they were accompanied by a guarantee of compulsory jurisdiction or arbitration. Since the decision of the International Court of Justice on the Anglo-Norwegian fisheries case<sup>1</sup> referred both to straight baselines and to historic title, disputes arising out of similar references in articles 5 and 7 could also be submitted to the court.

3. The PRESIDENT put the joint proposal to the vote.  
*The result of the vote was 29 in favour and 28 against, with 4 abstentions. The proposal was not adopted, having failed to obtain the required two-thirds majority.*

*Article 15*

*Article 15 was adopted by 68 votes to none, with 2 abstentions.*

*Article 16*

*Article 16 was adopted by 65 votes to 1, with 1 abstention.*

*Article 17*

4. Mr. LOUTFI (United Arab Republic) asked that a separate vote be taken on paragraph 4 of article 17. Referring to paragraph 3 of the International Law Commission's commentary to article 17, he said that he wished to vote against paragraph 4 as adopted by the First Committee, and in favour of the International Law Commission's draft, which in no way constituted an infringement of the freedom of navigation.

5. Mr. SÖRENSEN (Denmark) opposed the motion for a separate vote on paragraph 4. The principle of freedom of navigation was indivisible, and when vessels crossed a portion of the high seas on their way to a port, it was irrelevant whether or not they had to pass through the territorial sea of another State. The effect of a separate vote would be to discriminate between ships passing through the territorial sea of a State other than their flag State on their way from one part of the high seas to another, and ships passing through the same territorial seas on their way from a portion of the high seas to the territorial sea of a third State. The coastal State would be under an equal obligation to respect the right of innocent passage in both cases.

6. Part of the Danish coast bordered an international strait joining two parts of the high seas, and for more than one hundred years his country had maintained freedom of navigation through that strait in the interests of international trade. Such an obligation as that which his country had assumed should be counterbalanced by corresponding rights in other parts of the world, and Denmark accordingly expected that there would be free passage for its ships through straits in the territorial seas of other States.

7. Mr. SHUKAIRI (Saudi Arabia) did not agree with the representative of Denmark that to vote on article 17 in parts would have the effect of limiting freedom of navigation through a territorial sea. That freedom had been safeguarded in articles 15 and 16. The subject the Conference was now considering was passage through straits connecting two parts of the high seas, and the principle of freedom of navigation in those circumstances should be applied in accordance with established principles of international law. Such was the effect of the International Law Commission's text, and a separate vote had been requested on paragraph 4 to enable that text to be reinstated.

*The United Arab Republic's motion for a separate vote on paragraph 4 of article 17 was defeated by 34 votes to 32, with 6 abstentions.*

*Article 17 was adopted by 62 votes to 1, with 9 abstentions.*

8. Mr. SHUKAIRI (Saudi Arabia) explained that he had abstained from voting on article 17 because he considered that paragraph 4 was a mutilation of international law and had nothing to do with the principle of freedom of navigation, which had been used as a pretext to introduce ideas foreign to the principles of international law. The rules of law which the Conference was in process of adopting should deal only with general principles, whereas he believed that paragraph 4 had been drafted with one particular case in view. Saudi Arabia would take the necessary steps to protect its national interests against the interpretation and application of paragraph 4.

*Article 18*

*Article 18 was adopted by 72 votes to none, with 2 abstentions.*

*Article 19*

*Article 19 was adopted by 72 votes to none.*

<sup>1</sup> *I.C.J. Reports, 1951, p. 116.*

*Article 20*

9. Mr. GUNDERSEN (Norway), supported by Mr. NIKOLAEV (Union of Soviet Socialist Republics), asked that a separate vote be taken on the word "generally" in paragraph 1. Articles 20 and 21 dealt with the same subject, and since the word "generally", originally included in article 21, had now been deleted from it, it should also be deleted from article 20 on grounds of consistency.

10. Mr. TUNCEL (Turkey) asked that a separate vote be taken on paragraph 5, to which his delegation objected.

11. The PRESIDENT put the word "generally" in paragraph 1 of article 20 to the vote.

*The word "generally" was rejected by 34 votes to 21, with 10 abstentions.*

12. The PRESIDENT put paragraph 5 of article 20 to the vote.

*Paragraph 5 of article 20 was adopted by 68 votes to 3, with 2 abstentions.*

*Article 20, as a whole and as amended was adopted by 80 votes to none.*

*Article 21*

*Article 21 was adopted by 76 votes to none.*

*Article 22*

*Article 22 was adopted, by 62 votes to 9, with 4 abstentions.*

13. Mr. LAZAREANU (Romania) explained that he had voted against article 22 because it took no account of the immunity from civil jurisdiction which all government ships should enjoy, regardless of the purpose for which they were used.

14. Mr. NIKOLAEV (Union of Soviet Socialist Republics), Mr. FISER (Czechoslovakia) and Mr. RADOUILSKY (Bulgaria) said that they had voted against article 22 for the same reasons as the representative of Romania.

*Article 23*

15. Mr. BAILEY (Australia) introduced his delegation's proposal (A/CONF.13/L.46) to add the following paragraph 2 to article 23:

"2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law."

16. The purpose of the amendment was to meet the point raised by the representative of the Philippines at the 41st meeting of the First Committee, when he had asked whether a clause could be added to make it clear that the immunities of government vessels not used for commercial purposes would not be affected by article 23.

17. Mr. STABELL (Norway) supported the Australian proposal.

*The Australian proposal was adopted by 71 votes to none, with 4 abstentions.*

*Article 23, as amended, was adopted by 74 votes to none, with 2 abstentions.*

*Article 24*

18. Mr. SÖRENSEN (Denmark) introduced his delegation's proposal (A/CONF.13/L.39) that, in the event of the text proposed by the First Committee for article 24 not being adopted, that article should be worded as follows:

"1. The coastal State may make the passage of warships through the territorial sea subject to previous notification. Such passage shall be subject to the provisions of articles 15 to 18.

"2. During passage warships have complete immunity from the jurisdiction of any State other than the flag State.

19. Mr. AGO (Italy) asked that a separate vote be taken on the words "authorization or" in paragraph 1 of article 24.

20. Mr. LOUTFI (United Arab Republic), supported by Mr. FISER (Czechoslovakia), opposed the motion for a separate vote on those words. He believed that the coastal State had a right to regulate the passage of warships through its territorial sea and that such passage should be subject to previous authorization or notification.

21. Mr. ULLOA SOTOMAYOR (Peru), supporting the motion for a separate vote, said that the long-established practice of allowing the innocent passage of warships through the territorial sea subject only to prior notification had by force of custom become a part of international law. He was opposed to the addition of the requirement of previous authorization.

22. Mr. NIKOLAEV (Union of Soviet Socialist Republics), speaking to a point of order, said that the Danish proposal was in fact not a proposal but an amendment, seeking the deletion of the words "authorization or" from paragraph 1. That amendment should therefore be voted upon before a decision was taken regarding a separate vote on the words "authorization or".

23. The PRESIDENT drew attention to the fact that the Danish proposal was intended as an alternative text for article 24 if the text approved by the First Committee were not adopted. The First Committee's text must therefore be voted upon first, and a motion for voting on that text in part was therefore in order.

24. Mr. LAZAREANU (Romania) supported the point of order raised by the Soviet Union representative. The effect of regarding the Danish document as a proposal and not an amendment would be that two votes would be taken on the same subject. It was a mere procedural device intended to enable the opponents of the requirement of prior authorization to secure the deletion of the words "authorization or" by simple majority. If they were not successful in the separate vote, they would have a second bite at the cherry when the Danish document was voted on.

25. The PRESIDENT said that the Danish document had been submitted as a proposal and not as an amendment, and that the text approved by the First Committee must therefore be voted on first according to the usual practice. After that vote had taken place, the Conference would be free to decide whether or not there should be a vote on the Danish proposal.

26. Mr. KORETSKY (Ukrainian Soviet Socialist Republic) supported the views expressed by the Soviet Union and Romania.

27. The PRESIDENT put to the vote the Italian motion that a separate vote be taken on the words "authorization or" in paragraph 1 of article 24.

*The Italian motion was adopted by 50 votes to 24, with 5 abstentions.*

28. The PRESIDENT put to the vote the words "authorization or" in paragraph 1 of article 24.

*The words "authorization or" were rejected by 45 votes to 27, with 6 abstentions.*

29. Mr. NICOLAEV (Union of Soviet Socialist Republics) explained that he had voted for the retention of the words "authorization or" in article 24, paragraph 1, because he considered that in the exercise of its sovereign rights every coastal State could claim the right to subject foreign warships wishing to enter its territorial waters to the requirement of prior authorization. That principle was consecrated in international law and in State practice. His delegation would vote against article 24 as a whole because those words had been deleted.

30. Mr. SÖRENSEN (Denmark) observed that the deletion of the words "authorization or" entailed a consequential amendment to the second sentence of the paragraph. There could now be no question of granting passage, and the sentence should be amended to read "*Such passage shall be subject to . . .*"

31. Mr. SHUKAIRI (Saudi Arabia) said that he had voted against the deletion of the words "authorization or" and would vote against article 24 as a whole. It was a necessary prerequisite of the exercise of responsible authority under international law that the grant of passage to warships through the territorial sea should be subject to authorization. A warship could not be regarded as a vehicle of peaceful communication, and unauthorized passage was tantamount to violation of the rights of coastal States and to aggression against them.

32. Mr. TUNCEL (Turkey) explained that he had voted against the deletion of the words "authorization or" because of his country's domestic legislation. Turkey subjected the passage of all warships to authorization and it could not be said that such authorization was against customary law. He would vote against article 24 as amended and, if it were adopted, request that it be included among the articles to which reservations could be admitted.

33. Sir Claude COREA (Ceylon) said that he had voted against the deletion of the words "authorization or", which rendered the whole text nugatory. The International Law Commission had included those words

after long deliberations, and the Conference must take the views of those expert jurists into account. The whole idea of the safeguards provided by the territorial sea had been extinguished by the decision; its effect was indeed to subordinate the sovereignty of the coastal State to that of the flag State of the warship effecting passage.

34. Mr. SIKRI (India) said that his delegation's position on article 24 was absolutely clear. India regarded the passage of warships through its territorial sea as a courtesy, and in practice never refused such passage. But it could not regard such passage as a right, and reserved its own right to refuse it. He would vote against article 24 and, if it were adopted, his government would enter reservations to it.

35. Mr. LOUTFI (United Arab Republic) reiterated the view he had expressed when opposing the Danish proposal, and said that he would be obliged to vote against article 24.

36. Mr. LAMANI (Albania), Mr. SUBARDJO (Indonesia), Mr. DARA (Iran) and Mr. RADOUILSKY (Bulgaria) said that, the words "authorization or" having been deleted, they would vote against article 24.

37. Mr. QUARSHIE (Ghana) said that he would vote against article 24, since a vote for that article by weaker countries would be tantamount to aiding and abetting their own extermination. He moved the reconsideration of the International Law Commission's original text of the article under rule 32 of the rules of procedure.

38. The PRESIDENT said that the motion would be considered after the vote on article 24.

39. Mr. GLASER (Romania) observed that the Conference had voted on articles defining the rights of coastal States over their territorial waters. Those articles had established the principle that a coastal State was master of its territorial sea; in order not to hamper navigation, however, the right of innocent passage had been established. In principle, a merchant or passenger ship could pass through territorial waters because it presented no threat to the security of the coastal State. The case of a warship, which carried arms, was quite different; if an armed visitor came to a house, the least he could do was to ask permission to enter. Accordingly, the International Law Commission had included in article 24 the elementary precaution that authorization or notification should be required of warships entering territorial waters, a principle which was in accordance with Romanian legislation. He would therefore vote against article 24, and announced that, if it were adopted, his government would be unable to sign the convention without making a reservation to that article.

40. Mr. CAABASI (Libya) said that he would vote against article 24 as amended, because his delegation regarded the principle of the passage of warships through territorial waters as a courtesy and not a right. Furthermore, unauthorized passage was prejudicial to the sovereignty of the coastal State.

41. Mr. DEAN (United States of America) said that it was generally recognized, and laid down in many

authoritative legal texts, that innocent passage for warships through the territorial waters of other States was admissible in time of peace.

42. He drew the Romanian representative's attention to article 25, under which warships were called upon to comply with coastal regulations. The rights of coastal States were fully protected by that article in accordance with the customary provisions of international law. The United States of America had never required prior authorization for warships entering its territorial waters, and that practice was followed by many other countries.

43. Mr. GLASER (Romania) could not agree with the United States representative that the right of a coastal State to security and to the exercise of its sovereign rights was adequately safeguarded by the observance of coastal regulations by a warship which had already entered its territorial waters. The United States representative had cited eminent authorities; but such outstanding jurists as the members of the International Law Commission had seen fit to include article 24 in their draft rules. The meaning of articles 24 and 25 taken together was that a warship required authorization to pass into territorial waters and could not thereafter disregard the appropriate regulations of the coastal State.

44. Mr. TUNKIN (Union of Soviet Socialist Republics) was surprised that the United States representative now considered that the passage of warships through territorial waters was a right. The position of the United States delegation to the Conference for the Codification of International Law held at The Hague in 1930 had been that such passage was based on international courtesy and was not a right. He (Mr. Tunkin), too, was unable to agree that article 25 adequately protected the rights of coastal States.

45. Mr. AGO (Italy) said that the right of innocent passage by warships through territorial waters was one of the oldest rights in international law, and was not a simple matter of international courtesy.

46. The PRESIDENT put article 24, as amended, to the vote.

At the request of the representative of Saudi Arabia, a vote was taken by roll-call.

*Australia, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Australia, Belgium, Brazil, Cambodia, Canada, Chile, China, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, France, Federal Republic of Germany, Guatemala, Haiti, Honduras, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Spain, Sweden, Thailand, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Republic of Viet-Nam.

*Against:* Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Ghana, Hungary, India, Indonesia, Iran, Iraq, Republic of Korea, Libya, Federation of Malaya, Poland, Romania, Saudi Arabia, Tunisia, Turkey, Ukrainian Soviet

Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia, Albania.

*Abstaining:* Austria, Finland, Greece, Holy See, Laos, Liberia, Mexico, Nepal, Switzerland, Uruguay, Afghanistan, Argentina.

*The result of the vote was 43 in favour and 24 against, with 12 abstentions.*

*Article 24, as amended, was not adopted, having failed to obtain the required two-thirds majority.*

#### *Article 25*

*Article 25 was adopted by 76 votes to none, with 1 abstention.*

#### *Resolution on the Régime of Historic Waters*

*The resolution on the régime of historic waters was approved by 77 votes to none, with 3 abstentions.*

47. Mr. COMAY (Israel) said he had voted for the resolution, but was not sure whether there was in fact such a single and unified concept as "historic waters" or "historic bays" and whether it could be subject to a single legal régime. His delegation therefore reserved its judgement on that question.

48. Mr. TRUJILLO (Ecuador) explained that he had voted for articles 4, 5 and 10 on the understanding that their provisions did not conflict with Ecuadorian national legislation on the subjects at issue. The same consideration applied to all the articles for which Ecuador had voted.

#### *Motions for re-consideration*

49. The PRESIDENT called upon the Portuguese representative to introduce his motion for re-consideration of article 13, paragraph 2. Only two speakers opposing the motion would be called upon.

50. Mr. BOAVIDA (Portugal) observed that paragraph 2 of article 13 had failed to secure adoption by the Conference by a single vote, whereas there had been 17 abstentions. The debate at the 65th meeting of the First Committee had clearly shown the need for a provision to cover estuaries. He hoped that those delegations which had abstained would on reflection provide the two-thirds majority required for the reconsideration of a provision which the International Law Commission had not regarded as redundant.

51. Mr. GARCIA ROBLES (Mexico) said that the First Committee and its drafting committee had spent considerable time on the subject and that the paragraph had been adopted at a late stage, in the absence of many delegations. The régime of estuaries was by no means clear and the majority of the First Committee had seemed to favour the United States proposal that paragraph 2 be deleted. He would vote against the Portuguese motion, and, if it were carried, would vote against article 13, paragraph 2.

52. Mr. TRUJILLO (Ecuador) also opposed the Portuguese motion. Many delegations had been absent when the paragraph had been adopted in the First Committee and the representatives of the International

Law Commission themselves had shown little enthusiasm for its inclusion.

*The Portuguese motion was rejected by 36 votes to 17, with 17 abstentions.*

53. Mr. QUARSHIE (Ghana), moving the reconsideration of the original text of article 24, including the words "authorization or", said that the original article provided protection for the coastal rights of small States in particular. He could not agree with the United States representative that article 25 provided adequate protection.

*The Ghanaian motion was rejected by 37 votes to 26, with 8 abstentions.*

#### ADOPTION OF THE CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE

54. Mr. SIKRI (India) observed that since almost all the articles adopted by the Second Committee had been approved by an overwhelming majority, a separate convention embodying them was perfectly feasible. Although some articles considered by the First Committee remained in dispute and it was still possible that several of them might have to be reconsidered after a short interval, he proposed that each of the two sets of articles should be embodied in a separate convention, one covering the results of the work of the First Committee.

55. Mr. KRISPIS (Greece) said that article 66 (contiguous zone) was closely linked to the subject matter dealt with by the Second Committee and should more properly be placed in the convention embodying the articles adopted by that committee.

56. Mr. NIKOLAEV (Union of Soviet Socialist Republics) and Mr. LOUTFI (United Arab Republic) supported the Indian representative's proposal. The Second Committee had dealt with all articles relating exclusively to the high seas, which should be embodied in a single convention, whereas the First Committee had dealt with the territorial sea and contiguous zone.

57. Mr. QUADROS (Uruguay) and Mr. TRUJILLO (Ecuador) suggested that convenience rather than strict legal consideration should govern the arrangement of articles in separate conventions; to embody them all in a single convention would give rise to confusion.

58. Mr. DREW (Canada) said that article 66 should be embodied in the convention dealing with the articles dealt with by the First Committee. If the more controversial articles were embodied in a separate convention, it would be easier to reconsider, in due course, the principles of maritime law involved.

59. Mr. KORETSKY (Ukrainian Soviet Socialist Republic) observed that, in the light of the debate preceding the adoption of the articles, it would be preferable to incorporate article 66 in the convention containing the articles dealing with the territorial sea. The two subjects (territorial sea and contiguous zone) had always been linked, even in the proposals put forward by Canada and the United States.

60. Replying to the PRESIDENT, Mr. KRISPIS (Greece) said that he would not press for the transfer

of article 66 to the convention dealing with the high seas.

61. Sir Gerald FITZMAURICE (United Kingdom) said that, while he had no wish to oppose the idea of separate conventions, he felt very strongly that article 66 should be in the convention dealing with the régime of the high seas. To include it in a convention dealing with the territorial sea would be bound to create the mistaken impression that the contiguous zone was an extension of the territorial sea, whereas in fact it was part of the high seas, as was clear from the opening phrase of article 66, paragraph 1: "In a zone of the high seas contiguous to its territorial sea..." The provision on the contiguous zone dealt only with customs, fiscal, immigration or sanitary regulations, and did not involve the concept of sovereignty, inherent in the concept of the territorial sea.

62. Mr. DEAN (United States of America) endorsed the United Kingdom representative's position with regard to article 66.

63. Mr. NIKOLAEV (Union of Soviet Socialist Republics) said that he was surprised at the apparent reversal of their position by the United Kingdom and United States representatives; in the past, they had treated article 66 as being related to article 3.

64. Sir Gerald FITZMAURICE (United Kingdom) observed that article 66 had been dealt with by the International Law Commission in the part of their report concerning the régime of the high seas. He moved that a separate vote should be taken on the Indian proposal for the inclusion of article 66 in the convention embodying the decisions of the First Committee.

65. Mr. DREW (Canada) pointed out that article 66 had, with the support of the United Kingdom and United States delegations, been dealt with by the First Committee. That procedure could have been adopted only in the belief that article 66 formed part of the subject matter to be dealt with by the Committee considering the régime of the territorial sea.

66. Mr. GARCIA ROBLES (Mexico) supported the Indian proposal for practical reasons. Except for the opening phrase, the whole of article 66 dealt with matters pertaining to the territorial sea.

67. Mr. DEAN (United States of America) maintained that the United States delegation had entered the Conference strongly believing in the validity of the three-mile limit for the territorial sea, a belief it still held. It had also believed that no exclusive fishing rights outside that limit would be canvassed. In order to bring the Conference to a successful conclusion, it had submitted a proposal for the extension of the territorial sea to six miles, with a contiguous zone of a further six miles (A/CONF.13/L.29). As that attempted compromise had been rejected, the United States delegation had reverted to its belief that the three-mile limit was the correct one and that everything beyond that limit was part of the high seas.

68. Mr. BOAVIDA (Portugal) believed that article 66 should be connected with the régime of the high seas,

in accordance with the arrangement adopted in the International Law Commission's report.

69. Mr. SHUKAIRI (Saudi Arabia) remarked that the question whether the contiguous zone was part of the high seas was not at issue at all; the real issue at that stage was whether there should be separate conventions. Although full sovereignty was not exercisable in the contiguous zone, the zone was certainly in some respects subject to the coastal State's authority. The point raised by the United States representative about the breadth of the territorial sea was entirely irrelevant, because, in any case, the territorial sea would have to be measured from the baseline. The questions of the territorial sea and the contiguous zone had always been dealt with together by the First Committee, and when the Ecuadorian delegation had proposed that the consideration of articles 1, 2, 3 and 66 be deferred, even the United Kingdom and United States delegations had agreed that those articles formed a unit. It was on that assumption that the articles in question had been discussed, and it was too late now to go back on the assumption.

70. Mr. DARA (Iran) said that the fact that the United States proposal for a six-mile limit for the territorial sea had failed to obtain the requisite majority did not in any way imply that the opposition to a return to the three-mile limit had been dropped. A great many delegations would not accept servitude to the large maritime Powers which wished to fish in the waters of other States. The Conference had buried the notion of the three-mile limit. Its failure to delimit the territorial sea did not mean that the article on the contiguous zone had to be transferred to the convention dealing with the régime of the high seas.

71. Mr. GROS (France) said that he fully concurred in the United States position. Concessions were made for the sake of compromise in all negotiations, but if the negotiations failed, such concessions became void. He did not agree for a moment with the Iranian representative that the three-mile limit had been discarded; all proposals to alter it had simply been dropped. In positive law the position remained precisely what it had been before the Conference had opened, and the opinion of all authorities that the contiguous zone was part of the high seas remained intact. It was true that articles 1, 2, 3 and 66 had been dealt with as a group, but that had been simply a convenient arrangement for the purposes of discussion.

72. Mr. AGO (Italy) deprecated the reintroduction of matters exhaustively discussed on previous occasions. Article 66 had been dealt with in conjunction with article 3 by the First Committee for the simple reason that there had been some hope of successful negotiation on both articles by means of reciprocal concessions. There were no grounds for altering the position of article 66.

73. Mr. SIKRI (India) explained that his proposal was simply that all articles dealt with by the First Committee—including article 66—be embodied in a separate convention.

74. Mr. TRUJILLO (Ecuador) opposed the United Kingdom motion for a separate vote on the question of the proper context of article 66.

75. Sir Gerald FITZMAURICE (United Kingdom) said that he was perfectly within his rights to ask for a separate vote on the inclusion of article 66 in the convention which would embody the decisions reached by the First Committee. In the contiguous zone the coastal State exercised police authority only; the subject of that zone was not connected with that of exclusive fishery zones, which might certainly be a subject for further negotiation. That was precisely why it would be undesirable for a provision on the contiguous zone to be merged with provisions relating to the territorial sea. By reason of its provisions, article 66 should be automatically included in a convention dealing with the régime of the high seas.

76. The PRESIDENT put the United Kingdom motion to the vote.

*The United Kingdom motion was rejected by 38 votes to 29, with 6 abstentions.*

*The Indian proposal that the results of the work of the First Committee relating to the territorial sea and the contiguous zone be embodied in a separate convention was adopted by 51 votes to 14, with 14 abstentions.*

#### *Entry into force*

77. The PRESIDENT invited the Conference to consider the question of the number of ratifications or accessions required to bring the convention into force. The Drafting Committee in its report on final clauses to be included in the conventions (A/CONF.13/L.32) recommended twenty-two.

78. Sir Gerald FITZMAURICE (United Kingdom) proposed that the number should be higher, at least twenty-five, and if possible thirty, in view of the increase in the membership of the United Nations. The States whose ratification or accession brought the convention into force should include a reasonable proportion of maritime Powers; but if the required number of ratifications or accessions were set as low as twenty-two, a majority of the States whose ratifications brought the convention into force might be landlocked countries; and that would be unfortunate, desirable though it was that landlocked countries should ratify or accede to the convention.

79. The PRESIDENT called for a vote on the proposal that the number of ratifications or accessions required to bring the convention into force should be thirty.

*The result of the vote was 32 in favour and 24 against, with 15 abstentions. The proposal was not adopted, having failed to obtain the required two-thirds majority.*

80. The PRESIDENT then put to the vote the proposal that the required number should be twenty-two.

*The proposal was adopted by 50 votes to 4, with 11 abstentions.*

*Reservations*

81. Mr. KRISPIS (Greece) said that if reservations were to be allowed, he would propose that article 7 should be included amongst the articles to which reservations were permissible.
82. Mr. TUNCEL (Turkey) said that the Conference should make a choice between the two alternative reservations clauses proposed by the Drafting Committee (A/CONF.13/L.32).
83. Mr. DEAN (United States of America) proposed that a clause should be included in the convention stating that no reservations would be admissible.
84. Mr. DREW (Canada) supported the proposal.
85. Mr. LOUTFI (United Arab Republic) was of the opinion that reservations should be allowed.
86. Mr. SHUKAIRI (Saudi Arabia) said that, owing to the importance of the rules which the articles contained and to the fact that the question of the breadth of the territorial sea had been left to be decided at a future conference, reservations should be allowed, at least until the question of the breadth of the territorial sea had been decided.
87. Mr. NIKOLAEV (Union of Soviet Socialist Republics) expressed the opinion that, if the convention did not contain a clause debarring reservations, reservations were permissible under the accepted rules of international law.
88. Mr. QUADROS (Uruguay) supported that view. Alternatively, reservations should be permissible to all articles except those in respect of which it was expressly stated in the convention that reservations would not be allowed.
89. Mr. MELO LECAROS (Chile) said that to disallow reservations would be to make the convention practically useless. As the discussions in the First Committee had shown, some countries had specific objections to certain provisions, and if reservations were excluded altogether those countries would not sign the convention. Thus, all the useful work done on other articles would have been in vain.
90. Mr. BARTOS (Yugoslavia) supported the view expressed by the representative of the United States of America. Many of the articles in section I of the convention as approved were concerned with questions of delimitation, and if reservations were allowed the whole system would be unstable. The articles in section II were concerned with the duties and power of States; but there was no need for reservations to those provisions, since they were so devised as to preclude undue rigidity of application.
91. Mr. BOAVIDA (Portugal) supported the United States proposal.
92. Mr. BOCOBO (Philippines) said that to prohibit reservations would be vainglorious, since such a prohibition would imply that the Conference had produced a perfect instrument.
93. Mr. AGO (Italy) supported the views expressed by the representative of Yugoslavia. Even though, in the form in which they had finally been approved, many of the articles did not represent what his delegation had wanted, he was of the opinion that the convention would be a much more useful instrument if it debarred reservations. If, on the other hand, the Conference decided that reservations to all or some of the articles should be permissible, his delegation would have reservations to make.
94. Mr. SIKRI (India) proposed that there should be no reservations clause at all in the convention.
95. Mr. CARMONA (Venezuela) and Mr. GARCIA ROBLES (Mexico) supported the Indian representative's proposal.
96. Mr. GUNDERSEN (Norway) asked what assurance his delegation would have, if it supported the second of the two alternatives submitted by the Drafting Committee, that the articles to which reservations were permissible would include those to which his delegation wished to make reservations.
97. The PRESIDENT said that if that alternative were adopted, he would invite delegations to enumerate the articles to which they wished to make reservations.
98. Mr. BAILEY (Australia) moved that the Conference should vote on the proposals relating to reservations, not in the order in which those proposals had been submitted, but in a different order, as it was empowered to do under rule 41 of the rules of procedure. The order he suggested was: the Indian representative's proposal; the United States representative's proposal; and alternative II proposed by the Drafting Committee (A/CONF.13/L.32).
99. If the Indian representative's proposal was adopted, there would be no need to consider the other two and if the United States representative's proposal was adopted, there would be no need to consider the third.
100. The PRESIDENT put to the vote the Australian representative's motion that the normal order of voting be modified in the manner suggested.
- The motion was adopted by 63 votes to none, with 2 abstentions.*
101. The PRESIDENT put to the vote the Indian representative's proposal that the convention should not contain any clause dealing with reservations.
- The proposal was adopted by 43 votes to 16, with 8 abstentions.*
102. Sir Gerald FITZMAURICE (United Kingdom) said he had voted against the Indian proposal because experience had shown how unwise it was not to state unequivocally whether reservations could be made to a particular convention.
103. He disagreed with the view expressed by the representatives of the USSR and Uruguay that, in the absence of a clause relating to reservations, States were free to make whatever reservations they wished. As had been made clear in the advisory opinion of the International Court of Justice in the matter of reservations to the Convention on Genocide,<sup>1</sup> any reservation made by a particular State would be valid only *vis-à-vis* States which accepted it. No State could be bound against its will by a reservation made by another State.

<sup>1</sup> *I.C.J. Reports, 1951, p. 15.*

104. Mr. BARTOS (Yugoslavia) said he had voted for the Indian proposal because he thought it would discourage reservations. That view was borne out by the advisory opinion of the International Court of Justice in connexion with the Genocide Convention.

105. Mr. KRISPIS (Greece) said he had voted for the Indian proposal because he took it to be an accepted rule of international law that, if a convention did not contain a clause relating to reservations, reservations were permitted.

106. Mr. GROS (France) drew attention to the diametrically opposed conclusions which had been drawn from the Indian proposal by the two preceding speakers.

107. He supported the views expressed by the representative of the United Kingdom on the subject of reservations.

108. Mr. VERZIJL (Netherlands) supported the views expressed by the representatives of France and the United Kingdom.

109. Mr. SHUKAIRI (Saudi Arabia) was of the opinion that the absence of a reservations clause meant that reservations were neither expressly permitted nor prohibited. Consequently, any State was entitled to make whatever reservations it wished.

110. Mr. QUADROS (Uruguay) expressed the same opinion.

111. Mr. BOCOBO (Philippines) said he had voted for the Indian proposal to avoid having to vote for any proposal which would single out some particular articles as capable of admitting reservations.

112. Mr. LAZAREANU (Romania) said that the situation was confused because the Conference had failed to adopt a precise text. If the United States proposal had been adopted, the position would have been clear.

113. Mr. DEAN (United States of America) supported the views expressed by the representative of the United Kingdom. If governments could claim that they were free to make any reservations they wished, the whole work of the Conference would have been in vain, since there would be no inducement to accede to a convention if the right to formulate reservations was unrestricted.

#### *Revision*

114. The President pointed out that in the draft final clauses prepared by the Drafting Committee (A/CONF.13/L.32) a five-year period was provided for during which no revisions could be requested.

115. Mr. GARCIA AMADOR (Cuba) observed that the adoption of such a provision might hamper the work of any Conference which was convened before the expiry of that five-year period.

116. Mr. SIKRI (India) suggested that in the clause proposed by the Drafting Committee the words "After the expiration of a period of five years from the date on which this convention shall enter into force" should be deleted.

117. Sir Claude COREA (Ceylon) suggested that it might be more appropriate to consider the subject of revision after the three proposals relating to the convening of another conference had been dealt with. If, however, the Indian proposal were adopted, the matter could be settled immediately.

118. Sir Gerald FITZMAURICE (United Kingdom) objected to the Indian proposal. The chief object of the Conference had been to bring some stability and certainty into the international law of the sea. It was desirable at least to allow for the expiry of an initial period, during which the practical operation of the convention could be observed, before States could ask for revision.

119. Mr. SIKRI (India) observed that the clause recommended by the Drafting Committee contained a provision to the effect that the General Assembly of the United Nations should decide upon the steps, if any, to be taken in respect of requests for revision. Consequently, it was by no means a foregone conclusion that such requests would be granted. Since the crucial question of the breadth of the territorial sea had not been settled, it was desirable to leave the way open for a subsequent conference to revise earlier decisions.

120. Mr. NIKOLAEV (Union of Soviet Socialist Republics) agreed with the representative of the United Kingdom that it would be wrong to delete the provision for an initial five-year period during which no revisions could be requested. Although the question of the breadth of the territorial sea had not been settled, many of the decisions that had been reached related to the régime of the territorial sea, and some time should be allowed to elapse before those decisions could be revised. He was therefore in favour of adopting a revision clause similar to that adopted in the case of the convention prepared by the Second Committee.

121. Mr. QUADROS (Uruguay) observed that the revision clause recommended by the Drafting Committee provided a sufficient safeguard against the possibility that any and every request for revision might be granted.

122. The PRESIDENT put to the vote the revision clause recommended by the Drafting Committee (A/CONF.13/L.32).

*The clause was adopted by 61 votes to one, with 8 abstentions.*

123. Mr. MELO LECAROS (Chile) said he had voted for the text recommended by the Drafting Committee on the understanding that it did not prejudice the decision to be adopted at a later stage by the Conference concerning the holding of a further conference to complete the gaps in the work of the present conference.

#### *Notifications*

124. Sir Gerald FITZMAURICE (United Kingdom) suggested that, in view of the decision that the convention should not contain a clause relating to reservations, sub-section (d) of the notifications clause recommended by the Drafting Committee should be reconsidered.

125. Since the articles dealt with by the First Committee were to be embodied in a separate convention, he would ask that the convention should include a provision similar to that incorporated in the convention prepared by the Second Committee "The provisions of this convention shall not affect conventions or other international agreements already in force as between the States parties to them."

*It was so agreed.*

126. The PRESIDENT put to the vote, as a whole, the convention on the territorial sea and the contiguous zone, as adopted in the course of the meeting and during the 14th, 15th and 19th plenary meetings.

*The Convention on the Territorial Sea and the Contiguous Zone, as a whole, was adopted by 61 votes to none, with 2 abstentions.*

The meeting rose at 8.15 p.m.

## TWENTY-FIRST PLENARY MEETING

*Sunday, 27 April 1958, at 10.10 p.m.*

*President: Prince WAN WAITHAYAKON (Thailand)*

### STATEMENTS BY THE REPRESENTATIVES OF GUATEMALA, MEXICO AND THE UNITED KINGDOM

1. Mr. AYCINENA SALAZAR (Guatemala) said that his delegation reserved, in respect of the territory of Belize, all the rights accorded to States by the Conference.

2. Mr. GARCIA ROBLES (Mexico) said that the position of his government with regard to the question of Belize was well known. If a change were to occur in the legal status of that territory, his government would have claims to make to the territory.

3. Sir Gerald FITZMAURICE (United Kingdom), referring to the statements of the representatives of Mexico and Guatemala, said that the territory in question was British territory.

4. Mr. AYCINENA SALAZAR (Guatemala) said that his delegation could not accept the statement by the representative of Mexico, since the problem concerned Guatemala alone. The attitude of the United Kingdom delegation was logical, but the United Kingdom was gradually withdrawing from all its colonies. His previous statement was based on the assumption that the United Kingdom might one day leave the territory of Belize.

### Proposals for the convening of a new United Nations conference on the law of the sea (A/CONF.13/L.10, L.25, L.43, L.49)

5. Mr. ULLOA SOTOMAYOR (Peru) introduced his delegation's proposal regarding the periodic reconvening of a United Nations conference on the law of the sea (A/CONF.13/L.10). The idea behind the proposal was that the Conference should meet at regular intervals in order to examine problems relating to new developments in the law of the sea and to the practical application

of the conventions which had been adopted. The Conference had made great progress and had introduced many innovations. The law of the sea would continue to evolve, and the questions of the territorial sea and fishing zones had not been decided. For that reason his delegation proposed that the General Assembly should be requested to call another United Nations conference on the law of the sea, after the expiry of a period of five years, by which time States would have had an opportunity to observe the practical operation of the instruments adopted by the Conference.

6. Mr. GARCIA AMADOR (Cuba), introducing his delegation's proposal (A/CONF.13/L.25), explained that it not only dealt with the necessity of convening another conference to re-examine the questions left unsettled, but also sought to draw attention to the remarkable achievements of the present conference. As he had pointed out in the First Committee, the problem of the territorial sea should not be regarded in the same way as it had been at the conference of The Hague in 1930, in case failure to solve it might give the impression that the whole conference had been a failure. At The Hague, the territorial sea had been the sole subject of discussion, whereas at Geneva, twenty-eight years later, the task was codification of the whole of the law of the sea.

7. Far from being a failure, the Geneva conference had achieved success beyond the hopes of the most optimistic. It had approved a number of instruments on very important matters covering most of the existing law of the sea. In particular, it had drawn up two instruments on entirely new subjects which had hardly been considered before the end of the Second World War—the continental shelf and the conservation of the living resources of the high seas. Those remarkable achievements should be emphasized, so that the public would not think the Conference a failure merely because it had been unable to solve the problem of the territorial sea, like The Hague conference before it. That was the purpose of the first paragraph of the Cuban proposal.

8. It should be frankly admitted, however, that the Conference had not found it possible to reach agreement on the breadth of the territorial sea, in spite of all the efforts made to do so. That fact was recognized in the Cuban proposal. In the opinion of his delegation the Conference should not close without recognizing the desirability of recommencing its efforts to reach agreement on the breadth of the territorial sea with a view to completing its work by producing a real code. Accordingly, the operative part of the Cuban proposal requested the General Assembly "to study, at its fourteenth session in 1959, the advisability of convening a second international conference of plenipotentiaries for further consideration of the questions left unsettled by the present conference."

9. Turning to the Peruvian proposal (A/CONF.13/L.10) he said that there were technical difficulties which, in his opinion, would make it impossible to establish a rigid system of regular conferences. Moreover, judging from the opinions expressed during the discussions, he thought the interval suggested before the first of the periodic conferences was too long. However, the idea was a good one and the Cuban proposal

did not preclude its realization, for any future conference held might lead to the convening of another. But it would be preferable for each conference to consider future requirements rather than make long-term arrangements as far-reaching as those suggested in the Peruvian proposal.

10. The Chilean amendment (A/CONF.13/L.43) was entirely acceptable to his delegation. The subjects of exclusive rights and preferential fishing rights were indissolubly linked with that of the breadth of the territorial sea. The agreements reached were not entirely satisfactory to all delegations from every point of view, and consequently the door should not be closed to further proposals on those matters. The only change he proposed in the Chilean amendment was the deletion of the word "important", which might be misinterpreted.

11. With regard to the four-power draft resolution (A/CONF.13/L.49) he thought the first paragraph of the preamble did not make all the achievements of the Conference sufficiently clear to public opinion. The next two paragraphs were acceptable and in some respects supplemented or even improved on the Cuban proposal. In some passages, however, the drafting might be improved, and the phrase "adjournment of the discussion" in the third paragraph introduced a new idea. He could not accept operative paragraph (a), because it sought to establish the *status quo* and might be unfair to States which had refrained from making any claims or declarations pending the results of the Conference; such laudable conduct should not be penalized while previous claims were recognized, and his delegation would vote against the paragraph. With regard to paragraph (b), the Cuban delegation was prepared to accept a shorter period than the two years suggested in its own proposal; it would agree to the thirteenth session of the General Assembly and to the principle of the date being fixed by the present conference, though it believed that the decision on the date should rest with the General Assembly. Paragraph (b) provided that the Secretary-General should reconvene the Conference after consultation with the President of the Conference and the participating States, but his delegation considered that the role thus assigned to the Secretary-General might establish an unfortunate precedent.

12. Finally, he suggested that after the sponsors of the other proposals had been heard, together with any other speakers who wished to comment, there should be a recess of half an hour to enable delegations to work out an agreed new text.

13. Sir Claude COREA (Ceylon), introducing the draft resolution submitted by Australia, Canada, Ghana and Ceylon (A/CONF.13/L.49), said that it superseded the earlier joint proposal (A/CONF.13/L.41) and took into account some of the ideas contained in the Cuban proposal (A/CONF.13/L.25). The Conference had been a greater success than had been expected and a large measure of agreement had been reached. Only two questions remained unsolved—that of the breadth of the territorial sea and that of fishing rights in the contiguous zone—and there had been a movement towards closer understanding on those questions which might serve as a basis for future discussion. Under the

four-power proposal, the present conference would be adjourned and then reconvened at the earliest practicable date in order to continue its work on those unsolved questions. The date should be some time in 1959, so that there would be time for preparation and yet the interval would not be too long. The draft resolution in no way conflicted with the Peruvian proposal for periodic revisions, which his delegation supported.

14. Mr. MELO LECAROS (Chile) introduced his delegation's amendment (A/CONF.13/L.43) to the Cuban draft resolution. The purpose of the amendment was to add the following text as the fourth paragraph of the preamble:

"Recognizing further that, without prejudice to the agreements reached on the régime applicable to fishing and the conservation of the living resources of the high seas, it must be appreciated that it was not possible in those agreements to settle important intrinsic aspects of highly complex and rapidly evolving questions."

15. His delegation agreed to the deletion of the word "important" as suggested by the representative of Cuba. The revision clause adopted by the Conference enabled any State to request revision of the conventions five years after ratification by twenty-two States, but owing to drafting difficulties there might not be a sufficient number of ratifications for many years. The law of the sea was evolving very rapidly and many of the articles adopted by the Conference represented compromise solutions based on considerations of temporary validity. Provision should be made for the convocation of a second conference to deal not only with the articles on which agreement had not been reached, but also with intrinsic aspects of the highly complex questions concerning the law of the sea. For that reason his delegation had proposed its amendment.

16. His delegation would support the Peruvian proposal (A/CONF.13/L.10). It could not accept the four-power draft resolution (A/CONF.13/L.49), since operative paragraph (a) imposed an obligation on States to refrain from extending the limits of the territorial sea.

17. Mr. GROS (France) said that there was general agreement as to the need for a further conference. The details of the procedure by which it was to be convened were not important. The present conference could not be adjourned, but a second conference of more limited scope would be possible. With that reservation, the four-power draft resolution (A/CONF.13/L.49) should provide a basis for general agreement. However, certain drafting changes were necessary. He suggested that in the first preambular paragraph and in operative paragraph (b), the phrase "the extent of the fishing rights which should pertain to coastal States in the contiguous zone" should read "...which might perhaps be recognized for coastal States..." In operative paragraph (a), the word "exclusive" should be replaced by the word "special".

18. Mr. LIMA (El Salvador) supported the Cuban proposal with the Chilean amendment thereto. The four-power draft resolution was also a practical one and he thought there was some justification for operative paragraph (a). If countries began to make unilateral declarations because no agreement had been reached as

yet, agreement might never be reached at all. His government believed that every country was entitled to fix the breadth of its territorial sea according to geographical conditions, but that it would be wiser not to take any further action in the matter until the next conference had been held.

19. Paragraph (a) of the four-power draft resolution might be unacceptable to many States, however, and he therefore proposed that the Cuban proposal be adopted with the Chilean amendment, subject to a gentlemen's agreement—namely, that the four-power draft resolution be withdrawn on the understanding that no State would make any declaration on the territorial sea or on fishing rights before the next conference was held.

20. Mr. QUARSHIE (Ghana) said that the voting at the 14th plenary meeting had shown that none of the proposals before the Conference was likely to command a majority, but that the differences of opinion between delegations were nevertheless very slight. He was therefore in favour of adjourning the Conference for the shortest possible period, during which diplomatic negotiations on the outstanding problems could take place and there should be a moratorium on claims.

21. The African States, which had seen their continent divided among the great Powers without the consent of the populations concerned, found it difficult to understand the moral arguments now advanced against the division of the sea. That division was essentially a practical matter. The needs of shipping varied according to the region, and a 200-mile limit might be suitable in one place but unsuitable in another. Requirements also varied with time: for instance, the contiguous zone was now far more important than it had been in the past. Existing rules might no longer be practical because of changed circumstances.

22. As Ghana was still dependent on canoes for fishing, it naturally had no fishing grounds abroad and hence could have no historic rights in such grounds; but it had a greater need for fish than many countries which possessed such rights. Nevertheless, his government recognized that fishing in distant waters was essential to some countries and considered that historic rights in distant fishing grounds should not be abruptly cut off, but gradually extinguished.

23. The problem of the territorial sea might be dealt with on a regional basis. Colonial ties should certainly have no bearing on the matter; for instance, the six-mile limit applied by Spain and Portugal was not suitable for their African possessions. A two-thirds majority on one of the proposals before the Conference was not sufficient; there was need for compromise, and a realistic view was essential.

24. His delegation had no objection to the principle of the French amendment to the four-power draft resolution.

25. The PRESIDENT said that he had heard the Cuban suggestion for a recess during which the sponsors of the various proposals could try to reach agreement on a new text, but he thought there should first be an exchange of views for their guidance.

26. Mr. ITURRALDE (Bolivia) said that the proposals

submitted were very clear and all called for another conference; there were many points of agreement. The Cuban suggestion that there should be a recess seemed very wise, as the plenary Conference had now been meeting for eleven hours, and time would be gained if agreement could be reached in principle, setting matters of detail aside. He therefore moved formally that the meeting be suspended.

27. The PRESIDENT put the Bolivian motion for suspension of the meeting to the vote.

*The motion was adopted by 50 votes to 2 with 10 abstentions.*

*The meeting was suspended at 11.25 p.m. and was resumed at 12 midnight.*

28. Mr. BAILEY (Australia), speaking in support of the four-power draft resolution (A/CONF.13/L.49), paid a tribute to those who had first suggested the reconvening of the Conference. An unexpectedly large measure of agreement had been reached and a large majority secured on the adoption of a number of instruments. On two important matters, however, there had been no agreement: the territorial sea and the contiguous zone. On both those matters there was room for some accommodation, but neither the time nor the necessary information was available for agreement there and then. That being so, the question was: should the Conference be closed, or merely adjourned and kept in being for further consideration of the outstanding problems? The sponsors of the four-power draft resolution were in favour of adjournment, if that procedure was administratively possible. They had first thought that the best time to reconvene the Conference would be before the next session of the General Assembly of the United Nations, but consultations had shown that that was too soon. The date suggested in the Cuban proposal (1959) was too far ahead; his co-sponsors felt that the interval should be long enough for negotiation, but no longer. The alternative suggestion was to close the Conference and report to the General Assembly, which would then decide on any further action, but his delegation believed it possible for the Conference to conclude the work assigned to it after a short period of adjournment.

29. With regard to operative paragraph (b) of the four-power draft resolution, he said the Secretary-General had made excellent arrangements for the present Conference at the request of the General Assembly, and the sponsors considered that he should be asked to make arrangements for the next conference. They favoured New York as the place, and immediately after the thirteenth General Assembly as the time, but would welcome any suggestions from the Secretary-General's representative. With regard to operative paragraph (a), he said that the considerations which had prevented fresh claims being made during the Conference might also operate during a short adjournment, but if the adjournment were too long it was unlikely that they would so operate. If negotiations were to be fruitful and lead to stability there must be what the representative of El Salvador had called a gentlemen's agreement to continue negotiating from the existing position. Paragraph (a) should not be misunderstood:

It was only a recommendation and could not be regarded as an infringement of national sovereignty.

30. After consultation with the Cuban delegation, the sponsors had decided that the first two paragraphs of the Cuban draft resolution were an improvement on their own draft, and they would like to incorporate them in the four-power draft resolution in place of the first paragraph of the preamble, subject only to a small drafting amendment, namely, that the second paragraph of the Cuban draft resolution be amended to read as follows:

“*Considering* that it has not been possible to reach agreement on the breadth of the territorial sea and certain problems of the contiguous zone;”

31. The last words of paragraph (b) of the four-power draft resolution should also be amended to read: “and the question of the fishing rights of coastal States in the contiguous zone.”

32. Mr. GARCIA AMADOR (Cuba) regretted that after the recess the proposals had not been taken in order of submission. His delegation could not accept operative paragraph (a) of the four-power draft resolution, but agreed to an earlier date for the next conference. He thought it should be held within about one year, but it was the General Assembly that should decide.

33. With regard to the agenda of the Conference, he wished to amend the second paragraph of the Cuban draft resolution to read as follows:

“*Considering* that it has not been possible to reach agreement on the breadth of the territorial sea and on various other questions discussed in connexion with that problem.”

34. In the last paragraph of his proposal he would now substitute the words “thirteenth session, in 1958” for the words “fourteenth session, in 1959”.

35. His delegation could not agree to the four-power proposal.

36. Mr. GARCIA SAYAN (Peru) suggested that, as no compromise solution had been reached during the recess, all the proposals should be referred to the General Assembly, together with the record of the discussion; most of the States represented at the Conference would also be represented at the Assembly, and a decision on convening a new conference could be taken by that body.

37. Mr. AGO (Italy) said that consultations during the recess had shown that a compromise must be reached between two points of view if any practical result were to be achieved. On the one hand, many delegations could not accept operative paragraph (a) of the four-power draft resolution; on the other hand, many delegations could not accept any resolution which did not give some assurance that nothing would be done during the interval before another conference was held, to make the situation more difficult than it was at present. Having consulted other delegations, including that of Mexico, he therefore proposed that the four-power draft resolution, as amended, should be taken as a basis, operative paragraph (a) being replaced by the following recommendation:

“(a) To recommend to all States to facilitate, during the interval, the realization of the desired general agreement through bilateral or multilateral negotiations, and to express the hope that during that period they will act in such a manner as to create an atmosphere favourable to the success of the next conference.”

38. That was merely the expression of a wish and he thought it should meet with no opposition.

39. Mr. TUNKIN (Union of Soviet Socialist Republics) said that although he had no objection to considering the possibility of arranging periodic conferences on the law of the sea, he was not in a position to accept the Peruvian representative's proposal that the next conference be convened in five years' time. Nor could he accept the four-power draft resolution; after two months' work, the Conference had failed to reach agreement on the breadth of the territorial sea and on the coastal State's fishing rights in the contiguous zone, and it could not now make recommendations on those matters as proposed in operative paragraph (a). With regard to operative paragraph (b) it was, in his view, only the General Assembly which could decide whether another conference should be convened to seek agreement on the points which the present conference had left unsettled. He therefore approved the Cuban draft resolution with the amendments suggested orally by the Cuban representative; but he could not accept the Italian representative's suggestion.

40. Sir Gerald FITZMAURICE (United Kingdom) regretted that the proposals had been put before the Conference too late for delegations to consult their governments. The United Kingdom Government had been very sensible of the dangers of the present situation and the failure to reach agreement on the breadth of the territorial sea, and it would therefore be willing to continue the work. It would have preferred reference back to the General Assembly, but would not refuse to attend a reconvened conference. However the conference was arranged, it must adhere to certain basic assumptions. First, the United Kingdom had made compromise proposals which had not been adopted, and it must therefore resume its original position as a supporter of the three-mile limit. Secondly, it would enter any new conference uncommitted by proposals made or supported at the present conference and must consider the willingness of other countries to compromise. There had been a lack of mutual willingness to do so at the present conference, and if the advocates of the twelve-mile limit still refused to recede from their position, there could be no agreement in future. Thirdly, the United Kingdom attached importance to some provision such as that contained in operative paragraph (a) of the four-power draft resolution; if new claims were made before the next conference was held and delegations were again confronted with *faits accomplis*, the chances of success would be as small as they had been at the present conference.

41. Mr. GARCIA ROBLES (Mexico) said that, contrary to the statement made by the Italian representative, the only proposal that was acceptable to his delegation as a basis for discussion was the Cuban draft resolution, as amended by the sponsor and by

Chile. It was right that the achievements of the Conference should be mentioned expressly. States should not be discouraged by the failure to reach agreement on the breadth of the territorial sea and on fishing zones, which had always resisted codification. The work of the Conference must be continued, but not by the present conference. Another conference should be convened as soon as there was a possibility of obtaining a two-thirds majority on the territorial sea and fishing zones. A decision on that matter should be taken by the General Assembly at its thirteenth session, as was proposed by Cuba. The paragraph suggested by the representative of Italy to replace operative paragraph (a) of the four-power text should be added instead to the Cuban draft.

42. Mr. SUCRE (Panama) said that his delegation supported the Cuban proposal. Commenting on the four-power draft resolution, he said that operative paragraph (a) was unacceptable because it imposed an unfair obligation on States which had hoped to see the rules of their national law embodied in a general declaration by the Conference. His delegation could not accept the view of the United Kingdom representative that freedom of action by States would not lead to agreement on the delimitation of zones of the sea. It was unilateral action by many States which promoted the evolution of the law of the sea.

43. Mr. BOCOBO (Philippines) said that the Conference should agree to the principle of another conference, leaving the final decision to the General Assembly.

44. Mr. DREW (Canada), speaking as a sponsor of the four-power draft resolution, emphasized that the Conference had been more successful than any other United Nations conference. Of the articles submitted by the International Law Commission, all but one had been codified. In the interval before the next conference, States would have an opportunity to find common ground in the matter of the territorial sea. Each State now had a fixed breadth of territorial sea from which there should be no significant departure, until a further advance could be made in the development of the law of the sea.

45. Mr. SHUKAIRI (Saudi Arabia) said that his delegation could not support the four-power draft resolution which was defective in form and substance. Recommendations to States were beyond the mandate of the Conference, which was limited to examination of the International Law Commission's draft. The Conference could not adjourn until the following year, but it could request the General Assembly to consider the convocation of another conference. For those reasons, his delegation supported the Cuban proposal.

46. Mr. LAMANI (Albania) said that the Cuban proposal dealt most satisfactorily with the question of a new conference. He therefore moved that a vote be taken on that proposal and that the debate should then be closed.

47. Mr. AGO (Italy) opposed the Albanian motion, since his delegation had further suggestions to make.

48. The PRESIDENT put the Albanian motion for the closure of the debate to the vote.

*The motion was adopted by 39 votes to 24, with 9 abstentions.*

49. Mr. GARCIA SAYAN (Peru) said that some delegations had expressed support for his delegation's proposal on the grounds that it provided for conferences to be convened at regular five-year intervals. In fact, the operative paragraph of the proposal provided only for the convocation of one conference after a period of not less than five years.

50. The PRESIDENT put the Peruvian proposal (A/CONF.13/L.10) to the vote.

*The proposal was rejected by 43 votes to 6, with 22 abstentions.*

51. Mr. GARCIA ROBLES (Mexico) said that the paragraph proposed as an amendment to the four-power draft resolution by the representative of Italy now stood as an amendment by Mexico and Italy, to be added at the end of the Cuban draft resolution.

52. The PRESIDENT put the joint amendment submitted by Italy and Mexico to the vote.

*The result of the vote was 35 in favour and 20 against, with 13 abstentions. The proposal was not adopted, having failed to obtain the required two-thirds majority.*

53. Mr. RUEGGER (Switzerland) moved that the preamble of the Cuban draft resolution should be voted on separately.

54. The PRESIDENT put the Swiss motion to the vote.

*The motion was rejected by 40 votes to 3, with 21 abstentions.*

55. In reply to a question by Mr. BARTOS (Yugoslavia), Mr. GARCIA AMADOR (Cuba) gave the precise wording of the Cuban draft resolution, as amended. He added that the agenda of the next conference would be the breadth of the territorial sea and certain questions which had been discussed at the present conference in connexion with the breadth of the territorial sea—namely, the contiguous zone from the point of view of fishing.

56. The PRESIDENT put the Cuban draft resolution (A/CONF.13/L.25), as amended, to the vote.

*At the request of the representative of Austria, a vote was taken by roll-call.*

*Japan, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Libya, Mexico, Morocco, Nepal, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Saudi Arabia, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Republic of Viet-Nam, Yugoslavia, Afghanistan, Albania, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic,

Ecuador, El Salvador, Guatemala, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq.

*Against* : Peru, Spain.

*Abstaining* : Japan, Liberia, Monaco, Netherlands, New Zealand, Pakistan, Sweden, Switzerland, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, Australia, Austria, Belgium, Canada, Ceylon, China, Finland, France, Federal Republic of Germany, Ghana, Greece, Holy See, Iceland, Ireland, Israel, Italy.

*The draft resolution was adopted by 48 votes to 2, with 26 abstentions.*

57. Mr. ANDERSEN (Iceland) said that his delegation had abstained in the vote on the Cuban proposal because it did not wish to commit the Government of Iceland to the policy of not taking any action for the time being so far as Iceland's own fisheries jurisdiction was concerned. His government had waited patiently till the end of the present conference, but no agreement had been reached, and there was no assurance that agreement would materialize at another conference. In that connexion, he stated that the South African resolution on special situations (A/CONF.13/L.27) adopted by the Conference at its 16th plenary meeting would be helpful as regards fishing areas outside the limits of coastal jurisdiction, but had nothing to do with the problem of coastal jurisdiction over fisheries as such.

58. The PRESIDENT said that, in view of the adoption of the Cuban draft resolution, the four-power proposal would not be put to the vote.

**Tribute to the International Law Commission :  
proposal by Colombia (A/CONF.13/L.48)**

59. Mr. KRISPIS (Greece) said that his delegation supported the Colombian proposal, but wished to suggest drafting changes. After the word "codification" the words "and development" should be added. The word "preparatory" should be deleted.

60. Mr. URIBE HOLGUIN (Colombia) introduced his delegation's proposal (A/CONF.13/L.48), which was worded as follows:

*"The United Nations Conference on the Law of the Sea,*

*"On the conclusion of its proceedings,*

*"Resolves to pay a tribute of gratitude, respect and admiration to the International Law Commission for its excellent preparatory work in the matter of the codification of international law, in the form of various drafts and commentaries of great juridical value."*

61. He accepted the amendments proposed by the Greek representative.

62. The President put the amended Colombian proposal to the vote.

*The proposal was adopted unanimously.*

63. Mr. ZOUREK (Czechoslovakia), speaking as Chairman of the International Law Commission, thanked the Colombian representative for the tribute contained in his delegation's proposal, which would be

an encouragement to the Commission in its future work.

**Closure of the Conference**

64. Mr. URIBE HOLGUIN (Colombia), on behalf of the delegations of all the Latin American countries, expressed their gratitude to the President for the way in which he had conducted the Conference. He said that the representative of Bolivia had asked him to thank that country's neighbours for the consideration which they had shown it as a land-locked State.

65. Mr. TABIBI (Afghanistan), on behalf of the delegations of the African and Asian countries, associated himself with the previous speaker's expression of thanks to the President. He also thanked Professor François, the members of the International Law Commission, the United Nations Office of Legal Affairs and the Secretariat for their work.

66. Mr. TUNKIN (Union of Soviet Socialist Republics) associated himself with the remarks of the representative of Afghanistan. He said that the work of the Conference would set an example of international co-operation in the cause of peace.

67. Mr. GROS (France), Mr. MATINE-DAFTARY (Iran), Mr. RUEGGER (Switzerland) and Mr. BARTOS (Yugoslavia) associated themselves with the remarks of the previous speakers.

68. The PRESIDENT said that since eighty-seven States had been represented at the Conference, the question whether its two months of arduous work had been fruitful would be asked all over the world. His own answer to that question was definitely in the affirmative.

69. In his opening speech he had referred to the monumental work of the International Law Commission. Indeed, seventy-three draft articles on the law of the sea, dealing with the territorial sea, the high seas, fishing, the contiguous zone and the continental shelf did constitute a monumental work, which, as a result of the Conference, would assume definite shape and a permanent character through the signing of the conventions and other instruments on 29 April. If it was borne in mind that there had been more than five hundred proposals and amendments to be thoroughly considered, it would be realized what a tremendous amount of work had been performed by the delegations. The conventions and other instruments to be signed clearly showed that the efforts of the Conference had been successful.

70. It must also be admitted, however, that the Conference had not yet succeeded in settling the crucial problem of the breadth of the territorial sea. Nevertheless it was a fact that real progress had been made towards the solution of that important problem—progress which opened up prospects of settlement at some future time, for although no two-thirds majority had been obtained for any proposal, there had been simple majority votes which indicated possibilities of agreement in the not too distant future.

71. The problem of the breadth of the territorial sea was not purely a matter of law, but mainly a political

question the solution of which required a just balance between the contending forces of the national interest of the coastal State and the general interest of freedom of the high seas. The history of mankind had been the story of its endeavours to harness the forces of nature and to make use of the natural resources available. It was natural, therefore, that there should be a tendency for coastal States to seek territorial expansion into the seas in order to exploit the natural and living resources available there. On the other hand, the freedom of the high seas must also be respected in the common interest of the international community. Thus the governments concerned, and not only their representatives at the Conference, should seek a generally agreed solution through negotiation.

72. The Conference had paved the way for such a solution, for he was happy to say that there had been a sincere spirit of co-operation and goodwill under most difficult conditions. He had been deeply moved by that spirit in the General Committee and in the Conference as a whole. He was proud to have had the privilege of presiding over the deliberations of the Conference and was most grateful for the appreciative

references to himself, which had been all too kind and generous.

73. He himself owed a deep debt of gratitude to delegations for their whole-hearted co-operation and assistance. He thanked the vice-presidents of the Conference, the chairmen, vice-chairmen and rapporteurs of the committees, as well as all his fellow delegates. Cordial thanks were due to the representative of the Secretary-General, the Executive Secretary and the special experts, as well as to the whole staff of the Conference secretariat, on whose services there had been unusual demands. They had all assisted in the task of promoting one of the purposes of the United Nations Charter—namely, to encourage the progressive development of international law and its codification.

74. He expressed the hope that, on their return home, representatives would explain the work of the Conference to their governments, in order that the latter might seek ways and means of settling the pending problem of the breadth of the territorial sea.

75. He then declared the United Nations Conference on the Law of the Sea closed.

The meeting rose at 2.20 a.m.



## ANNEXES

*(Note.* — For the contents of these annexes, see entries in bold type in the Index to documents, p. vii of the present volume.)



## DOCUMENT A/CONF.13/L.2

### First report of the General Committee: organization of the work of the Conference

[Original text: English]  
[27 February 1958]

1. At its first meeting, held on 27 February 1958, the General Committee considered a memorandum prepared by the Secretariat (A/CONF.13/BUR/L.1) relating to the organization of the work of the Conference. The following decisions were taken:

#### *Working schedule of the Conference*

2. It was decided to recommend that a five-day week be established; however, this schedule should be regarded as having sufficient flexibility to allow for variations when necessary.

3. It was also agreed that not more than three committee meetings should take place at the same time and that, in any case, simultaneous meetings of the First and Third Committees should be avoided.

#### *Closing date of the Conference*

4. It was decided to recommend that Thursday, 24 April 1958, be fixed as the closing date of the Conference.

#### *Discussion of the articles prepared by the International Law Commission*

5. The representative of the Union of Soviet Socialist Republics suggested that a general debate be held in the plenary meeting in order to give all countries represented at the Conference, especially those with few representatives, the opportunity to present their viewpoint. He was supported by the representatives of Ceylon and Poland. The representative of India, supporting the proposal of the representative of the Soviet Union, was in favour of having a short general debate in the plenary meeting but with no general debate in the committees. He was supported by the representatives of Egypt, Czechoslovakia and, later, by the representative of the USSR, who considered such a solution a compromise.

6. The representative of Czechoslovakia, however, thought that it would be necessary to have a general debate in the Fifth Committee because the question of land-locked countries had not been studied by the International Law Commission.

7. The Soviet Union and Indian proposals were opposed by representatives of the United States of America, France, Panama, the United Kingdom, Guatemala, Italy, Australia, the Netherlands, Argentina and China, who expressed themselves generally in favour of the procedure outlined in paragraphs 7 and 8 of document A/CONF.13/BUR/L.1 (see below, paragraph 12, sub-paragraph (a) and (b)).

8. The Indian proposal was rejected by 11 votes to 6, with 1 abstention.

9. The Committee approved, without objection, a proposal by the representative of Mexico to add in the second sentence of paragraph 7 of document A/CONF.13/BUR/L.1, after the words "on the articles", the following: "(but would not be precluded from discussing articles referred to any other committee or committees if they consider this to be necessary in view of the connexion between such articles and those referred to their own committee)".

10. The Committee adopted, without vote, a proposal by the representative of the United Kingdom to delete in the third sentence of the same paragraph, between the words "would not" and "be made", the word "necessarily".

11. The Committee adopted, without vote, a proposal by the representative of the United States to delete the fourth sentence of the same paragraph reading "However, provisional votes could be taken when desirable and in so far as it should be necessary to take decisions of principle in order to facilitate subsequent stages of the work of the Committee."

12. The Committee therefore recommends that the main committees of the Conference organize their discussion of the articles prepared by the International Law Commission in two stages as follows:

(a) The first stage would consist of a short general debate on the articles referred to the Committee or a discussion of them article by article, or even a combination of both methods. Representatives would express their views on the articles (but would not be precluded from discussing articles referred to any other committee or committees if they consider this to be necessary in view of the connexion between such articles and those referred to their own committee), and put forward any proposals or amendments they may wish to make regarding them. A decision on the articles, or on the proposals or amendments, would not be made at this stage. The process of formulating texts or the consideration of particular problems might well be referred to sub-committees set up for those purposes. It may be hoped that this first stage would be completed by the end of the third week of the Conference.

(b) The second stage would involve taking the articles seriatim, when final decisions should be reached on the texts to be recommended to the plenary meeting. It would be desirable if, at this stage, each committee could indicate the extent to which reservations to the texts would be permissible if such texts were incorporated in a convention or other appropriate instrument.

## DOCUMENT A/CONF.13/L.4

### Note verbale, dated 7 March 1958, addressed by the Secretary-General of the United Nations to the President of the Conference

[Original text: English]  
[11 March 1958]

The Secretary-General of the United Nations presents his compliments to the President of the United Nations Conference on the Law of the Sea and has the honour to

inform him of the following, with the request that this information be made available to the members of the Conference:

At the request of the Government of the United Arab Republic, a note from the Government dated 24 February 1958 regarding the formation of the United Arab Republic and the election of President Gamal Abdel Nasser as President of the new republic, together with a note dated 1 March 1958, are hereby communicated to all the States Members of the United Nations, to principal organs of the United Nations and to subsidiary organs of the United Nations.

The Secretary-General has now received credentials for Mr. Omar Loutfi as Permanent Representative of the United Arab Republic to the United Nations, signed by the Minister for Foreign Affairs of the Republic. In accepting this letter of credentials, the Secretary-General has noted that this is an action within the limits of his authority, undertaken without prejudice to and pending such action as other organs of the United Nations may take on the basis of the notification of the constitution of the United Arab Republic and the note of 1 March 1958.

#### Annex A

##### PERMANENT MISSION OF EGYPT TO THE UNITED NATIONS, NEW YORK, 24 FEBRUARY 1958

The plebiscite held in Egypt and Syria on 21 February 1958 having made clear the will of the Egyptian and the Syrian people to unite their two countries in a single State, the Minister for Foreign Affairs of the United Arab Republic has the

honour to notify the Secretary-General of the United Nations of the establishment of the United Arab Republic, having Cairo as its capital, and of the election, in the same plebiscite, of President Gamal Abdel Nasser as President of the new Republic.

#### Annex B

##### PERMANENT MISSION OF THE UNITED ARAB REPUBLIC TO THE UNITED NATIONS, NEW YORK

1 March 1958

The Ministry of Foreign Affairs presents its compliments to the Secretary-General of the United Nations and, in pursuance of its note dated 24 February 1958, regarding the formation of the United Arab Republic and the election of President Abdel Nasser, has the honour to request the Secretary-General to communicate the content of the above-mentioned note to the following:

- (a) All the States Members of the United Nations;
- (b) Other principal organs of the United Nations;
- (c) Subsidiary organs of the United Nations, particularly those on which Egypt or Syria, or both, are represented.

It is to be noted that the Government of the United Arab Republic declares that the Union henceforth is a single Member of the United Nations, bound by the provisions of the Charter and that all international treaties and agreements concluded by Egypt or Syria with other countries will remain valid within the regional limits prescribed on their conclusion and in accordance with the principles of international law.

## DOCUMENT A/CONF.13/L.8

### Second report of the General Committee: measures for expediting the work of the Conference

[Original text: English]  
[8 April 1958]

1. At its third meeting, held on 8 April 1958, the General Committee had before it a report by the Secretariat reviewing the progress of the work of the Conference (A/CONF.13/BUR/L.2). In the report, the Secretariat submitted for the consideration of the Committee various draft recommendations designed to expedite the proceedings in order that the Conference might be able to finish its task by the agreed closing date—i.e., Thursday, 24 April.

2. As from and including 9 April, only fourteen days (including Saturdays) remain before the closing date. In planning the remaining work, it should be borne in mind that, as from Monday, 21 April, there should be only plenary meetings and meetings of the Drafting Committee of the Conference.

3. After discussing the Secretariat's report, the General Committee unanimously approved the recommendations set out below. It should be noted that the first of these recommendations regarding the disposition of amendments is of primary importance, since without it the others of a more procedural character will lose much of their effectiveness.

(a) Delegations are urged to study carefully the amendments they have submitted, with a view to ascertaining whether those to which they attach lesser importance can be withdrawn. Delegations are also urged to consult together informally in order to combine amendments embodying substantially the same points.

(b) Each committee should, where appropriate, immediately establish a working group (or drafting committee) to which all amendments of a drafting character should

be referred for immediate study and report back to the Committee. These working groups should also deal with adopted articles the texts of which need any drafting adjustments.

- (c) (i) The Fourth Committee should finish its work by the close of business on Saturday, 12 April, in order to allow the other four committees to hold more meetings a day during the remaining week available for committee work;
- (ii) The Second and the Fifth Committees should aim at completing their agenda by the close of business on Wednesday, 16 April;
- (iii) The First and Third Committees should make every endeavour to finish by the close of business on Saturday, 19 April.

(d) Each committee should impose a time-limit on speeches of five minutes, both for proposers of motions and for other speakers.

(e) Committees should endeavour to devote as little time as possible to the discussion of procedural questions. Points of order should be dealt with immediately in accordance with the rules of procedure, without debate.

(f) Every effort should be made to utilize available meeting facilities to the full.

(g) All meetings should begin at 10 a.m. and 2.45 p.m., starting on Wednesday, 9 April.

(h) Two committee meetings should be held every night from Monday to Friday, beginning on Wednesday, 9 April.

(i) Saturday, 12 April and Saturday, 19 April, should

be full working days, with meetings being held both in the morning and afternoon.

(j) Each committee should consider establishing a timetable for the complete disposal of each remaining article or group of articles, and this should be strictly observed.

4. The General Committee calls the urgent attention of all delegations to the above recommendations, and feels that, if these measures can be strictly adhered to, it will prove possible for the Conference to carry out its work within the limit it has set itself.

## DOCUMENT A/CONF.13/L.10

### Periodic reconvening of the United Nations Conference on the Law of the Sea: letter dated 16 April from the Chairman of the Delegation of Peru to the President of the Conference

[Original text: Spanish]  
[16 April 1958]

On behalf of the delegation of Peru, I have the honour to submit to you and to the General Committee a proposal for the periodic reconvening of the Conference.

As you will gather from the enclosed text, the proposal is of a general nature; its object is to enable the international community to review regularly, at not too infrequent intervals, the state of the law of the sea and its problems and to adopt appropriate decisions relating thereto.

The delegation of Peru considers that, in view of the evolution of the law of the sea under the impact of new legal concepts and of scientific and economic findings and studies, one cannot hope, on any particular occasion, to elaborate immutable instruments that can remain unaffected by that evolution. It seems, therefore, that the best way in which the international community could keep abreast of that evolution would be to arrange periodic conferences, such as the present, to consider the problems of the law of the sea in the light of whatever new developments may have supervened, of reports submitted by governments, and of their experience of the operation in practice of the instrument signed or approved at this conference.

(Signed) Alberto ULLOA  
Chairman of the Delegation

#### Annex

#### PERU: PROPOPSAL

#### *The United Nations Conference on the Law of the Sea*

*Considering* that the results of this conference as embodied in the Final Act [or: in the Convention approved] should be regarded as marking but one stage in the uninterrupted evolution of the law of the sea,

*Considering* that, for this reason, it is in the interest of the international community that provision should be made for a periodic review of new developments and for the adoption of appropriate decisions relating thereto,

1. *Decides* that, on the expiry of a period of not less than five years from the signing of the Final Act [or: of the Convention] embodying the results of this Conference, another United Nations Conference on the Law of the Sea should be held to consider the problems of the law of the sea in the light of whatever new developments may have supervened, of reports submitted by governments, and of their experience of the operation in practice of the Convention approved at this Conference;

2. *Transmits* the foregoing decision to the General Assembly of the United Nations with the request that, having considered this decision, the Assembly should adopt such resolution as it thinks advisable.

## DOCUMENT A/CONF.13/L.11

### Report of the Fifth Committee

[Original text: French]  
[19 April 1958]

#### I. TERMS OF REFERENCE OF THE COMMITTEE

1. The Fifth Committee was asked to study the question of free access to the sea of land-locked countries, in conformity with General Assembly resolution 1105 (XI) of 21 February 1957. The Assembly recommended that the Conference on the Law of the Sea to be convened by virtue of that resolution should "study the question of free access to the sea of land-locked countries, as established by international practice or treaties".

#### II. OFFICERS OF THE COMMITTEE

2. At its first meeting, on 26 February 1958, the Committee elected Mr. J. Zourek (Czechoslovakia) as Chairman; at its 2nd meeting, on 28 February, it elected M. Guevara Arze (Bolivia) as Vice-Chairman and Mr. A. H. Tabibi (Afghanistan) as Rapporteur.

#### III. PREPARATORY DOCUMENTS BEFORE THE COMMITTEE

3. The following preparatory documents were before the Committee: (a) a memorandum concerning the question of free access to the sea of land-locked countries (A/CONF.13/29 and Add.1) prepared by the United Nations Secretariat; (b) a memorandum submitted by the Preliminary Conference of Land-locked States, held at Geneva from 10 to 14 February 1958 (A/CONF.13/C.5/L.1), (c) an extract from the Final Act of the Economic Conference of the Organization of American States, held at Buenos Aires from 15 August to 4 September 1957 (A/CONF.13/C.5/L.4); and (d) a document containing information concerning signatures, ratifications and accessions to certain conventions relevant to the question of free access to the sea of land-locked countries (A/CONF.13/C.5/L.5 and Corr.3).

4. The memorandum submitted by the Preliminary Conference of Land-locked States set forth in an annex the following principles as adopted by that conference :

"The delegates of the States which have no direct territorial access to the sea, gathered at Geneva from 10 to 14 February 1958, for a preliminary consultation, desirous to obtain the reaffirmation, during the Conference on the Law of the Sea convened by the United Nations, of their rights of free access to the sea, taking into consideration the fact that other States which are not placed in the same geographic situation should not be requested to apply the most favoured nations clause, hold that access to the sea of land-locked countries is governed specifically by the following general principles which are part of existing international law :

*" Principle I*

*" Right of free access to the sea*

"The right of each land-locked State of free access to the sea derives from the fundamental principle of freedom of the high seas.

*" Principle II*

*" Right to fly a maritime flag*

"Each land-locked State enjoys, while on a footing of complete equal treatment with the maritime State, the right to fly its flag on its vessels which are duly registered in a specific place on its territory.

*" Principle III*

*" Right of navigation*

"The vessels flying the flag of a land-locked State enjoy, on the high seas, a régime which is identical to the one that is enjoyed by vessels of maritime countries ; in territorial and on internal waters, they enjoy a régime which is identical to the one that is enjoyed by the vessels flying the flag of maritime States, other than the territorial State.

*" Principle IV*

*" Régime to be applied in ports*

"Each land-locked State is entitled to the most favoured treatment and should under no circumstances receive a treatment less favourable than the one accorded to the vessels of the maritime State as regards access to the latter's maritime ports, use of these ports and facilities of any kind that are usually accorded.

*" Principle V*

*" Right of free transit*

"The transit of persons and goods from a land-locked country towards the sea and *vice versa* by all means of transportation and communication must be freely accorded, subject to existing special agreements and conventions.

"The transit shall not be subject to any customs duty or specific charges or taxes except for charges levied for specific services rendered.

"*Note.* — The Austrian delegation presumes that principle V does not have a further scope than the obligations resulting from the Statute of Barcelona of which Austria is a signatory.

*" Principle VI*

*" Rights of States of transit*

"The State of transit, while maintaining full jurisdiction over the means of communication and everything related to the facilities accorded, shall have the right to take all indispensable measures to ensure that the exercise of the right of free access to the sea shall in no way infringe on its legitimate interests of any kind, especially with regard to security and public health.

*" Principle VII*

*" Existing and future agreements*

"The provisions codifying the principles which govern the right of free access to the sea of the land-locked State shall in no way abrogate existing agreements between two or more contracting parties concerning the problems which will be the object of the codification envisaged, nor shall they raise an obstacle as regards the conclusion of such agreements in the future, provided that the latter do not establish a régime which is less favourable than or opposed to the above-mentioned provisions."

IV. ORGANIZATION OF THE WORK OF THE COMMITTEE

5. At its 3rd meeting, on 5 March 1958, the Committee decided first to hold a general discussion concerning the question referred to it. The views expressed during this general discussion are set forth in the summary records of the 3rd to 10th meetings of the Committee.

6. The Committee then considered the proposals and amendments which had been submitted.

V. PROPOSALS AND AMENDMENTS SUBMITTED TO THE COMMITTEE

7. The following proposals and amendments were successively laid before the Committee, and all these proposals contributed to the final decisions of the Committee :

(a) A joint proposal by Afghanistan, Albania, Austria, Bolivia, Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Ghana, Hungary, Iceland, Indonesia, Laos, Luxembourg, Nepal, Paraguay, Saudi Arabia, Switzerland, Tunisia and the United Arab Republic (A/CONF.13/C.5/L.6) ;

(b) A joint proposal by Italy, the Netherlands and the United Kingdom of Great Britain and Northern Ireland (A/CONF.13/C.5/L.7) ;

(c) An amendment by Chile to the nineteen-power proposal (A/CONF.13/C.5/L.8) ;

(d) A proposal by Bolivia submitted in the First Committee and referred to the Fifth Committee (A/CONF.13/C.5/L.9) ;

(e) An amendment by the United States of America to the three-power proposal (A/CONF.13/C.5/L.10) ;

(f) A proposal by Switzerland (A/CONF.13/C.5/L.15).

The following amendments to the Swiss proposal were submitted :

(g) By the Federal Republic of Germany (A/CONF.13/C.5/L.17)

(h) By France (A/CONF.13/C.5/L.18)

(i) By the United States (A/CONF.13/C.5/L.20)

(j) By the Netherlands (A/CONF.13/C.5/L.21)

(k) By Bolivia (A/CONF.13/C.5/L.23)

(l) By Ghana (A/CONF.13/C.5/L.24)

(m) By Pakistan (A/CONF.13/C.5/L.25)

(n) By Bolivia, France, the Federal Republic of

Germany, the Netherlands and the United States (A/CONF.13/C.5/L.26).

VI. CONSIDERATION OF THE NINETEEN-POWER AND THREE-POWER PROPOSALS (A/CONF.13/C.5/L.6, L.7)

8. After the end of the general discussion, the Committee considered, at its 12th to 16th meetings, the nineteen-power proposal (A/CONF.13/C.5/L.6) and the corresponding paragraphs of the three-power proposal (A/CONF.13/C.5/L.7), item by item.

VII. APPOINTMENT OF A WORKING PARTY; TERMS OF REFERENCE AND REPORT OF THE WORKING PARTY

9. The Committee decided, in the course of its 17th and 18th meetings (10 and 11 April 1958) to appoint a working party consisting of the representatives of (a) Bolivia, Czechoslovakia, Nepal and Switzerland (as land-locked States); (b) Chile, the Federal Republic of Germany, Italy and Thailand (as States of transit); and (c) Ceylon, Mexico, Tunisia and the United Kingdom (as States not included in the two preceding categories). On the proposal of Sweden (A/CONF.13/C.5/L.11), the working party was directed to report to the Committee with recommendations concerning the form or forms in which the results of the Committee's work should be expressed.

10. Under the chairmanship of Mr. A. B. Perera (Ceylon), the working party held two meetings on 11 and 12 April. The report of the working party to the Fifth Committee was circulated as document A/CONF.13/C.5/L.16.

11. In its report, in regard to which reservations had been entered by some delegations, the working party recommended that the work of the Fifth Committee should be embodied partly in a convention and partly in a resolution and a declaration.

12. The Fifth Committee considered the report at its 19th, 21st and 24th meetings (14, 15 and 24 April). The representative of Ghana proposed (A/CONF.13/C.5/L.19) that the Committee should take note of the report of the working party and accept the latter's finding that the recommendations of the Fifth Committee to the Conference should be in the form partly of a convention and partly of a resolution and declaration.

13. At its 20th meeting on 15 April, the Committee decided to defer consideration of the working party's report until after the Swiss proposal and the amendments relating thereto had been studied.

VIII. CONSIDERATION OF AND VOTING ON THE SWISS PROPOSAL (A/CONF.13/C.5/L.15) AND AMENDMENTS THERETO

14. The Committee devoted its 20th to 23rd meetings on 15 and 16 April to consideration of the Swiss proposal (A/CONF.13/C.5/L.15) and amendments thereto (A/CONF.13/C.5/L.17, L.18, L.20, L.21, L.23 to L.25). During the discussion, the three-power proposal (A/CONF.13/C.5/L.7) was withdrawn.

15. The Swiss proposal was worded as follows:

“ I

“The Swiss delegation proposes that article 15, paragraph 1, article 27 and article 28 in the International Law Commission's draft be amended as follows: (The additions proposed are in italics.) Should articles 15, 27 and 28 of the draft be modified by the committees concerned, these amendments should be adapted to the final wording.

“ Article 15, paragraph 1

“Subject to the provisions of the present rules, ships of all States, *whether coastal or not*, shall enjoy the right of innocent passage through the territorial sea.

“ Article 27

“The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas comprises, *inter alia*, both for coastal and non-coastal States:

“ (1) Freedom of navigation;

“ (2) ...

“ (3) ...

“ (4) ...

“ Article 28

“Every State, *whether coastal or not*, has the right to sail ships under its flag on the high seas.’

“ II

“In order to codify the right of free access to the sea for States having no sea-coast, the Swiss delegation proposes an additional article, to be inserted in the International Law Commission's draft in the appropriate place, worded as follows:

“ Access to the sea for States having no sea-coast

“1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast shall have free access to the sea. To this end, States situated between the sea and a State having no sea-coast shall:

“ (a) Accord the land-locked State, on a basis of reciprocity, free transit through their territory;

“ (b) Guarantee to ships flying the flag of that State treatment equal to that accorded to their own ships or to the ships of any other State, as regards access to sea ports and the use of such ports.

“2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the land-locked State, all matters relating to equal treatment in ports and freedom of transit.’”

16. The representatives of Bolivia, the Federal Republic of Germany, France, the Netherlands and the United States submitted a joint amendment (A/CONF.13/C.5/L.26) to the Swiss proposal. The representatives of Ghana and Pakistan withdrew their amendments (A/CONF.13/C.5/L.24, L.25).

17. The joint amendment proposed the replacement of paragraphs 1 and 2 of part II of the Swiss proposal by the following text:

“1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast may have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord:

“ (a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory, and

“ (b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to sea ports and the use of such ports.

“2. States situated between the sea and the State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions.’”

18. At its 23rd meeting on 16 April, the Committee voted on the Swiss proposal and the joint amendment.

19. The representative of Nepal proposed orally to substitute the word "shall" for the word "may" in the first sentence of paragraph 1 of the joint amendment. This proposal was rejected by 28 votes to 19, with 8 abstentions.

20. By 31 votes to 2, with 19 abstentions, the Committee adopted an oral amendment by the representative of Afghanistan to replace the word "may" by the word "should" in the first sentence of paragraph 1 of the joint amendment.

21. The joint amendment, as amended, was adopted by 37 votes to none, with 15 abstentions.

22. The Swiss proposal, as amended, was adopted by a roll-call vote of 51 to none, with 6 abstentions. The result of the voting was as follows:

*In favour:* Afghanistan, Argentina, Australia, Austria, Bolivia, Brazil, Canada, Ceylon, Chile, China, Colombia, Czechoslovakia, Denmark, Ecuador, France, Federal Republic of Germany, Ghana, Greece, Holy See, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Republic of Korea, Laos, Liberia, Mexico, Nepal, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Romania, Saudi Arabia, Spain, Switzerland, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Republic of Viet-Nam, Yugoslavia.

*Abstaining:* Albania, Bulgaria, Byelorussian Soviet Socialist Republic, Iran, Turkey, Venezuela.

#### IX. DECISION TAKEN BY THE FIFTH COMMITTEE ON THE REPORT AND RECOMMENDATIONS OF THE WORKING PARTY

23. At its 24th meeting, on 17 April, the Fifth Committee adopted, by 41 votes to none, with 8 abstentions, the following proposal submitted by Ghana (A/CONF.13/C.5/L.19: see para. 12 above), as amended by the representatives of Nepal, Hungary and Canada:

"The Fifth Committee takes note with deep appreciation of the report of the working party to the Fifth Committee (A/CONF.13/C.5/L.16) and accepts its finding that the recommendations of the Fifth Committee to the Conference should be in the form of a convention, without prejudice to the consideration of the nineteen-power proposal (A/CONF.13/C.5/L.6)."

#### X. COMPLETION OF THE WORK OF THE FIFTH COMMITTEE

24. In view of the adoption of the Swiss proposal (A/CONF.13/C.5/L.15) and amendments thereto, and the withdrawal of the three-power proposal (A/CONF.13/C.5/L.7), some delegations expressed the view that the Committee could not discuss the recommendations of the report of the working party as it stood. Certain delegations proposed that the working party should be asked to prepare a declaration on the points of the nineteen-power proposal which were not covered by the Swiss proposal; others, however, were of the opinion that there was no need to ask the working party to embark on such a discussion, but that the Rapporteur of the Committee should be asked to explain in the report to the Conference the usefulness of all the proposals and amendments submitted to the Committee.

25. By 45 votes to 1, with 6 abstentions, the Committee adopted the following text, proposed by the representative of the Holy See:

"The Fifth Committee, having concluded its discussion of all documents submitted to it, considers that it has completed its work with voting on the Swiss proposal (A/CONF.13/C.5/L.15), and invites the Rapporteur to acknowledge, in his report, the contribution made to the success of its discussions by the nineteen-power proposal (A/CONF.13/C.5/L.6), the three-power proposal (A/CONF.13/C.5/L.7), the Swiss proposal (A/CONF.13/C.5/L.15) and the amendments thereto."

#### XI. RECOMMENDATIONS OF THE COMMITTEE

26. The Fifth Committee therefore recommends that the Conference should:

##### I

Draft the articles to be adopted by the Conference on the basis of the International Law Commission text, articles 15, 27 and 28, to read as follows (the proposed additions are in italics):

##### "Article 15, paragraph 1

"Subject to the provisions of the present rules, ships of all States, *whether coastal or not*, shall enjoy the right of innocent passage through the territorial sea.

##### "Article 27

"The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas comprises, *inter alia*, both for coastal and non-coastal States:

"(1) Freedom of navigation;

"(2) ...

"(3) ...

"(4) ...

##### "Article 28

"Every State, *whether coastal or not*, has the right to sail ships under its flag on the high seas."

##### II

Insert the following new article at an appropriate place in one of the conventions to be adopted by the Conference:

##### "Access to the sea for States having no sea-coast

"1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord:

"(a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and

"(b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to sea ports and the use of such ports.

"2. States situated between the sea and the State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions."

## DOCUMENT A/CONF.13/L.12

## Report of the Fourth Committee

[Original text: Spanish]  
[19 April 1958]

## I. OFFICERS OF THE COMMITTEE

1. At the first meeting of the Committee, on 26 February 1958, Mr. A. B. Perera (Ceylon) was elected as Chairman and, at the 2nd meeting, on 28 February, the Committee elected Mr. R. A. Quarshie (Ghana) as Vice-Chairman, and Mr. L. Díaz González (Venezuela) as Rapporteur.

## II. TERMS OF REFERENCE OF THE COMMITTEE

2. The rules of procedure adopted by the Conference at its first plenary meeting on 24 February 1958 established in rule 47 that the Fourth Committee should be a main committee of the Conference, and that to it should be allocated those articles concerning the law of the sea, contained in the report of the International Law Commission covering the work of its eighth session (A/3159), which dealt with the continental shelf. These were articles 67 to 73 inclusive.

## III. ORGANIZATION OF THE WORK OF THE COMMITTEE

3. The Fourth Committee having considered the recommendations of the General Committee on the organization of the work of the Conference (A/CONF.13/L.2) as adopted by the Conference, decided at its 3rd meeting, on 3 March, to begin its work by a general debate on the articles referred to it. The Committee held forty-one meetings; of these, ten were confined to this first stage of general debate (3rd to 12th meetings).

4. The possible need for sub-committees or working groups within the Main Committee had been anticipated and provided for in rule 46 of the rules of procedure. Having adopted all the articles referred to it, either in the original form of the International Law Commission text or with amendments, the Committee established a drafting group at its 36th meeting on 10 April. This group comprised the members of the Bureau of the Committee and the following six representatives: Miss Whiteman (United States of America), Mr. Molodtsov (Union of Soviet Socialist Republics), Mr. Patey (France), Mr. Wershof (Canada), Mr. Barros Franco (Chile) and Mr. Jhirad (India). Between 12 and 16 April, the drafting group held four meetings.

## IV. CONSIDERATION OF AND VOTING UPON THE ARTICLES AND THE PROPOSALS AND AMENDMENTS RELATING THERETO

*Article 67*

5. Article 67 and the amendments thereto were considered by the Committee during its 13th to 18th meetings. There were originally eleven amendments to this article, to which the references can be found in the summary records of those meetings. Voting on the amendments took place at the 19th meeting and, as a result, all were rejected, with the exception of that of the Philippines (A/CONF.13/C.4/L.26), the purpose of which was to add to the existing text of article 67 a second paragraph. The text of article 67, together with the amendment of the Philippines, was adopted by a roll-call vote of 51 to 9 with 9 abstentions. The text of the article as adopted, after incorporating modifications proposed by the drafting group, will be found in the annex to this report.

*Article 68*

6. The Committee considered article 68 and the amendments thereto during its 19th to 24th meetings. There were

thirteen amendments to this article, to which the references are given in the relevant summary records. Upon being put to the vote at the 24th meeting, all the amendments remaining before the Committee were rejected, except for that of the United States of America (A/CONF.13/C.4/L.31) which substituted the word "exclusive" for "sovereign"; the joint amendment of Australia, Ceylon, the Federation of Malaya, India, Norway, and the United Kingdom of Great Britain and Northern Ireland (A/CONF.13/C.4/L.36) which defined "natural resources"; the amendment of Yugoslavia (A/CONF.13/C.4/L.13) adding a new paragraph (which was the second paragraph of the amendment); the amendment of Argentina (A/CONF.13/C.4/L.6/Rev.1) adding a paragraph similar in effect to the amendment of Yugoslavia and adopted subject to a redrafting of the two amendments; and the amendment of the United Kingdom (A/CONF.13/C.4/L.44) adding a new paragraph (which was the second paragraph of the amendment). The entire text of the International Law Commission, as amended, was adopted by 34 votes to 14, with 17 abstentions. The text as adopted appears in the annex to this report.

*Proposal of Cuba for a new article*

7. A proposal by Cuba (A/CONF.13/C.4/L.45) for a new article reproducing paragraph 7 of the commentary to article 68 of the International Law Commission was considered by the Committee at its 25th and 26th meetings. The proposal was adopted by 41 votes to 7, with 12 abstentions and was provisionally numbered article 68 A; it was agreed that the actual location of the new article within the framework of the articles relating to the continental shelf would be treated as a matter for the drafting group, subject to the approval of the Committee as a whole. The text of the proposal is reproduced in the annex to this report, as paragraph 3 of article 68, that being the position which the drafting group allocated to it.

*Article 69*

8. Consideration of article 69 and the amendments thereto was undertaken by the Committee at its 25th and 26th meetings. There were originally five amendments to this article, of which two only (A/CONF.13/C.4/L.6, L.14) remained at the 26th meeting when the voting took place. Both were rejected and the original International Law Commission text of the article was adopted by 54 votes to none, with 8 abstentions.

*Article 70*

9. The Committee discussed article 70 and the amendments thereto at its 27th meeting and, at the same meeting, voted on the two amendments remaining before it.<sup>1</sup> Only paragraph 2 of the amendment of the United Kingdom (A/CONF.13/C.4/L.27) was adopted; this was to add the words "or pipelines" after "submarine cables". The International Law Commission text, as amended, was then adopted by 48 votes to none with 8 abstentions. The text as adopted is reproduced in the annex to this report.

*Article 71*

10. Consideration of article 71 and the amendments

<sup>1</sup> A/CONF.13/C.4/L.27 and L.34: two amendments (C.4/L.7 and L.21) were withdrawn.

thereto took place at the 28th to 30th meetings. The amendments remaining before the Committee at the time of voting at the 30th meeting are given in the relevant summary record. Of these the following were adopted: (a) the amendment of Denmark (A/CONF.13/C.4/L.49) adding a phrase at the end of paragraph 1; (b) the amendment of the Netherlands (A/CONF.13/C.4/L.22) relating to paragraph 2; (c) the amendment of Yugoslavia (A/CONF.13/C.4/L.15) which had the effect of adding a new paragraph 3 dealing with safety zones and a new paragraph 8; (d) the amendment of the United Kingdom (A/CONF.13/C.4/L.28), replacing paragraph 4 of the International Law Commission text and being numbered paragraph 5 of the amended text; (e) the amendment of Pakistan (A/CONF.13/C.4/L.48) also replacing paragraph 4 of the International Law Commission text and being numbered paragraph 6 of the amended text; (f) the amendment of Venezuela (A/CONF.13/C.4/L.35) deleting the phrase "in narrow channels or" in paragraph 5 of the International Law Commission text, which, as thus amended, became paragraph 7 of the amended text; (g) the amendment of France (A/CONF.13/C.4/L.56) adding a new paragraph 9. The International Law Commission text of article 71, as amended, was adopted by 35 votes to none, with 13 abstentions. The text as adopted appears in the annex to this report.

#### Article 72

11. Article 72 and the amendments relating to it were considered by the Committee at its 31st to 33rd meetings. Of the five amendments before the Committee at the time of voting at the 33rd meeting, only the combined United Kingdom/Netherlands proposal (A/CONF.13/C.4/L.23 and L.28) was adopted; this was to amend paragraphs 1 and 2 of the International Law Commission text and add a third paragraph. The International Law Commission text of article 72, as amended, was adopted by 36 votes to none, with 19 abstentions, and will be found in the annex to this report.

#### Article 73

12. Article 73 and the amendments thereto were considered at the 34th and 35th meetings. At the 35th meeting, all the amendments (A/CONF.13/C.4/L.51, L.59, L.61, L.62) were rejected and the original International Law Commission text of the article was adopted by a roll-call vote of 33 to 15, with 14 abstentions.

#### V. WORK OF THE DRAFTING GROUP

13. The drafting group appointed by the Committee (see paragraph 4 above) held four meetings between 12 and 16 April, and made certain changes in the texts of the articles as adopted by the Committee. At the 39th meeting of the Committee, the drafting group submitted its report (A/CONF.13/C.4/L.65) in which the changes were outlined and in which it drew attention to certain outstanding questions. The report also included a text which had been provided by the United Kingdom and Pakistan in order to combine paragraphs 5 and 6 of article 71. As an annex to the report the revised texts as adopted by the drafting group were appended.

14. The report of the drafting group was considered by the Committee at its 41st meeting. Articles 67, 68, 69, 70, 72, 73 and 74, as submitted by the drafting group, were adopted without change. So far as article 71 was concerned, paragraphs 1, 2, 3, 4, 6 and 7 were immediately adopted without change and, by 21 votes to 4, with 16 abstentions, the Committee decided against reopening a discussion on the question of compatibility between paragraphs 1 and 8

of the article, so that paragraph 8 was adopted without change.

15. In relation to paragraph 5 of article 71, the Committee had before it the joint United Kingdom/Pakistan proposal for an alternative to paragraph 5, which the United Kingdom agreed during the meeting to amend to include the phrase "in particular those" after the word "governments". There was also before the Committee a joint proposal, made orally at the meeting, by Canada and India; this proposal was based on the original International Law Commission text of the paragraph, but added a further sentence dealing with the removal of installations. This latter proposal was adopted by 25 votes to 1, with 14 abstentions, and thus constitutes paragraph 5 of article 71 which appears in the annex to this report.

#### VI. CONSIDERATION OF THE KIND OF INSTRUMENT REQUIRED TO EMBODY THE RESULTS OF THE COMMITTEE'S WORK

16. Consideration of this question was undertaken by the Committee at its 37th and 38th meetings. At the 38th meeting, the Committee had before it a proposal by Canada, of which the original text was as follows:

"That the Fourth Committee recommends to the Conference that the results of its work be embodied in a separate convention relating only to the continental shelf."

At the suggestion of the representative of the Union of Soviet Socialist Republics, the representative of Canada agreed to delete the words "separate" and "only" and the proposal, as amended, was adopted by 39 votes to 6, with 7 abstentions.

#### VII. FINAL CLAUSES

17. The Committee considered whether to include recommendations as to any necessary final clauses in its report to the plenary Conference at its 39th and 40th meetings. After several delegations had opposed the making of recommendations by the Committee, the matter was put to the vote and the Committee decided to make such recommendations, by 21 votes to 19, with 10 abstentions. The Committee then examined the various types of clauses given in a document prepared by the Secretariat (A/CONF.13/L.7). The representative of Switzerland proposed that the Committee consider and vote upon the final clauses relating to Signature; Ratification; Accession; Entry into Force; Reservations; Denunciation; Revision; Notifications; and Deposit of the Convention, and languages.

18. Several delegations expressed the view that the final clause on Signature appearing in document A/CONF.13/L.7 should be amended to permit signature of the Convention by all States. However, the Committee rejected this view and adopted the clause, as amended by the Union of South Africa and Brazil to include States members of the specialized agencies, by 29 votes to 10, with 14 abstentions.

19. The clause on Ratification, as amended by the United Kingdom, was adopted by 30 votes to 7, with 16 abstentions.

20. The clause on Accession, as amended by the United Kingdom, was adopted by 28 votes to 7, with 18 abstentions.

21. The Entry into Force clause, taken on the assumption that the blanks would be filled in by the Drafting Committee of the Conference, was adopted by 28 votes to 6, with 17 abstentions.

22. Of the Reservations clauses, the clause prohibiting reservations to certain articles was initially adopted by 19 votes to 17, with 11 abstentions, and the Committee then discussed to which of the articles on the continental shelf reservations should be allowed.

23. The Committee then voted on each article separately to decide which articles should be inserted in the Reservations clause so as to exclude reservations to those articles. The voting was as follows, the votes in favour of inclusion in the clause being given first :

- Article 67, 27 votes to 10, with 7 abstentions ;
- Article 68, 25 votes to 12, with 7 abstentions ;
- Article 69, 27 votes to 11, with 6 abstentions ;
- Article 70, 18 votes to 14, with 13 abstentions ;
- Article 71, 18 votes to 13, with 14 abstentions ;
- Article 72, 16 votes to 17, with 12 abstentions ;
- Article 73, 17 votes to 15, with 12 abstentions ;
- Article 74, 20 votes to 18, with 9 abstentions.

The effect of these votes was, therefore, that the Committee decided to exclude reservations to all articles except article 72.

24. However, upon putting to the vote the whole of the clause, together with the insertion of those articles on the continental shelf to which the Committee had decided not to permit reservations, the clause was rejected by 21 votes to 20, with 5 abstentions. The Committee therefore makes no recommendation on the matter of reservations.

25. The Denunciation clause was rejected by 17 votes to 5, with 23 abstentions but, at the 41st meeting certain delegations questioned the wisdom of this decision and reserved the right to reconsider such a clause at the plenary meeting.

26. The Committee considered the example of the Revision clause in the secretariat paper but, on the proposal of India, preferred that which appears in article XVI of the Genocide Convention of 1948 ;<sup>2</sup> this form was adopted by 30 votes to 3, with 11 abstentions.

27. The provision on notifications was adopted by 12 votes to 5, with 25 abstentions, after the representative of Switzerland had amended the clause by inserting as subparagraph (c) "requests for revision".

28. The clause concerning the deposit of the convention and languages was adopted by 40 votes to 1, with 6 abstentions.

29. The full text of all these final clauses will be found in the annex to this report.

## Annex

### I

#### TEXT OF THE ARTICLES CONCERNING THE CONTINENTAL SHELF AS ADOPTED BY THE FOURTH COMMITTEE

##### Article 67

1. For the purpose of these articles, the term "continental shelf" is used as referring to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas.

2. For the purposes of these articles the term "continental shelf" shall be deemed also to refer to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

##### Article 68

1. The coastal State exercises over the continental shelf exclusive rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 of the present article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources,

no one may undertake these activities, or lay claim to the continental shelf, without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil ; but crustacea and swimming species are not included in this definition.

##### Article 69

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

##### Article 70

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

##### Article 71

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of the present article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

6. Neither the installations or devices, nor the safety zones around them may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8. The consent of the coastal State shall be obtained in respect of any research into the continental shelf.

Nevertheless, the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

##### Article 72

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other,

<sup>2</sup> See *Official Records of the General Assembly, Third Session, First Part, Supplement No. 1*, resolution 260 (III).

the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

*Article 73 (New article)*

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

*Article 74 (formerly article 73)*

Any disputes that may arise between States concerning the interpretation or application of articles 67 to 73 shall be submitted to the International Court of Justice at the request of any of the parties, unless they agree on another method of peaceful settlement.

**II**

**RECOMMENDATIONS OF THE FOURTH COMMITTEE  
REGARDING FINAL CLAUSES**

*Signature*

The present convention shall, until six months from the closing of the Conference, be open for signature on behalf of all States Members of the United Nations or of one of the specialized agencies, of any other State invited to take part in the United Nations Conference on the Law of the Sea, and of any other State invited by the General Assembly to become a party to the Convention.

*Ratification*

This convention is subject to ratification. The instruments

of ratification shall be deposited with the Secretary-General of the United Nations.

*Accession*

After . . . . , this convention shall be open for accession by the States mentioned in article . . . . . The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Entry into force*

1. This convention shall come into force on the . . . . day following the date of deposit of the . . . . instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the . . . . instrument of ratification or accession, the Convention shall enter into force on the . . . . day after deposit by such State of its instrument of ratification or accession.

*Revision*

A request for the revision of the present convention may be made at any time by any contracting party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

*Notifications*

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article . . . . :

- (a) Of signatures to this convention and of the deposit of instruments of ratification or accession, in accordance with articles . . . . .
- (b) Of the date on which this convention will come into force, in accordance with article . . . . .
- (c) Of requests for revision.

*Deposit of the Convention, and languages*

The original of this convention of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States referred to in article . . . . .

**DOCUMENT A/CONF.13/L.13**

**First report of the Drafting Committee of the Conference: articles and final clauses adopted by the Fourth Committee**

[Original text : English]  
[21 April 1958]

1. The Drafting Committee of the Conference met on 21 April, under the chairmanship of Mr. J. A. Correa (Ecuador), and considered the texts of articles 67 to 74 adopted by the Fourth Committee (A/CONF.13/L.12, annex), together with the final clauses adopted by that committee (A/CONF.13/L.12, annex).

2. The Drafting Committee recommends a small number of changes of a drafting nature. These are set out below as follows :

- (a) Those changes affecting the English, French and Spanish texts ;

- (b) Those changes affecting the English text only ;
- (c) Those changes affecting the French text only ;<sup>1</sup>
- (d) Those changes affecting the Spanish text only.<sup>1</sup>

CHANGES AFFECTING THE ENGLISH, FRENCH AND SPANISH TEXTS

*Article 67*

To avoid repetition, rearrange article 67 as follows :

<sup>1</sup> Changes affecting the French and Spanish texts only have not been reproduced in the present document.

*Article 67*

"For the purpose of these articles, the term 'continental shelf' is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands."

*Article 71, para. 8*

Replace the words "into the continental shelf" by the following words: "concerning the continental shelf and undertaken there".

*Article 74*

Replace the word "States" by the words "contracting parties".

*Clause on accession*

Begin the clause with the words "This convention..."

*Clause on entry into force<sup>1</sup>*

*Paragraph 1*: Insert the word "thirtieth" in the first blank space.

<sup>1</sup> The Drafting Committee decided to make no recommendation as to the number of instruments required to be deposited for the Convention to come into force, since it felt that this was a matter of substance which should be left for the Conference to decide.

*Paragraph 2*: Insert the word "thirtieth" in the second blank space.

*(6) Clause on notifications*

*Sub-paragraph (c)*: Add the phrase "in accordance with article..."

## CHANGES AFFECTING THE ENGLISH TEXT ONLY

*Article 68, para. 2*

Delete the words "the present" and replace by the word "this". Replace the word "lay" by the words "make a".

*Article 71, para. 1*

After the word "sea", add a comma.

*Article 71, para. 3*

Replace the words "the present" by the word "this".

*Article 71, para. 8*

In the second sentence replace the word "into" by the word "concerning".

*Final clauses*

Throughout the final clauses, replace the words "the present convention" by the words "this convention".

*Article on signature*

Replace the word "one" by the word "any".

**DOCUMENT A/CONF.13/L.14**

**Yugoslavia: amendment to article 67  
as adopted by the Fourth Committee (A/CONF.13/L.12)**

[Original text: English]  
[21 April 1958]

At the end of paragraph 1 add the following sentence:

"But in any case the breadth of the continental shelf must not be extended beyond 100 miles in the direction of the high seas measured from the outer limit of the territorial sea."

*Comment*

There are some shallow seas, even large parts of oceans as well, whose depth of 200 m. is very often extended rather far from the coast (may be up to 300 or 400 miles). If nothing is said about a boundary as far as the continental shelf is concerned, it might happen that enormous surfaces of the sea would be subordinated to several exclusive rights of the coastal States, which would mean a scramble for a new division of the world, only this time of the sea world. Having in mind the fact that the continental shelf does hamper, to some extent, navigation and fishing on the high seas, it is absolutely necessary not to allow the States, in establishing their continental shelf, to go too far. On land there are precisely drawn boundary lines between States, and yet frontier incidents occur frequently. One can imagine what the situation on the high seas will be, where no such frontiers exist.

**DOCUMENT A/CONF.13/L.15****Yugoslavia: amendment to article 72  
as adopted by the Fourth Committee (A/CONF.13/L.12)**[Original text: English]  
[21 April 1958]

In paragraphs 1 and 2 of article 72 delete the following words:  
“and unless another boundary line is justified by special circumstances”.

*Comment*

As for the delimitation, it is desirable to know *in advance* what criteria can be taken into consideration in drawing boundary lines, in order to avoid future misunderstandings and arbitrary interpretations. As regards the delimitation of two adjacent continental shelves, there are only two firm and solid criteria: (a) agreement between the States concerned, and (b) the principle of median lines. No other criterion is admissible and in particular no “special circumstances” can be taken into account, for their vagueness and arbitrary character could constitute a breeding ground for misunderstandings and dissensions. Where and in what Manual of International Law are such circumstances enumerated? And, in the final analysis, in whose interest is it that uneasiness and ill-temper in the relations between neighbouring States should be introduced?

**DOCUMENT A/CONF.13/L.16****Canada: amendment to the recommendations of the Fourth Committee  
concerning final clauses (A/CONF.13/L.12)**[Original text: English]  
[21 April 1958]

Add a final clause concerning reservations as follows:

*“Reservations*

“At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 67 to 73 inclusive.

“Any contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.”

**DOCUMENT A/CONF.13/L.17<sup>1</sup>****Report of the Second Committee**[Original text: English]  
[21 April 1958]**I. OFFICERS OF THE COMMITTEE**

1. At the first meeting of the Committee, on 26 February 1958, Mr. O. C. Gundersen (Norway) was elected as Chairman; and, at the second meeting, on 28 February 1958, the Committee elected Mr. Glaser (Romania) as Vice-Chairman and Mr. J. Madeira Rodrigues (Portugal) as Rapporteur.

**II. TERMS OF REFERENCE OF THE COMMITTEE**

2. The rules of procedure adopted by the Conference at its first plenary meeting on 24 February 1958 provided

in rule 47 that the Second Committee should consider those articles concerning the law of the sea, contained in the report of the International Law Commission covering the work of its eighth session (A/3159), which dealt with the general régime of the high seas—namely, articles 26 to 48 and 61 to 65.

**III. ORGANIZATION OF THE WORK OF THE COMMITTEE**

3. The Committee held thirty-seven meetings.  
4. Ten meetings were devoted to a general debate on the articles referred to the Committee (4th to 13th meetings).<sup>2</sup>

<sup>1</sup> Incorporating A/CONF.13/L.17/Corr.1, L.17/Add.1 and L.17/Add.1/Corr.1.

<sup>2</sup> At its 12th meeting, the Committee heard a statement by the representative of the International Labour Office concerning articles 29, 34 and 35.

At the conclusion of the general debate, the Committee decided to organize the articles into eight groups as follows:

- Group I: Article 26 (Definition of the high sea)  
Article 27 (Freedom of the high seas)
- Group II: Article 28 (The right of navigation)  
Article 34 (Safety of navigation)  
Article 35 (Penal jurisdiction in matters of collision)  
Article 36 (Duty to render assistance)
- Group III: Article 29 (Nationality of ships)  
Article 30 (Status of ships)  
Article 31 (Ships sailing under two flags)
- Group IV: Article 32 (Immunity of warships)  
Article 33 (Immunity of other government ships)
- Group V: Article 37 (Slave trade)  
Articles 38 to 45 (Piracy)
- Group VI: Article 46 (Right of visit)  
Article 47 (Right of hot pursuit)
- Group VII: Article 48 (Pollution of the high seas)
- Group VIII: Articles 61 to 65 (Submarine cables and pipelines)

5. The Committee discussed articles 26 and 27 at its 14th, 15th and 16th meetings; proposals relating to nuclear tests (A/CONF.13/C.2/L.30, L.64 and L.71/Rev.1) at its 17th and 18th meetings; articles 28, 34, 35 and 36 at its 19th, 22nd and 23rd meetings; articles 29, 30 and 31 and a proposal to add a new article after article 31 (A/CONF.13/C.2/L.51) at its 23rd and 24th meetings; articles 32 and 33 at its 25th and 26th meetings; articles 37 and 38 to 45 at its 27th meeting; articles 46 and 47 at its 28th meeting; a proposal for the insertion of a new article after article 48 (A/CONF.13/C.2/L.100) at its 30th and 32nd meetings; and articles 61 to 65 at its 30th and 32nd meetings. Proposals to adopt additional articles were also discussed at the 30th, 32nd, 33rd and 34th meetings.

6. The Committee decided to vote on the articles in their numerical order rather than in the order of grouping. Voting took place on the proposals relating to nuclear tests and on article 26 at the 20th meeting; on article 27 at the 20th, 21st and 22nd meetings; on articles 28, 29, 30 and 31 at the 26th meeting; on the proposal to add a new article after article 31, on articles 32 and 33, on a proposal for a new article after article 33, and on articles 34, 35 and 36 at the 27th meeting; on articles 37 to 45 at the 29th meeting; on articles 46, 47 and 48 at the 31st meeting; and on articles 61 to 65 and the proposal for a new article after article 65 at the 32nd meeting. Votes on other proposals for additional articles took place at the 32nd, 33rd and 34th meetings.

7. After completing the voting on the articles and proposals the Committee, at its 34th meeting, established a drafting group consisting of members of the Bureau of the Committee and the following representatives: Mr. Pluymers (Belgium), Mr. Kanakaratne (Ceylon), Mr. Uribe Holguín (Colombia), Mr. Jhirad (India), Mr. Campos Ortiz (Mexico), Mr. Keilin (Union of Soviet Socialist Republics) and Mr. Colcough (United States of America).

8. The drafting group held three meetings on 16 and 17 April 1958. On the basis of its report (A/CONF.13/C.2/L.152), the Committee made a number of drafting changes in the texts previously adopted by it. The Committee decided not to deal with the headings of the articles

proposed by the International Law Commission which, in its opinion, had best be considered by the Drafting Committee of the Conference. In one case only (see para. 19 below), the Committee decided to delete the heading of an article which was combined with the preceding article.

#### IV. CONSIDERATION OF AND VOTING UPON THE ARTICLES AND THE PROPOSALS AND AMENDMENTS RELATING THERETO

9. The results of the Committee's work are set forth below article by article followed by two draft resolutions. The Committee also decided to state in principle that the articles in general adopted by it did not override specific conventions in force (A/CONF.13/C.2/L.149). The texts adopted by the Committee are reproduced in the annex to this report.

##### *Article 26*

10. There were originally six amendments to article 26. The Committee adopted, by 23 votes to 6, with 22 abstentions, the first part of a proposal by France (A/CONF.13/C.2/L.6) to delete paragraph 2 of the International Law Commission text; it also adopted, by 52 votes to none, with 2 abstentions, the second part of a proposal by Greece (A/CONF.13/C.2/L.54) to refer that paragraph to the First Committee. All other proposals were either withdrawn or rejected. Article 26, as amended, was adopted by 53 votes to none, with 2 abstentions.

##### *Article 27*

11. Fourteen amendments to article 27 were submitted; of these, two were adopted. By a roll-call vote of 24 to 20, with 26 abstentions, the Committee adopted a proposal by Mexico (A/CONF.13/C.2/L.3) to insert, in the second sentence, after the words "Freedom of the high seas" the words "is exercised under the conditions laid down by these articles and by the other rules of international law". The Committee also adopted, by 30 votes to 18, with 9 abstentions, a proposal by the United Kingdom (C.2/L.68) to add, at the end of the article, the sentence "These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas." Article 27, as amended, was adopted by 50 votes to 4, with 12 abstentions.

##### *Article 28*

12. None of the amendments submitted was adopted and the International Law Commission text of article 28 was adopted by 60 votes to none, with no abstentions.

##### *Article 29*

13. Eleven proposals relating to article 29 were submitted, of which three were adopted. By 34 votes to 4, with 17 abstentions, the Committee adopted a proposal by Italy (A/CONF.13/C.2/L.28), after having approved, by 24 votes to 16, with 14 abstentions, a sub-amendment thereto proposed by France (A/CONF.13/C.2/L.93). As amended, the Italian proposal added, at the end of paragraph 1, the following sentence: "In particular, the State must effectively exercise its jurisdiction and control over ships flying its flag in administrative, technical and social matters." By 21 votes to 10 with 23 abstentions, the Committee also adopted an amendment by the Netherlands (A/CONF.13/C.2/L.22) to replace paragraph 2 of article 29 by the following: "Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect." Article 29, as amended, was adopted by 40 votes to 7, with 11 abstentions.

14. On the proposal of its drafting group, the Committee, at its 36th meeting, approved, together with some changes in the French and Spanish texts, the following drafting change:

The last part of paragraph 1 to read "jurisdiction and control in administrative, technical and social matters over ships flying its flag."

#### *Articles 30 and 31*

15. Of the six proposals relating to article 30, five were rejected and one was withdrawn. The Committee then adopted the International Law Commission text by 56 votes to 5, with 12 abstentions.

16. The Committee also approved, on the recommendation of its drafting group, a change in the Spanish text.

17. The six proposals relating to article 31 were either withdrawn or rejected. Thereafter, the Committee adopted the International Law Commission text by 55 votes to none.

18. The Committee approved a recommendation of its drafting group to make a change in the French text.

19. Upon the recommendation of the drafting group the Committee decided to combine articles 30 and 31 into a single article 30.

#### *Proposal for a new article after article 31*

20. A joint proposal by Mexico, Norway, the United Arab Republic and Yugoslavia for a new article after article 31 was adopted by the Committee by 29 votes to 12, with 14 abstentions (see annex, article 31).

#### *Article 32*

21. The two proposals relating to article 32 were withdrawn. The International Law Commission text was then adopted by 56 votes to none.

22. The Committee approved certain drafting changes in the French and Spanish texts as recommended by the drafting group.

#### *Article 33*

23. Five proposals relating to article 33 were withdrawn. The United States proposal (A/CONF.13/C.2/L.76) to replace the International Law Commission text was adopted by 46 votes to 9, with 2 abstentions.

24. On the recommendation of the drafting group, the Committee approved, in addition to a change in the French text, the deletion of the word "when".

#### *Proposal for a new article after article 33*

25. At its 27th meeting on 9 April 1958, the Committee adopted a proposal by the United Kingdom (C.2/L.113) to add after article 33 a new article on the definition of ships owned or operated by a State and used only on government non-commercial service. After reconsideration at the 33rd meeting of the Committee, on 14 April, the adopted proposal was withdrawn by the United Kingdom.

#### *Article 34*

26. Three proposals relating to article 34 were withdrawn. The Committee, by 26 votes to 7, with 22 abstentions, adopted a joint proposal (A/CONF.13/C.2/L.114) by the United Kingdom and the Netherlands to replace the International Law Commission text by a new text.

27. On the recommendation of the drafting group, the Committee approved a drafting change to replace the opening words of paragraph 1 by the following: "Every

State shall take such measures for ships under its flag as are necessary to ensure safety at sea. . . ."

28. The Committee also approved drafting changes in the French and Spanish texts.

#### *Article 35*

29. Of the six proposals relating to article 35, two were adopted. The first, by France (A/CONF.13/C.2/L.6), was voted on in two parts. The first part, to replace in paragraph 1 the words "the accused persons" by "the incriminated persons" was adopted by 24 votes to 8, with 17 abstentions; the second part, to insert a new paragraph between paragraphs 1 and 2, was adopted by 30 votes to 2, with 19 abstentions. The second proposal, submitted by the United States of America (A/CONF.13/C.2/L.44) to insert in paragraph 2, after the word "ship" and before the word "even", the words "on the high seas", was adopted by 22 votes to 17, with 17 abstentions. The International Law Commission text, as amended, was adopted by 39 votes to 1, with 16 abstentions. At the 36th meeting, on 18 April, the second adopted proposal was withdrawn by the United States.

30. On the recommendation of the drafting group, the Committee approved, in addition to a change in the Russian text, the following drafting changes in the English text:

In paragraph 1, to replace the words "the incriminated person" by "such person". In paragraph 2, to replace the words "qualifying certificate" by "certificate of competence or licence".

#### *Article 36*

31. Of the six proposals relating to article 36, the Committee adopted two: a proposal by Yugoslavia (A/CONF.13/C.2/L.18) to insert in sub-paragraph (b) the word "possible" between "all" and "speed", and a proposal by Denmark (A/CONF.13/C.2/L.36) to add a new paragraph at the end of the article. The first amendment was adopted by 39 votes to 3, with 12 abstentions, and the second by 33 votes to none, with 20 abstentions. The International Law Commission text, as amended, was adopted by 55 votes to none.

32. The Committee approved two changes recommended by the drafting group in the Spanish text.

#### *Article 37*

33. There were two proposals relating to article 37 of which one was withdrawn and the other rejected. The Committee then adopted the International Law Commission text by 50 votes to none.

34. In addition to changes in the Spanish text, the recommendation by the drafting group that the word "colours" should be replaced wherever it appeared in the English text by "flag" was approved.

#### *Article 38*

35. Three proposals relating to article 38 having been rejected, the Committee adopted the International Law Commission text by 51 votes to none, with 2 abstentions.

#### *Article 39*

36. Four amendments were submitted of which one was withdrawn and two rejected. The Committee adopted a proposal by Italy (A/CONF.13/C.2/L.80) to amend sub-paragraphs 1(a) and 1(b) by 18 votes to 16, with 19 abstentions. The International Law Commission text, as amended, was adopted by 45 votes to 7, with 3 abstentions.

37. The Committee approved, together with changes in the Spanish text, the following drafting changes in the English text:

In the opening sentence, to replace the word "in" by "of"; and in paragraph (3), to replace the word "incitement" by "inciting", and "intentional facilitation of an act" by "intentionally facilitating an act".

38. At its 36th meeting on 18 April, the Committee agreed to a suggestion by the representative of the Union of South Africa to include in its report to the Conference a sentence to the effect that the term "private aircraft" be used in the sense of non-state-owned aircraft.

#### *Article 40*

39. A proposal by Yugoslavia (A/CONF.13/C.2/L.19) which reformulated the text of article 40 by inserting the words "a warship" and consequent drafting changes was adopted by 23 votes to 11, with 15 abstentions. As a result, the International Law Commission text was not put to the vote.

40. The Committee approved a recommendation by the drafting group that the word "vessel" should be replaced by "ship". Certain changes recommended in the Spanish text were also approved.

#### *Article 41*

41. One proposal relating to article 41 was withdrawn and another rejected. The International Law Commission text was adopted by 45 votes to 7, with 5 abstentions.

42. The Committee approved a recommendation by the drafting group to make a change in the Spanish text.

#### *Article 42*

43. One proposal relating to article 42 was withdrawn and another rejected. The International Law Commission text was adopted by 45 votes to 7, with 5 abstentions. The Committee approved a recommendation by the drafting group to replace the words "national character" by "nationality" in the English text.

#### *Article 43*

44. As there were no proposals relating to article 43, the International Law Commission text was put to the vote and adopted by 41 votes to 8, with one abstention.

45. On the recommendation of the drafting group, the Committee approved certain changes in the Spanish text.

#### *Article 44*

46. The only proposal relating to article 44 having been rejected, the Committee adopted the International Law Commission text by 41 votes to 7, with 5 abstentions.

47. On the recommendation of the drafting group, the Committee approved a change in the Spanish text.

#### *Article 45*

48. The proposal by Thailand (A/CONF.13/C.2/L.10) to add the words "or other ships or aircraft on government service authorized to that effect" at the end of the article was adopted by 26 votes to 15, with 17 abstentions. The International Law Commission text, as amended, was adopted by 47 votes to 8.

#### *Article 46*

49. The two proposals relating to article 46 having been rejected, the Committee adopted the International Law Commission text by 39 votes to 4, with 9 abstentions.

50. On the recommendation of the drafting group, the Committee approved the following change, in addition to a change in the Spanish text:

In the first sentence of paragraph 2 of the English text, to replace the word "title" by "right".

#### *Article 47*

51. A motion to postpone the voting on article 47 was rejected. Another proposal to amend the article and divide it into two articles was also rejected. Thereafter, the Committee proceeded to vote on article 47 paragraph by paragraph.

#### *Paragraph 1*

Eight amendments to paragraph 1 were submitted, of which two were adopted: (a) The joint proposal by Poland and Yugoslavia (A/CONF.13/C.2/L.20/Rev.1 and L.61/Rev.1) to insert the words "or the contiguous zone" in four places in paragraph 1 was adopted by 33 votes to 9, with 16 abstentions; (b) The proposal by the Federal Republic of Germany (A/CONF.13/C.2/L.115) to insert after the words "the foreign ship" the words "or one of its boats" was adopted by 48 votes to 8, with 5 abstentions. Paragraph 1, as amended, was adopted by 50 votes to 3, with 9 abstentions.

#### *Paragraph 2*

After one proposal had been rejected and another withdrawn, paragraph 2 of the International Law Commission text was adopted by 60 votes to one, with one abstention.

#### *Paragraph 3*

Seven proposals relating to paragraph 3 were submitted, of which two were adopted: (a) The proposal by Mexico (A/CONF.13/C.2/L.4) to insert the words "or other craft working as a team and using the ship pursued as a mother ship" was adopted by a roll-call vote of 35 to 13, with 16 abstentions; (b) The proposal by India (A/CONF.13/C.2/L.95) to replace the words "bearings, sextant angles or other like means" by the words "such practical means as may be available" was adopted by 20 votes to 15, with 22 abstentions. Paragraph 3, as amended, was adopted by 47 votes to 2, with 11 abstentions.

#### *Paragraph 4*

As there were no proposals relating to paragraph 4, the International Law Commission text was adopted by 62 votes to none.

#### *Paragraph 5*

The proposal by Iceland (A/CONF.13/C.2/L.89) relating to paragraph 5 was voted on in two parts. The first part, to add the words "or aircraft" after the words "pursue the ship until a ship" and to add the words "...or other aircraft or ships which continue the pursuit without interruption" at the end of paragraph 5 (b) was adopted by 25 votes to 11, with 22 abstentions. The second part, to add a sub-paragraph (c), was rejected. Paragraph 5, as amended, was adopted by 59 votes to one, with 5 abstentions.

#### *Paragraph 6*

As there were no proposals relating to this paragraph, the International Law Commission text was adopted by 62 votes to none.

*Additional paragraph*

The proposal by the United Kingdom (A/CONF.13/C.2/L.96/Rev.1) to add a new paragraph 7 was adopted by 30 votes to 6, with 20 abstentions.

52. The text of article 47 as a whole, as amended, was adopted by 58 votes to 2, with 3 abstentions.

53. On the recommendation of the drafting group, the Committee approved certain changes in the Spanish text.

*Article 48*

54. Seven proposals relating to article 48 were submitted, of which two were adopted. The proposal by Uruguay (A/CONF.13/C.2/L.79) to add the words "and exploration" after the word "exploitation" was adopted by 51 votes to none, with 8 abstentions. Paragraph 1 of the International Law Commission text, as thus amended, was adopted by 61 votes to none, with one abstention.

55. The joint proposal by the United States and the United Kingdom (A/CONF.13/C.2/L.107) to delete paragraphs 2 and 3 and to adopt a draft resolution was adopted by a roll-call vote of 30 votes to 29, with 6 abstentions (for the text of the resolution, see annex; also para. 70 below).

56. On the recommendation of the drafting group, the Committee approved a change in the French text.

*Additional article relating to the pollution of the sea by radio-active waste*

57. The revised joint proposal by Argentina, Ceylon, Mexico and India (A/CONF.13/C.2/L.121/Rev.2) to add a new article relating to the pollution of the sea by radio-active waste was adopted by 58 votes to none.

58. The Committee approved a recommendation by the drafting group to insert this article immediately after article 48.

*Article 61*

59. Four proposals relating to article 61 were submitted, two of which were rejected and two adopted. The proposal by the United States (A/CONF.13/C.2/L.108) to replace the words "telegraph, telephone and high-voltage power" by "submarine" was adopted by 36 votes to 6, with 9 abstentions. The proposal by Denmark (A/CONF.13/C.2/L.101) to add a new paragraph 3 was adopted by 26 votes to 7, with 20 abstentions. The International Law Commission text, as amended, was adopted by 44 votes to none, with 7 abstentions.

60. The Committee approved a recommendation of the drafting group to replace in the English text the words "reparation of" by "repairing" in the second sentence of paragraph 3.

*Article 62*

61. Of the two proposals submitted relating to article 62, one was rejected and one adopted. The proposal by the Netherlands (A/CONF.13/C.2/L.97/Rev.1) to insert the words "by a ship flying its flag or by a person subject to its jurisdiction" between the words "the breaking or injury" and "of a submarine cable" was adopted by 40 votes to 3, with 12 abstentions. The International Law Commission text, as amended, was adopted by 54 votes to none, with 3 abstentions.

62. In addition to changes in the Spanish text, the Committee approved a recommendation of the drafting group to reword the phrase "submarine high-voltage power or pipeline" to read "submarine pipeline or high-voltage power cable."

*Article 63*

63. Of the two proposals submitted, one was adopted and one rejected. The proposal by Denmark (A/CONF.13/C.2/L.101) to add at the end of the article the words "of the reparation" was adopted by 30 votes to 3, with 20 abstentions. The International Law Commission text, as amended, was adopted by 53 votes to none, with 2 abstentions.

64. Together with a change in the Spanish text, the Committee approved a recommendation by the drafting group to replace, in the English text, the words "cost of the reparation" by "cost of the repairs".

*Article 64*

65. The proposal by the United States (A/CONF.13/C.2/L.111) to delete article 64 was adopted by 24 votes to 19, with 11 abstentions.

*Article 65*

66. As there were no proposal relating to article 65, the International Law Commission text was adopted by 49 votes to one, with 2 abstentions.

*Proposals for additional articles*

67. At the 32nd meeting on 12 April, the proposal by Denmark (A/CONF.13/C.2/L.100) for an additional article concerning measures to ensure the safety of navigation in fairways, as orally revised by the sponsor, was rejected by 22 votes to 6, with 23 abstentions.

68. At the 33rd meeting on 14 April, the representative of Colombia moved that his proposal (A/CONF.13/C.2/L.75) for an additional article concerning the settlement of disputes should be referred to the plenary meeting. The representative of the Union of South Africa proposed an amendment to the effect that the Committee should defer voting on the Colombian motion until it had decided what form of instrument it would recommend to the Conference for the incorporation of the Committee's conclusions. The Colombian motion, as amended, was adopted by 46 votes to none, with 2 abstentions.

69. At the 34th meeting, on 15 April, the representative of Portugal withdrew his proposal (A/CONF.13/C.2/L.38/Rev.2) for the addition of an article on the classification of ships.

*Draft resolution relating to article 48*

70. The Committee approved a change recommended by the drafting group to the Spanish text of the draft resolution relating to article 48 (see para. 55 above).

*Draft resolution relating to nuclear tests*

71. After the withdrawal by the United Kingdom of its draft resolution (A/CONF.13/C.2/L.64), two proposals remained relating to nuclear tests: a joint proposal by Czechoslovakia, Poland, the Union of Soviet Socialist Republics and Yugoslavia (A/CONF.13/C.2/L.30); and a draft resolution submitted by India and amended by Ceylon (A/CONF.13/C.2/L.71/Rev.1).

72. At the 20th meeting, on 28 March, the representative of the United States moved (a) to vote on the proposals relating to nuclear tests before voting on articles 26 and 27; and (b) to vote on the Indian draft resolution before voting on the four-power proposal. The first motion was adopted by 60 votes to none, with 1 abstention, and the second, by 53 votes to 11, with 3 abstentions.

73. A proposal by Yugoslavia to vote on the Indian draft resolution in two parts was rejected by 46 votes to 10,

with 7 abstentions. The Indian draft resolution was thereafter adopted by 51 votes to one, with 14 abstentions. A motion by the representative of India not to vote on the four-power proposal was adopted by 52 votes to 8, with 3 abstentions.

V. CONSIDERATION OF THE KIND OF INSTRUMENT REQUIRED TO EMBODY THE RESULTS OF THE COMMITTEE'S WORK

74. The Committee considered this question at its 34th and 35th meetings on 15 and 16 April. At the end of the discussion, it adopted, by 50 votes to 1, with 4 abstentions, an oral proposal by Turkey, as amended by Mexico, to the effect that the Committee: (a) did not wish to express by vote its opinion on the form of the instrument to embody the results of its work; and (b) decided to submit a report to the Conference containing a summary of the discussions which had taken place in the Committee on the question. The following summary is given in accordance with that decision.

75. Three possible forms of instrument to incorporate the Committee's conclusions were envisaged: (a) a declaration, with or without a supplementary protocol requiring ratification which would enable States to accept, if they so desired, the declaration as binding; (b) a convention having the normal status of a treaty; and (c) a declaration or protocol to be signed and ratified by States.

76. Of the three kinds of instrument, only the first was embodied in a formal proposal (A/CONF.13/C.2/L.150) submitted by the representative of the Union of South Africa, as a declaration which would be an expression of the existing principles of international law on the general régime of the high seas but which would not require ratification by States. There was some discussion in the Committee on the legal nature of a declaration. The second alternative was favoured by several representatives. The third alternative was suggested, but not embodied in a formal proposal, by the representative of the Netherlands, who proposed to insert in the preamble of the instrument a statement concerning the desirability of arriving at a codification of the rules of existing international law and of contributing to the progressive development of such rules.

77. Some representatives were opposed to a decision being taken on the kind of instrument required, either on the ground that any decision adopted should be the same in the case of all five committees, or on the assumption that whether there should be a separate convention governing the régime of the high seas was a question for the Conference itself to decide.

Annex

I

TEXT OF THE ARTICLES CONCERNING THE HIGH SEAS AS ADOPTED BY THE SECOND COMMITTEE

Article 26

The term "high seas" means all parts of the sea that are not included in the territorial sea, as contemplated by part I, or in the internal waters of a State.

Article 27

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia*:

- (1) Freedom of navigation;
- (2) Freedom of fishing;
- (3) Freedom to lay submarine cables and pipelines;
- (4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

Article 28

Every State has the right to sail ships under its flag on the high seas.

Article 29

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. Nevertheless, for purposes of recognition of the national character of the ship by other States, there must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 30

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 31

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of an intergovernmental organization flying the flag of the organization.

Article 32

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

Article 33

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 34

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to:

- (a) The use of signals, the maintenance of communications and the prevention of collisions;
- (b) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;
- (c) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

Article 35

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the

penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

#### Article 36

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,

(a) To render assistance to any person found at sea in danger of being lost;

(b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State shall promote the establishment and maintenance of an adequate and effective Search and Rescue service regarding safety on and over the sea and—where circumstances so require—by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

#### Article 37

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall, *ipso facto*, be free.

#### Article 38

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

#### Article 39

Piracy consists of any of the following acts:

1. Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

2. Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

3. Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

#### Article 40

The acts of piracy, as defined in article 39, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

#### Article 41

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 39. The same applies if the ship or aircraft has been

used to commit any such act, so long as it remains under the control of the persons guilty of that act.

#### Article 42

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which the nationality was originally derived.

#### Article 43

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

#### Article 44

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

#### Article 45

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

#### Article 46

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

(a) That the ship is engaged in piracy; or

(b) That while in the maritime zones treated as suspect in the international conventions for the abolition of the slave trade, the ship is engaged in that trade; or

(c) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (a), (b) and (c) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

#### Article 47

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 66, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft :

(a) The provisions of paragraphs 1 to 3 of the present article shall apply, *mutatis mutandis* ;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purpose of an inquiry before the competent authorities, may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

#### Article 48

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

*New article relating to the pollution of the sea by radioactive waste (to be inserted immediately after article 48)*

1. Every State shall take measures to prevent pollution of the seas from the dumping of radioactive waste, taking into account any standards and regulations which may be formulated by the competent international organizations.

2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radioactive materials or other harmful agents.

#### Article 61

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### Article 62

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and

similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

#### Article 63

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

#### Article 64

[Deleted.]

#### Article 65

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

## II

### TEXT OF THE DRAFT RESOLUTIONS ADOPTED BY THE SECOND COMMITTEE

#### *Draft resolution relating to article 48*

*The United Nations Conference on the Law of the Sea,*  
*Recognizing* the need for international action in the field of disposal of radioactive wastes in the sea,

*Taking into account* action which has been proposed by various national and international bodies and studies which have been published on the subject,

*Noting* that the International Commission for Radiological Protection has made recommendations regarding the maximum permissible concentration of radio isotopes in the human body and maximum permissible concentration in air and water,

*Recommends* that the International Atomic Energy Agency, in consultation with existing groups and established organs having acknowledged competence in the field of radiological protection should pursue whatever studies and take whatever action is necessary to assist States in controlling the discharge or release of radioactive materials to the sea, promulgating standards, and in drawing up internationally acceptable regulations to prevent pollution of the sea by radioactive material in amounts which would adversely affect man and his marine resources.

#### *Draft resolution relating to nuclear tests* (in connexion with article 27)

*The United Nations Conference on the Law of the Sea,*  
*Recalling* that the Conference has been convened by the General Assembly of the United Nations in accordance with resolution 1105 (XI) of 21 February 1957,

*Recognizing* that there is a serious and genuine apprehension on the part of many States that nuclear explosions constitute an infringement of the freedom of the seas, and

*Recognizing* that the question of nuclear tests and production is still under review by the General Assembly under various resolutions on the subject and by the Disarmament Commission, and is at present under constant review and discussion by the governments concerned,

*Decides* to refer this matter to the General Assembly for appropriate action.

## DOCUMENT A/CONF.13/L.19

**Second report of the Drafting Committee of the Conference:  
articles and draft resolutions adopted by the Second Committee**

[Original text: English, French and Spanish]  
[22 April 1958]

1. The Drafting Committee of the Conference met on 22 April and considered texts of articles 26 to 48 and 61 to 65 adopted by that committee, together with two draft resolutions also adopted by that committee (A/CONF.13/L.17).

2. The representative of the Union of Soviet Socialist Republics proposed that the text of the draft resolution relating to nuclear tests which, he stated, was very closely connected with article 27, should appear immediately following that article. This proposal was rejected by 5 votes to 2, with 2 abstentions. The representative of the USSR requested that it be mentioned in the report of the Drafting Committee that he had raised this matter as one of substance.

3. The Drafting Committee decided to postpone consideration of the changes proposed by the Fifth Committee to articles 27 and 28 (A/CONF.13/L.11, para. 26) until the Conference had decided upon the recommendations of that committee.

4. The representative of the USSR drew attention to paragraph 9 of the report of the Second Committee, in which the Committee stated in principle that the articles in general adopted by it did not override specific conventions in force.

5. The Drafting Committee recommends the changes of a drafting nature set out below to the texts adopted by the Second Committee. These are given as follows:

- (a) Those changes affecting the English, French and Spanish texts;
- (b) Those changes affecting the English text only;
- (c) Those changes affecting the French text only;<sup>1</sup>
- (d) Those changes affecting the Spanish text only.<sup>1</sup>

CHANGES AFFECTING THE ENGLISH, FRENCH AND SPANISH TEXTS

*Article 42*

*Replace* the second sentence by the following text: "the retention or loss of nationality is determined by the law of the State from which such nationality was derived".

CHANGES AFFECTING THE ENGLISH TEXT ONLY

*Article 27*

Delete the asterisk at the end of sub-paragraph (4).

*Article 65*

Add a comma after the word "pipeline".

*Draft resolution relating to article 48*

Operative paragraph: Add a comma after the word "protection".

<sup>1</sup> Changes affecting the French and Spanish texts only have not been reproduced in the present document.

## DOCUMENT A/CONF.13/L.21

**Report of the Third Committee**

[Original text: English]  
[23 April 1958]

I. OFFICERS OF THE COMMITTEE

1. At the first meeting of the Committee on 26 February 1958, Mr. Carlos Sucre (Panama) was elected as Chairman; at the 2nd meeting on 28 February, the Committee elected Mr. Elias Krispis (Greece) as Vice-Chairman and Mr. N. K. Panikkar (India) as Rapporteur.

II. TERMS OF REFERENCE OF THE COMMITTEE

2. The rules of procedure (A/CONF.13/35) established in rule 47 that the Third Committee should be a main committee of the Conference and that to it should be allocated those articles concerning the Law of the Sea, contained in the report of the International Law Commission, covering the work of its eighth session,<sup>1</sup> which dealt with fishing and conservation of living resources in the high seas. These were articles 49 to 60 inclusive.

<sup>1</sup> Official Records of the General Assembly, Eleventh Session, Supplement No. 9 (A/3159).

III. ORGANIZATION OF THE WORK OF THE COMMITTEE

3. The Third Committee, having considered the recommendations of the General Committee on the organization of the work of the Conference (A/CONF.13/L.2), as adopted by the Conference, decided at its 3rd meeting to begin its work by a general debate on the articles referred to it. The Committee held forty-two meetings from 26 February to 22 April. Of these, ten (3rd to 12th) were confined to the general debate.

4. At the 13th meeting, the Chairman suggested that, after discussion, the articles should be voted on provisionally. They would then be referred to a drafting committee composed of the officers of the Committee assisted by the secretariat. The articles would subsequently be submitted to the Committee for a second and definitive vote. This working plan was accepted by the Committee. The drafting committee held one meeting on 16 April, and made a few drafting changes in the text of the articles adopted by the Committee on first reading.

5. The following is an account of the work of the Com-

mittee. The text of the articles and draft resolutions adopted will be found in the annex to this report.

IV. CONSIDERATION OF AND VOTING ON THE ARTICLES  
AND AMENDMENTS RELATING THERETO

*Article 49*

6. Article 49 and the amendments thereto were considered and voted upon by the Committee at its 34th meeting. Six amendments had been submitted by Burma (A/CONF.13/C.3/L.7); the Netherlands (A/CONF.13/C.3/L.20); Italy (A/CONF.13/C.3/L.24) jointly by Burma, the Republic of Korea, Mexico and Venezuela (A/CONF.13/C.3/L.49); by India (A/CONF.13/C.3/L.50); and by the United Kingdom (A/CONF.13/C.3/L.72).

7. The amendments of Burma and the Netherlands and the joint amendment were withdrawn. The principle contained in the Italian amendment was adopted in connexion with article 53. The Indian amendment was withdrawn owing to the acceptance of a similar proposal by the First Committee.

8. The United Kingdom amendment, to add a second paragraph to article 49, was adopted. The text of article 49, as amended, was adopted on first reading by 50 votes to none, with one abstention.

9. During the discussion of article 51 at the 19th meeting, a proposal was submitted orally by Burma, the Republic of Korea, Mexico and Venezuela to insert before articles 49, 51 and 52 the following phrase: "Subject to the interests and rights of the coastal State, as provided for in this convention." This proposal was adopted but it was left to the drafting committee to insert the phrase in its proper place in the text of the articles. The drafting committee inserted the phrase in paragraph 1 of article 49.

10. Article 49 was adopted on second reading at the 40th meeting, by 50 votes to 8, with 5 abstentions. The article in its revised form includes the acceptance of the principle of the interests and rights of the coastal States. The additional paragraph places an obligation on all States to adopt for their nationals such measures for the conservation of the living resources of the high seas as may be necessary.

*Article 50*

11. Article 50 and the amendments thereto were considered during the 15th, 16th and 17th meetings. Two amendments were submitted, one by Sweden (A/CONF.13/C.3/L.8), the other jointly by Costa Rica, Mexico, Peru and the United Arab Republic (A/CONF.13/C.3/L.21). Voting on the amendments took place at the 17th meeting; the joint amendment was rejected and the Swedish amendment, the purpose of which was to add a second sentence to the article, was adopted. The text of article 50, as amended, was adopted on first reading by 50 votes to none, with 9 abstentions.

12. Article 50 was adopted on second reading at the 38th meeting, by 59 votes to none, with 4 abstentions. The article as revised stipulates that conservation programmes should be formulated in such a way that the question of securing food for human consumption receives first priority as against the uses of the living resources of the sea for other purposes.

*Article 51*

13. Article 51 and the amendments thereto were considered during the 15th, 17th, 18th and 19th meetings. Amend-

ments which had been submitted by France (A/CONF.13/C.3/L.3), the Federal Republic of Germany (A/CONF.13/C.3/L.4), Yugoslavia (A/CONF.13/C.3/L.9), Italy (A/CONF.13/C.3/L.24), the United Kingdom (A/CONF.13/C.3/L.28), Japan (A/CONF.13/C.3/L.32) and the Netherlands (A/CONF.13/C.3/L.39) were later replaced by a joint amendment (A/CONF.13/C.3/L.47). Amendments by Burma (A/CONF.13/C.3/L.7), Venezuela (A/CONF.13/C.3/L.22) and Mexico (A/CONF.13/C.3/L.35) were later withdrawn. An amendment by Spain (A/CONF.13/C.3/L.37) was rejected. The joint amendment, which was of a drafting nature, was adopted. The text of article 51, as amended, was adopted on first reading at the 19th meeting, by 58 votes to 2, with 4 abstentions.

14. Article 51 was unanimously adopted on second reading at the 38th meeting. The change effected in this article concerns the replacement of the concept of conservation with reference to areas by the more specific reference to fish stocks.

*Article 52*

15. In view of a decision by the Committee at its 14th meeting, discussion of paragraph 2 of article 52 was postponed until the Committee took up consideration of articles 57, 58 and 59.

16. Paragraph 1 of article 52 and the amendments thereto were considered during the 15th, 17th, 18th and 19th meetings. Amendments which had been submitted by France (A/CONF.13/C.3/L.3), the Federal Republic of Germany (A/CONF.13/C.3/L.4), Yugoslavia (A/CONF.13/C.3/L.10), Italy (A/CONF.13/C.3/L.24 and L.25), the United Kingdom (A/CONF.13/C.3/L.28), Japan (A/CONF.13/C.3/L.32), Sweden (A/CONF.13/C.3/L.36), Portugal (A/CONF.13/C.3/L.38) and the Netherlands (A/CONF.13/C.3/L.39) were later replaced by a joint amendment (A/CONF.13/C.3/L.48); amendments by Venezuela (A/CONF.13/C.3/L.23), the Republic of Korea (A/CONF.13/C.3/L.34) and Mexico (A/CONF.13/C.3/L.35) were withdrawn. An amendment was submitted by Spain (A/CONF.13/C.3/L.37), but the representative of Spain did not press for a vote on that proposal. The joint amendment, which was of a drafting nature, was adopted. Paragraph 1 of article 52, as amended, was adopted on first reading at the 19th meeting by 53 votes to none, with 5 abstentions.

17. Paragraph 2 and the amendments thereto were considered at the 33rd meeting. Amendments were submitted by Uruguay (A/CONF.13/C.3/L.31) and Spain (A/CONF.13/C.3/L.37); the joint amendment mentioned above (A/CONF.13/C.3/L.48) also related to paragraph 2. The proposal by Spain and the joint proposal, to fix one year as the reasonable period of time envisaged, were adopted jointly. Paragraph 2 of article 52, as amended, was adopted on first reading by 41 votes to none, with 15 abstentions; accordingly, the amendment of Uruguay was not voted upon.

18. At the 38th meeting, article 52 was adopted on second reading, by 48 votes to 8, with 7 abstentions. In paragraph 1, the position has been clarified that States will prescribe conservation measures only for their respective nationals. In paragraph 2, the change concerns the decision of the Committee to prescribe twelve months as "a reasonable period of time" indicated in the International Law Commission's text.

*Article 53*

19. In view of a decision by the Committee at its 14th meeting, discussion of the last paragraph of article 53 was

postponed until the Committee took up consideration of articles 57, 58 and 59

20. Paragraph 1 of article 53 and the amendments thereto were considered during the 15th and 17th to 20th meetings. Amendments by Portugal (A/CONF.13/C.3/L.38) and the United States (A/CONF.13/C.3/L.40) were withdrawn. Amendments by the Federal Republic of Germany (A/CONF.13/C.3/L.4), Yugoslavia (A/CONF.13/C.3/L.11), Italy (A/CONF.13/C.3/L.24), Poland and the Union of Soviet Socialist Republics (A/CONF.13/C.3/L.29 and Add.1), and jointly by France, the Netherlands, Portugal, Sweden, the United Kingdom and the United States (A/CONF.13/C.3/L.55) were still before the Committee when the voting took place at the 20th meeting. The Yugoslav amendment to include the words "but shall not discriminate against them", was adopted. The six-power amendment, to modify the last phrase and add a new sentence, was adopted. The Italian amendment, to replace the word "nationals" by "national ships", was adopted but it was left to the Drafting Committee of the Conference to take a final decision on the wording thereof. The other amendments were rejected. Paragraph 1 of article 53, as amended, was adopted on first reading, by 32 votes to 7, with 13 abstentions.

21. Paragraph 2 of article 53 and the amendments thereto were considered at the 33rd meeting. Amendments by France (A/CONF.13/C.3/L.3) and Uruguay (A/CONF.13/C.3/L.31) were withdrawn. The representative of Yugoslavia did not insist that his amendment (A/CONF.13/C.3/L.11) be voted upon.

22. At the time of voting, the Committee had before it proposals by Japan (A/CONF.13/C.3/L.32), Sweden (A/CONF.13/C.3/L.36) and Spain (A/CONF.13/C.3/L.37) to fix one year as the reasonable period of time envisaged. These three proposals were adopted jointly. Paragraph 2 of article 53, as amended, was adopted on first reading, by 42 votes to 7, with 6 abstentions.

23. At the 38th meeting, article 53 was adopted on second reading, by 45 votes to 9, with 7 abstentions. The obligation of new States entering fisheries where conservation measures are in force has been made subject to certain conditions in the revised version of paragraph 1. A maximum period of seven months has been allowed for newcomers to put into effect the conservation measures. With this is combined an obligation to notify conservation measures to the Director-General of the Food and Agriculture Organization (FAO) if such measures are to be observed by others. The seven months allowed for new entrants will be from the time the conservation measures have been notified to FAO. In paragraph 2, the change relates to the decision of the Committee to prescribe twelve months as the reasonable period of time mentioned in the International Law Commission's text.

#### *Article 54*

24. In view of a decision by the Committee at its 14th meeting, discussion of paragraph 3 of article 54 was postponed until the Committee took up consideration of articles 57, 58 and 59.

25. Paragraphs 1 and 2 of article 54 and the amendments thereto were considered during the 21st and 24th meetings.

26. Amendments submitted by the Federal Republic of Germany (A/CONF.13/C.3/L.4), the Philippines (A/CONF.13/C.3/L.5), Yugoslavia (A/CONF.13/C.3/L.13), Japan (A/CONF.13/C.3/L.33), jointly by Costa Rica, Chile, Ecuador and Peru (A/CONF.13/C.3/L.41), and by the Union of Soviet Socialist Republics (A/CONF.13/C.3/L.42) were withdrawn.

27. Other proposals were submitted by Italy (A/CONF.13/C.3/L.24), Sweden (A/CONF.13/C.3/L.36), Spain (A/CONF.13/C.3/L.37), jointly by the Netherlands, Portugal, the United Kingdom and the United States (A/CONF.13/C.3/L.43), by the Republic of Korea (A/CONF.13/C.3/L.45), and jointly by Burma, Chile, Costa Rica, Ecuador, Indonesia, the Republic of Korea, Mexico, Nicaragua, the Philippines, the Republic of Viet-Nam and Yugoslavia (A/CONF.13/C.3/L.65).

28. At the 23rd meeting, the Swedish amendment was rejected.

29. At the 24th meeting, the Spanish proposal was rejected; no vote was taken on the Italian proposal, since the principle it contained had been approved in connexion with article 53. At the same meeting, the four-power proposal to add a new paragraph 3 was adopted, as well as the eleven-power proposal to add a further new paragraph (paragraph 4 in the final text). Paragraphs 1 to 4 of article 54, as amended, were adopted on first reading, by 54 votes to 2, with 10 abstentions.

30. The last paragraph of article 54 and the amendments thereto were considered at the 33rd meeting. The amendment submitted by France (A/CONF.13/C.3/L.3) was withdrawn. The Committee had before it proposals by Japan (A/CONF.13/C.3/L.33) and Spain (A/CONF.13/C.3/L.37) to fix one year as the reasonable period of time envisaged. It also had before it a joint proposal by the Netherlands, Portugal, the United Kingdom and the United States (A/CONF.13/C.3/L.43), to insert the words "with respect to conservation measures". These proposals were adopted. The last paragraph of article 54, as amended, was adopted on first reading by 44 votes to one, with 11 abstentions.

31. Article 54 was adopted on second reading, by 41 votes to 8, with 15 abstentions, at the 38th meeting. The Committee added two new paragraphs to the International Law Commission text. Paragraph 3 places an obligation on a State fishing in the high seas adjacent to the territorial sea of a coastal State to enter into negotiations, if so requested by that coastal State, to prescribe, by common agreement, measures for conservation in the high sea applicable to its nationals. Paragraph 4 precludes a State whose nationals are fishing in the high seas adjacent to the territorial sea of a coastal State from adopting conservation measures which may be at variance with those adopted by the coastal State. Provision is made for negotiation between the States concerned for working out conservation measures by agreement.

#### *Article 55*

32. In view of a decision by the Committee at its 14th meeting, discussion of paragraph 3 of article 55 was postponed until the Committee took up consideration of articles 57, 58 and 59.

33. Paragraphs 1 and 2 of article 55 and the amendments thereto were considered during the 21st to 27th meetings. Amendments which had been submitted by France (A/CONF.13/C.3/L.3), Italy (A/CONF.13/C.3/L.26), Spain (A/CONF.13/C.3/L.37), the United Kingdom (A/CONF.13/C.3/L.44) and Norway (A/CONF.13/C.3/L.46) were later replaced by a proposal submitted jointly by Belgium, France, Greece, Italy, the Netherlands, Norway, Portugal, Spain and the United Kingdom (A/CONF.13/C.3/L.71/Rev.1): an amendment by Burma, Chile, Costa Rica, Ecuador, Indonesia, the Republic of Korea, Mexico, Nicaragua, the Philippines, the Republic of Viet-Nam and Yugoslavia (A/CONF.13/C.3/L.66) was later revised (L.66/Rev.1). In addition, amendments were sub-

mitted by Sweden (A/CONF.13/C.3/L.36) and the Union of Soviet Socialist Republics (A/CONF.13/C.3/L.42/Rev.1). An amendment by the Republic of Korea (A/CONF.13/C.3/L.45) was withdrawn.

34. The voting took place at the 27th meeting.

35. The eleven-power proposal was adopted. Its purpose was (a) in paragraph 1, to fix six months as the reasonable period of time envisaged; (b) to redraft paragraph 2; (c) to insert a new paragraph after paragraph 2 whereby the measures envisaged should remain in force pending the settlement of any disagreement as to their validity; and (d) to add a paragraph relating to principles of geographical demarcation.

36. The Committee also adopted an oral amendment by Norway to add a paragraph whereby the measures envisaged in the article would not apply to seas adjacent to the coasts of uninhabited territories (this paragraph was made paragraph 4). The USSR proposal was rejected. The nine-power proposal and that of Sweden were not put to the vote.

37. Article 55 (last paragraph excepted), as amended, was adopted on first reading, by 27 votes to 22, with 8 abstentions.

38. The original paragraph 3 of article 55 was considered at the 33rd meeting. The drafting of this paragraph was left to the drafting committee.

39. The second reading took place at the 39th meeting. Paragraph 4 of the text adopted on first reading was deleted. Article 55, as amended, was adopted by 34 votes to 20, with 5 abstentions. The article as now adopted differs from the International Law Commission's original text in the following respects:

(a) Paragraph 1 of the International Law Commission's text gave powers to the coastal States to take unilateral measures for the conservation of fish stocks adjacent to their territorial seas, if negotiations with the other States concerned had not led to an agreement within a reasonable period of time. This period has now been prescribed as six months.

(b) Paragraph 2(a) has been redrafted, changing the need for scientific evidence for urgent conservation measures to the need for urgent application of conservation measures based on available information on the fishery concerned.

(c) Paragraph 3 ensures the continuance of the conservation measures adopted subject to paragraph 2 of article 58, which provides for the suspension of the measures pending arbitral decision in case of disputes.

(d) The Committee also accepted the principle of geographical demarcation in respect of the application of conservation measures by coastal States.

#### Article 56

40. In view of a decision by the Committee at its 14th meeting, discussion of paragraph 2 of article 56 was postponed until the Committee took up consideration of articles 57, 58 and 59.

41. Paragraph 1 of article 56 and the amendments thereto were considered at the 15th, 17th, 18th and 21st meetings. Amendments by Poland and the USSR (A/CONF.13/C.3/L.30) and by Sweden (A/CONF.13/C.3/L.36) were rejected. Amendments by France, to add a phrase relating to the mentioning of scientific reasons (A/CONF.13/C.3/L.3) and the Netherlands, of a drafting nature (A/CONF.13/C.3/L.39) were adopted. The principle contained in

the Italian amendment (A/CONF.13/C.3/L.24) had been adopted in connexion with article 53. Paragraph 1 of article 56, as amended, was adopted on first reading, by 45 votes to 2, with 14 abstentions.

42. Paragraph 2 was considered at the 33rd meeting. The Committee had before it amendments by Poland and the Union of Soviet Socialist Republics (A/CONF.13/C.3/L.30) and by Uruguay (A/CONF.13/C.3/L.31) which were withdrawn and not put to the vote. Amendments by Japan (A/CONF.13/C.3/L.33) and Spain (A/CONF.13/C.3/L.37), to fix one year as a reasonable period of time, were jointly adopted. Paragraph 2 of article 56, as amended, was adopted on first reading, by 46 votes to 7, with 4 abstentions.

43. The second reading took place at the 39th meeting, when article 56 was adopted by 42 votes to 8, with 6 abstentions. There is no material difference between the original and revised texts. The article provides that a State may request another State whose nationals are fishing in any area of the high seas to take conservation measures provided it is interested in the conservation of the living resources of that area. The revised version requires such requests to be accompanied by a mention of the scientific reasons therefor and the special interest which the requesting State has in the adoption of conservation measures.

#### Article 57

44. Article 57 and the amendments thereto were considered at the 28th, 29th and 30th meetings. Amendments by France (A/CONF.13/C.3/L.3), the Philippines (A/CONF.13/C.3/L.5), Thailand (A/CONF.13/C.3/L.19), Sweden (A/CONF.13/C.3/L.36), and the Netherlands (A/CONF.13/C.3/L.59) were withdrawn. Amendments by Mexico (A/CONF.13/C.3/L.1), Yugoslavia (A/CONF.13/C.3/L.14), the Union of Soviet Socialist Republics (A/CONF.13/C.3/L.62) and the Republic of Korea (A/CONF.13/C.3/L.64) were rejected.

45. After some drafting changes had been introduced orally, a joint amendment by Greece and the United States (C.3/L.67) was adopted by 38 votes to 14, with 10 abstentions. The adoption of this amendment made it unnecessary to vote on the International Law Commission's text, which it replaced entirely.

46. The second reading took place at the 38th meeting (C.3/SR.38). An amendment to replace the word "constituted" by the word "appointed" in paragraph 5 was adopted. Article 57, as amended, was adopted by 39 votes to 10, with 6 abstentions. The following changes were made by the Committee in the International Law Commission's text:

(a) The Committee designated the arbitral commission mentioned in the International Law Commission's text as a "special commission".

(b) In the first paragraph, the number of members of the commission has been changed from seven to five. For seeking other means of peaceful settlement in case of disagreement between States, specific reference has also been made to Article 33 of the Charter.

(c) Paragraphs 2 and 3 entirely replace the International Law Commission's text. There is a difference in procedure for selection of the members of the commission and participation by the parties to the dispute.

(d) There is no material change in paragraph 4 of the original and revised texts. Paragraph 5 provides for new time limits for the decision of the special commission (five months) and the extension of that time limit (three months).

(e) Paragraphs 6 and 7 of the revised article 57 are new. These relate to the need for the commission to be guided by the articles relating to fisheries and to any special agreements which may exist between the disputing sides. Decision by majority vote is stipulated in paragraph 7.

#### Article 58

47. Consideration of article 58 and the amendments thereto took place at the 31st and 32nd meetings. Amendments by Mexico (A/CONF.13/C.3/L.1), France (A/CONF.13/C.3/L.3), Yugoslavia (A/CONF.13/C.3/L.15), Thailand (A/CONF.13/C.3/L.19), Sweden (A/CONF.13/C.3/L.36), the Union of Soviet Socialist Republics (A/CONF.13/C.3/L.61) and the Republic of Korea (A/CONF.13/C.3/L.64) were withdrawn. At the 32nd meeting a joint proposal by Greece, Pakistan and the United States (A/CONF.13/C.3/L.68) was adopted, after some drafting changes had been introduced, by 30 votes to 16, with 3 abstentions. The adoption of this amendment made it unnecessary to vote on the International Law Commission's text, which it replaced entirely.

48. The second reading took place at the 38th meeting, when article 58 was adopted by 40 votes to 17, with 5 abstentions. There are substantial differences between the International Law Commission's text and the revised text as adopted by the Committee:

(a) Both the old and new texts agree on the need for the adoption of the criteria listed under article 55 for the solution of disputes arising as a result of measures under that article;

(b) In other disputes, the International Law Commission's text suggested criteria according to the circumstances of each dispute. The article as accepted by the Committee includes, under paragraphs 1 (a) and 1 (b), specific criteria applicable on the one hand to disputes under articles 52, 53 and 54 and, on the other hand, to disputes under article 56;

(c) Paragraph 2 has also been suitably modified in accordance with paragraph 3 of article 55. There is a provision for the continued application of conservation measures already adopted under article 55 except when there is no *prima facie* evidence justifying the urgent need for such measures;

(d) The powers of the special commission to suspend the measures in dispute, which was unqualified in the International Law Commission's text, have been made conditional on the above situation.

#### Article 59

49. Article 59 and the amendments relating to it were considered at the 33rd meeting.

50. The amendments submitted by Mexico (A/CONF.13/C.3/L.1) and the Republic of Korea (A/CONF.13/C.3/L.64) were not voted upon in view of the results of the vote on articles 57 and 58. For the same reason, the representatives of Yugoslavia and the Union of Soviet Socialist Republics withdrew their respective proposals (A/CONF.13/C.3/L.16 and L.61). A proposal by Thailand (A/CONF.13/C.3/L.19) had been previously withdrawn. The Committee adopted a proposal by Uruguay (A/CONF.13/C.3/L.73) to redraft the first sentence of article 59.

51. Article 59 was adopted, as amended, on first reading, by 35 votes to none, with 10 abstentions.

52. On the second reading, which took place at the 38th meeting, article 59 was adopted by 53 votes to none, with

7 abstentions. Except for the reference to paragraph 2 of Article 94 of the Charter as being applicable to the decisions of the special commission, there is no difference between the International Law Commission's text and the new text.

#### Article 59 A

53. Article 59 A was originally a proposal by Norway (A/CONF.13/C.3/L.62) which was discussed and voted upon at the 33rd meeting. It was adopted on first reading at the same meeting, by 39 votes to 2, with 9 abstentions. It was adopted on second reading at the 39th meeting by 49 votes to none, with 6 abstentions.

54. This is a new article which provides for re-examination of decisions of the special commission if the factual basis of decisions has altered in the condition of stock or stocks of fish or other living marine resources. Renewed negotiations between the States concerned have been suggested, together with procedures for renewed arbitration in case of disagreement, under article 57, not earlier than two years after the original arbitral award.

#### Article 60

55. Article 60 and the amendments thereto were considered and voted upon at the 34th meeting. The Committee had before it proposals by Burma, India, Ghana and Portugal (A/CONF.13/C.3/L.7, L.51, L.74 and L.75). The last-named was withdrawn.

56. The Committee adopted the proposal by Ghana to add (a) at the end of the first sentence, the phrase "except in areas where such fisheries have by long usage been exclusive enjoyed by such nationals; and (b) a new paragraph 2. The Indian proposal was also adopted; however, the Committee later considered its adoption incompatible with the Ghanaian proposal and the vote was cancelled. The Burmese proposal was rejected.

57. Article 60, as amended, was adopted on first reading at the 34th meeting, by 49 votes to 1, with 7 abstentions.

58. On second reading, at the 38th meeting, article 60 was adopted by 51 votes to 1, with 5 abstentions. The text as adopted by the Committee takes into account the need to protect the rights of fishing by the use of equipment embedded in the floor of the seas in areas where such fisheries have by long usage been exclusively enjoyed by the nationals of coastal States. In the International Law Commission's text, there was no definition of fisheries conducted by means of equipment embedded in the floor of the seas; paragraph 2 of the new text gives a definition of such fisheries.

#### V. PROPOSALS CONCERNING CLAIMS TO EXCLUSIVE OR PREFERENTIAL RIGHTS BY VIRTUE OF SPECIAL CONDITIONS

59. These proposals were considered by the Committee at its 35th, 36th, 37th, 39th, 40th, and 42nd meetings. Proposals submitted by Yugoslavia (A/CONF.13/C.3/L.12), the Republic of Korea (A/CONF.13/C.3/L.45), India (A/CONF.13/C.3/L.50), the Philippines and the Republic of Viet-Nam (A/CONF.13/C.3/L.60), jointly by Burma, Chile, Costa Rica, Ecuador, Indonesia, the Republic of Korea, Mexico, Nicaragua, the Philippines, the Republic of Viet-Nam and Yugoslavia (A/CONF.13/C.3/L.66), the United States and Canada (A/CONF.13/C.3/L.69), Portugal (A/CONF.13/C.3/L.70) and Ecuador (A/CONF.13/C.3/L.89) were withdrawn.

60. A new article was originally proposed by Iceland (A/CONF.13/C.3/L.79); after discussion at the 36th

meeting, it was later submitted in a revised form (L.79/Rev.1).

61. The Committee took the following decisions :

(a) At its 39th meeting, it adopted, by a roll-call vote of 25 to 18, with 12 abstentions, the revised proposal of Iceland to add an article concerning the preferential rights of a people overwhelmingly dependent upon its coastal fisheries for its livelihood or economic development. On second reading, at the 40th meeting, the Icelandic proposal was adopted by a roll-call vote of 29 to 21, with 11 abstentions. This proposal became article 60 A, and recognizes the preferential rights of coastal States in special situations where the people are overwhelmingly dependent upon its coastal fisheries. An arbitration clause has been provided to resolve disputes arising from possible misuse.

(b) At its 40th meeting, the Committee considered two draft resolutions :

(i) A draft resolution by the United Kingdom (A/CONF.13/C.3/L.87) which was adopted by 49 votes to none, with 11 abstentions : this refers to international fishery conservation conventions.

(ii) A draft resolution submitted jointly by Canada and the United States (A/CONF.13/C.3/L.88), which was adopted by a roll-call vote of 38 to 17, with 8 abstentions : this refers to the procedure of abstention.

(c) At its 42nd meeting the Committee adopted, by 46 votes to none, with 1 abstention, a draft resolution by Portugal (A/CONF.13/C.3/L.92) concerning conservation measures in the adjacent high seas.

#### VI. DRAFT RESOLUTION CONCERNING THE HUMANE KILLING OF MARINE LIFE

62. A proposal by Nepal (A/CONF.13/C.3/L.6) relating to humane methods of catching and slaughtering the living creatures of the sea was discussed at the 34th and 35th meetings. The principle it contained was unanimously adopted by the Committee at the 34th meeting. A sub-committee composed of the representatives of Australia, Monaco and Nepal was set up at the same meeting to draft a resolution which was submitted and unanimously adopted at the 35th meeting (A/CONF.13/C.3/L.85).

#### VII. CONSIDERATION OF THE KIND OF INSTRUMENT REQUIRED TO EMBODY THE RESULTS OF THE COMMITTEE'S WORK

63. The Committee considered this question at its 39th to 42nd meetings. At its 41st meeting it decided, by 28 votes to 16, with 7 abstentions, that it should make recommendations to the Conference regarding the kind of instrument required to embody the results of its work.

64. At its 42nd meeting the Committee had before it a proposal by India (A/CONF.13/C.3/L.90) which read as follows :

*"The Third Committee*

*"Recommends to the Conference that the articles adopted by the Committee be embodied in a convention on fishing and the conservation of the living resources of the sea."*

It also had a proposal by Cuba (A/CONF.13/C.3/L.91), which read as follows :

*"The Third Committee*

*"Recommends to the Conference that the articles on conservation of the living resources of the sea (articles 49 to 59 inclusive) adopted by the Committee be embodied in a single instrument."*

65. After discussion, the representative of India added a second paragraph to his text and the representative of Cuba withdrew his proposal. The Indian proposal, as amended, was adopted by 44 votes to 4, with 6 abstentions. The text is reproduced below :

*"The Third Committee*

*"Recommends to the Conference :*

*"1. That the articles adopted by the Committee be embodied in a convention on fishing and the conservation of the living resources of the sea ;*

*"2. That the convention shall consist of two sections, one dealing with articles 49 to 59 A inclusive, and the other dealing with article 49, paragraph 1, article 60, article 60 A, and such other new articles as may be adopted by the Conference."*

#### VIII. FINAL CLAUSES

65. At its 42nd meeting the Committee decided, by 31 votes to 3, with 20 abstentions, no to make any recommendations concerning final clauses, but to leave the question to the Conference for decision.

#### Annex

##### I

TEXT OF THE ARTICLES CONCERNING FISHING AND CONSERVATION OF THE LIVING RESOURCES OF THE SEA AS ADOPTED BY THE THIRD COMMITTEE

#### Article 49

1. All States have the right for their nationals to engage in fishing on the high seas, subject (a) to their treaty obligations, (b) to the interests and rights of coastal States as provided for in this convention and (c) to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

2. All States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

#### Article 50

As employed in the present articles, the expression "conservation of the living resources of the high seas" means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products. Conservation programmes should be formulated with a view to securing in the first place a supply of food for human consumption.

#### Article 51

A State whose nationals are engaged in fishing any stock or stocks of fish or other living marine resources in any area of the high seas where the nationals of other States are not thus engaged shall adopt, for its own nationals, measures in that area when necessary for the purpose of the conservation of the living resources affected.

#### Article 52

1. If the nationals of two or more States are engaged in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, these States shall, at the request of any of them, enter into negotiations with a view to prescribing by agreement for their nationals the necessary measures for the conservation of the living resources affected.

2. If States concerned do not reach agreement within twelve months, any of the parties may initiate the procedure contemplated by article 57.

*Article 53*

1. If, subsequent to the adoption of the measures referred to in articles 51 and 52, nationals of other States engage in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, the other States shall apply the measures, which shall not be discriminatory in form or in fact, to their own nationals not later than seven months after the date on which the measures shall have been notified to the Director-General of the Food and Agriculture Organization of the United Nations. The Director-General shall notify such measures to any State which so requests and, in any case, to any State specified by the State initiating the measure.

2. If these other States do not accept the measures so adopted and if no agreement can be reached within twelve months, any of the interested parties may initiate the procedure contemplated by article 57. Subject to paragraph 2 of article 58, the measures adopted shall remain obligatory pending the decision of the special commission.

*Article 54*

1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.

2. A coastal State is entitled to take part on an equal footing in any system of research and regulation for conservation purposes in that area, even though its nationals do not carry on fishing there.

3. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall, at the request of that coastal State, enter into negotiations with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

4. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall not enforce conservation measures in that area which are opposed to those which have been adopted by the coastal State, but may enter into negotiations with the coastal State with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

5. If the States concerned do not reach agreement with respect to conservation measures within twelve months, any of the parties may initiate the procedure contemplated by article 57.

*Article 55*

1. Having regard to the provisions of paragraph 1 of article 54, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months.

2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

(a) That there is a need for urgent application of conservation measures in the light of the existing knowledge of the fishery;

(b) That the measures adopted are based on appropriate scientific findings;

(c) That such measures do not discriminate in form or in fact against foreign fishermen.

3. These measures shall remain in force pending the settlement, in accordance with the pertinent provisions of this convention, of any disagreement as to their validity.

4. If the measures are not accepted by the other States concerned, any of the parties may initiate the procedure contemplated by article 57. Subject to paragraph 2 of article 58, the measures adopted shall remain obligatory pending the decision of the special commission.

5. The principles of geographical demarcation as defined in articles 12 and 14 shall be adopted when coasts of different States are involved.

*Article 56*

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas not adjacent to its coast, has a special interest in the conservation of the living resources in that area, may request the State or States whose nationals are engaged in fishing there to take the necessary measures of conservation under articles 51 and 52 respectively, at the same time mentioning the scientific reasons which in its opinion make such measures necessary, and indicating its special interest.

2. If no agreement is reached within twelve months, such State may initiate the procedure contemplated by article 57.

*Article 57*

1. Any disagreement arising between States under articles 52, 53, 54, 55 and 56 shall, at the request of any of the parties, be submitted for settlement to a special commission of five members, unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations.

2. The members, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within three months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon the request of any State party, be named by the Secretary-General of the United Nations, within a further three-month period, in consultation with the States in dispute and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization, from amongst well-qualified persons being nationals of countries not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

3. Any State party to a proceeding under these articles shall have the right to name one of its nationals to the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission but without the right to vote or to take part in the writing of the commission's decision.

4. The commission shall determine its own procedure, assuring each party to the proceeding a full opportunity to be heard and to present its case, and it shall also determine how the costs and expenses shall be divided between the parties to the dispute, failing agreement by the parties on these questions.

5. The special commission shall render its decision within a period of five months from the time it is appointed unless it decides, in case of necessity, to extend that time limit not to exceed three months.

6. The special commission shall, in reaching its decisions, adhere to these articles and to any special agreements between the disputing sides regarding settlement of the dispute.

7. Decisions of the commission shall be by majority vote.

*Article 58*

1. The special commission shall, in disputes arising under article 55, apply the criteria listed in paragraph 2 of that article. In disputes under the remaining fishery articles the commission shall apply the following criteria, according to the issues involved in the dispute:

(a) Common to the determination of disputes arising under articles 52, 53 and 54 are the requirements:

(i) That scientific findings demonstrate the necessity of conservation measures;

(ii) That the specific measures are based on scientific findings and are practicable; and

(iii) That the measures do not discriminate against fishermen of other States.

(b) Applicable to the determination of disputes arising under article 56 is the requirement that scientific findings demonstrate the necessity for conservation measures, or that the conservation programme is adequate, as the case may be.

2. The special commission may decide that pending its award the measures in dispute shall not be applied, provided that, in the case of disputes under article 55, the measures shall only be suspended when it is apparent to the commission on the basis of *prima facie* evidence that the need for the urgent application of such measures does not exist.

#### Article 59 A

1. If the factual basis of the arbitral award is altered by substantial changes in the conditions of the stock or stocks of fish or other living marine resources or in methods of fishing, any of the States concerned may request the other States to enter into negotiations with a view to prescribing by agreement the necessary modifications in the measures of conservation.

2. If no agreement is reached within a reasonable period of time, any of the States concerned may again resort to the arbitration procedure contemplated by article 57 provided that at least two years have elapsed from the original arbitral award.

#### Article 60

1. The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals except in areas where such fisheries have by long usage been exclusively enjoyed by such nationals. Such regulations will not, however, affect the general status of the areas as high seas.

2. Fisheries conducted by means of equipment embedded in the floor of the sea in this article means those using gear with supporting members embedded in the sea floor, constructed on a site and left there to operate permanently, or if removed, restored each season on the same site.

#### Article 60 A

Where a people is overwhelmingly dependent upon its coastal fisheries for its livelihood or economic development and it becomes necessary to limit the total catch of a stock or stocks of fish in areas adjacent to the coastal fisheries zone, the coastal State shall have preferential rights under such limitations to the extent rendered necessary by its dependence on the fishery.

In the case of disagreement any interested State may initiate the procedure provided for in article 57.

## II

### TEXT OF THE DRAFT RESOLUTIONS ADOPTED BY THE THIRD COMMITTEE

#### *International fishery conservation conventions*

##### *The United Nations Conference on the Law of the Sea,*

*Taking note* of the opinion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in April/May 1955, as expressed in paragraph 43 of its report,<sup>1</sup> as to the efficacy of international conservation organizations in furthering the conservation of the living resources of the sea ;

*Believing* that such organizations are valuable instruments for the co-ordination of scientific effort upon the problem of the fisheries and for the making of agreements upon conservation measures,

##### *Recommends :*

(1) That States concerned should co-operate in establishing the necessary conservation régime through the medium of such organizations covering particular areas of the high seas or species of living marine resources and conforming in other

respects with the recommendations contained in the Report of the Rome Conference.

(2) That these organizations should be used so far as practicable for the conduct of the negotiations between States envisaged under articles 52, 53, 54 and 55, for the resolution of any disagreements and for the implementation of agreed measures of conservation.

#### *Procedure of abstention*

##### *The United Nations Conference on the Law of the Sea,*

*Mindful* of the conclusion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in 1955, that : "Where opportunities exist for a country or countries to develop or restore the productivity of resources, and where such development or restoration by the harvesting State or States is necessary to maintain the productivity of resources, conditions should be made favourable for such action";<sup>2</sup>

*Recognizing* that in special situations, where an exceptional effort and substantial restraints on fishermen are required to bring about the development of the productivity of resources or the restoration of resources reduced by natural factors or by past depletion, a special incentive will be a determining factor in encouraging States to undertake such action ;

*Believing* that the procedure known as abstention, as described by the delegations of Canada and the United States of America during the deliberations of this Conference, would in special situations serve the general interests of conservation by encouraging States to inaugurate and continue constructive conservation programmes through ensuring to such States the product of their efforts ;

*Recognizing*, however, that because the abstention procedure is a relatively new concept and because the special situations in which it would be beneficial are at present relatively limited in number, there is some question that incorporation of the concept in the articles adopted by this Conference is required ; but

*Believing* that, as the science of fishery conservation advances and the harvesting of the living resources of the sea becomes more efficient, opportunities for application of abstention may become more numerous ;

*Decides* to commend the abstention procedure to States for utilization where appropriate as an incentive to the development and restoration of the productivity of living resources of the sea.

#### *Conservation measures in the adjacent high seas*

##### *The United Nations Conference on the Law of the Sea,*

*Taking note* of the opinion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in April/May 1955, as reported in paragraphs 43 (a), 54 and others of the report (A/CONF.10/6), that any effective conservation management system must have the participation of all States engaged in substantial exploitation of the stock or stocks of living marine organisms which are the object of the conservation management system or having a special interest in the conservation of that stock or stocks,

*Recommends* to the coastal States that, in the cases where a stock or stocks of fish or other living marine resources inhabit both the fishing areas under their jurisdiction and areas of the adjacent high seas, they should co-operate with international conservation agencies as may be responsible for the development and application of conservation measures in the adjacent high seas, in the adoption and enforcement, as far as practicable, of the necessary conservation measures on fishing areas under their jurisdiction.

#### *Humane killing of marine life*

##### *The United Nations Conference on the Law of the Sea,*

*Requests* States to prescribe, by all means available to them, those methods for the capture and killing of marine life, especially of whales and seals, which will spare them suffering to the greatest extent possible.

<sup>1</sup> United Nations publication, sales No : 1955.II.B.2.

<sup>2</sup> *Ibid.*, para. 61.

## DOCUMENT A/CONF.13/L.22

**Union of Soviet Socialist Republics: amendment to article 55 as adopted  
by the Third Committee (A/CONF.13/L.21)**

[Original text : Russian]  
[23 April 1958]

Add the following sub-paragraph (d) to paragraph 2 :

“(d) That they are essential in order to ensure the effectiveness of the large-scale measures taken by the said State to safeguard the reproduction of the living resources of the sea.”

## DOCUMENT A/CONF.13/L.24

**Fourth report of the Drafting Committee of the Conference:  
proposals regarding the judicial settlement of disputes**

[Original text : English]  
[24 April 1958]

1. The Drafting Committee of the Conference met on 23 April and, in accordance with the instructions of the Conference given at the 7th plenary meeting on 21 April, considered the following proposals concerning the settlement of disputes :

(a) Proposal by Switzerland for the judicial settlement of disputes arising out of the application and interpretation of the body of provisions adopted by the Conference (A/CONF.13/BUR/L.3) ;<sup>1</sup>

(b) Proposal by Colombia for the inclusion in the Convention of an article on general compulsory jurisdiction or arbitration (A/CONF.13/BUR/L.5) ;<sup>2</sup>

(c) Proposal by the Netherlands for the insertion of a new article on settlement of disputes (A/CONF.13/BUR/L.6).<sup>3</sup>

2. In accordance with the Conference's request, the representatives of Switzerland, Colombia and the Netherlands were invited to take part in the Committee's discussion.

3. The representative of Colombia, confirming what he had already stated in the plenary meeting, modified his proposal to read that disputes should be submitted to the International Court of Justice “in conformity with the Statute of the Court” instead of “at the request of any of the parties”.

4. In the course of the discussion, it became clear from the statements made by the sponsors of the three proposals that they could not work out a joint text at the present stage because of the differences of substance between the proposals. It was evident, therefore, that certain questions of principle would have to be decided by the Conference prior to the consideration of the proposals. To this end, the following procedural steps, to which the sponsors agreed, are recommended by the Drafting Committee :

(a) The Conference should decide, as a matter of principle, whether it wishes to include, in one or more of the instruments to be adopted by the Conference, as appropriate, provisions involving acceptance of the

compulsory jurisdiction of the International Court of Justice and compulsory arbitration combined.

If the decision on this is favourable, the Conference should proceed to discuss the Netherlands proposal only (A/CONF.13/BUR/L.6).

If the decision on (a) is negative, then :

(b) The Conference should decide, as a matter of principle, whether it wishes to include, in one or more of the instruments to be adopted by the Conference, as appropriate, provisions involving acceptance of the compulsory jurisdiction of the Court along the lines of article 74.

If the decision on (b) is favourable, the Drafting Committee should be asked to submit a text to the Conference.

If the decision on (b) is negative, then :

(c) The Conference should decide, as a matter of principle, whether it is prepared to consider the revised Colombian proposal (A/CONF.13/BUR/L.5) and the Swiss proposal (A/CONF.13/BUR/L.3), either as alternative or as complementary proposals.

5. It is emphasized that any decisions taken under paragraph 4 above would be without prejudice to any decision of the Conference to adopt a special procedure for an instrument, or part of an instrument, such as may be the case with articles 57 and 58. Furthermore, should the Conference determine that any provisions adopted should not necessarily apply to all the instruments adopted by it, this would not prejudice the consideration by the Conference of article 74 adopted by the Fourth Committee for inclusion in the convention on the continental shelf.

## Annex I

**Judicial settlement of disputes arising out of the application and interpretation of the body of provisions adopted by the Conference : letter dated 9 April from the Chairman of the Swiss Delegation to the President of the Conference (A/CONF.13/BUR/L.3)**

[Original text : French]  
[12 April 1958]

On behalf of the Swiss delegation, I have the honour to transmit to you and the General Committee of the Conference on the Law of the Sea a proposal concerning the judicial settlement of disputes arising out of the application and interpretation of the body of provisions adopted by the Conference.

<sup>1</sup> See annex I of the present document.

<sup>2</sup> See annex II of the present document.

<sup>3</sup> See annex III of the present document.

You will see that the attached proposal is not an "amendment" to article 57 or 73 of the International Law Commission's draft. That is why the Swiss delegation did not draft any "amendment" to these articles within the provisional time limits for submitting amendments in the Third and Fourth Committees.

This proposal, on the contrary, is a general one permitting States which believe that clauses for compulsory settlement of all disputes should be included in multilateral treaties to sign agreements under which the jurisdiction of the International Court of Justice may be established by simple application.

An "optional clause" — the signature and ratification of which even by some of the governments represented at the Conference on the Law of the Sea would doubtless help to develop an international jurisprudence in this important field — should be embodied in a separate protocol, apart from the convention or conventions opened for signature by Powers at the end of the Conference.

The Swiss delegation's proposal therefore concerns a fresh matter, not included in those sent to any of the Conference's committees. Moreover, it extends the principle of compulsory arbitration, in relations between States willing to accept this, to any provisions adopted by the Conference and not only to those of articles 52 to 56 or articles 67 to 72 of the International Law Commission's text.

The proposal of the Swiss delegation is therefore transmitted to the General Committee of the Conference for reference to one of its committees or for any other appropriate action.

(Signed) Paul RUEGGER

*Chairman of the Swiss Delegation*

#### PROPOSAL

(Optional) *Protocol of Signature concerning the compulsory settlement by the International Court of Justice of disputes arising between the signatory States out of the interpretation or application of the convention(s) adopted at Geneva by the United Nations Conference on the Law of the Sea*

The undersigned representatives of States invited to participate in the Conference of the Law of the Sea held under the auspices of the United Nations at Geneva from 24 February to . . . . 1958,

Duly authorized thereto by their governments,

Expressing the wish of their governments to resort, in all matters concerning them in respect of any dispute arising out of the interpretation or application of any article of the convention(s) on the Law of the Sea of . . . . 1958, to the compulsory jurisdiction of the International Court of Justice, unless in a particular case the parties agree within a reasonable period to accept some other form of settlement,

Have agreed on the following provisions :

(1) Every dispute arising out of the interpretation or application of the aforesaid convention(s) shall lie within the compulsory jurisdiction of the International Court of Justice, and may accordingly be brought before the Court by an ordinary application made by any party to the dispute being a signatory of this protocol.

(Note: This wording corresponds to the resolution of the Institute of International Law adopted at Granada on 17 April 1956, the last six words having been added).

(2) This undertaking relates to all the provisions of the Geneva Convention(s) on the Law of the Sea and not merely to some chapters thereof (or to some of those conventions).

(3) With regard to relations between the signatories of this protocol, the procedure of article 1 hereof shall replace that of article 57 (of the International Law Commission's draft) concerning disputes arising out of articles 52, 53, 54 and 56 (of that draft).

Provided that the parties to such an action may agree, within a period of two months after one party has notified to

the other its opinion that a cause of action exists, to resort not to the Court but to an arbitral commission under article 57.<sup>1</sup> After the expiry of the said period, either party to this protocol may bring the dispute before the Court by an ordinary application.

(4) Within the same period of two months the parties to this protocol may agree to adopt a conciliation procedure before resorting to the Court.

The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may by an ordinary application appeal against them to the jurisdiction of the Court.

(5) Where an action raises scientific or technical issues, either party may in its originating application submit that the action is one in which the Court should order an expert opinion under Article 50 of its Statute.

(6) A party considering that the settlement of the action is especially urgent may in its originating application request the Court to refer the action to the Chamber of Summary Procedure.

The signatories of this protocol undertake not to object before the Court to a reference to summary procedure.

(7) A party to a dispute may, if it deems necessary, request the Court to indicate under Article 41 of the Court's Statute provisional measures to preserve its rights.

Done at Geneva, . . . . 1958.

#### Annex II

**Inclusion in the convention of an article on general compulsory jurisdiction or arbitration : letter dated 14 April 1958 from the Chairman of the Colombian Delegation to the President of the Conference (A/CONF.13/BUR/L.5)**

[Original text : Spanish]  
[14 April 1958]

The Chairman of the Delegation of Colombia, in a statement to the First Committee on 14 March last,<sup>2</sup> intimated his country's desire for an article on general compulsory jurisdiction or arbitration to be included in the convention under study.

I venture to append for Your Excellency the text proposed by the Colombian delegation on the lines of the present article 73, which deals solely with disputes concerning the continental shelf. Since the Colombian proposal refers to subjects under consideration by various committees, the procedure to be adopted is left to your discretion.

Should the new text be approved, the present article 73 would need to be deleted as redundant.

(Signed) Juan URIBE HOLGUÍN  
*Chairman of the Delegation of Colombia*

#### DRAFT ARTICLE

Except in the case of those disputes to which the arbitral procedure established by article 57 applies, any disputes that may arise between States concerning the interpretation or application of any of the texts of this convention shall be submitted to the International Court of Justice at the request of any of the parties, unless they agree on another method of peaceful settlement.

<sup>1</sup> Note. — Amendments appear, however, to be necessary here. A simple "consultation" with the President of the International Court of Justice as president of the highest international tribunal seems neither satisfactory nor usual.

<sup>2</sup> See summary record of the 16th meeting of the First Committee.

## Annex III

**Inclusion in the convention of an article on the settlement of disputes: note verbale addressed by the Chairman of the Delegation of the Netherlands to the President of the Conference (A/CONF.13/BUR/L.6)**

*[Original text: English and French]  
[14 April 1958]*

The Netherlands delegation has the honour, upon instructions of their government, to submit the enclosed amendment to the Conference.

The Netherlands delegation are not in a position to propose this amendment to one of the committees since it has a bearing upon subject-matters which are being considered by at least three committees. They must, therefore, leave it to your discretion to decide how to lay this amendment before the Conference.

The Netherlands delegation attach great importance to this amendment because the fate to be allotted to it might in the event prove to have a decisive influence upon the final voting on matters of substance. They foresee the possibility that the eventual adoption or rejection of particular substantive provisions, even though acceptable in themselves, will depend upon the question as to whether, in case of dispute about their real scope, ways and means will be available for invoking an impartial judicial or arbitral decision on the construction to be put upon them.

The Netherlands delegation understand that this proposal is not intended to prejudice the special provision concerning the settlement of disputes in fishing matters (article 57) but that, in case of the above amendment being adopted, article 73 of the draft of the International Law Commission might become redundant.

The Netherlands delegation, moreover, consider this proposal as a proposal of principle which might need further elaboration, with a view, for example, to cases in which not two, but three or more parties are involved. For the moment, the proposal is drafted in order to cover the normal case of two opposing parties.

## PROPOSAL

Insert a new article as follows:

"1. If a dispute arises between two contracting parties concerning the interpretation or application of this convention which cannot be settled through the diplomatic channel, either of them may either refer the dispute to the International Court of Justice by unilateral request in conformity with the Statute of the Court, or submit it to arbitral settlement by a tribunal composed of five members, only two of which may be appointed by the parties.

"2. If a contracting party proposing to appear as plaintiff prefers recourse to arbitration, it shall be bound to designate

its arbitrator when notifying the other party of such preference. In this case, the other party shall be bound to accept arbitration and to designate its arbitrator within a period of one month.

"3. If a contracting party intends to apply to the International Court of Justice, it shall give the other party one month's advance notice of that intention in order that the latter may have an opportunity of expressing its preference for recourse to arbitration. Should that other party prefer recourse to arbitration, it shall be bound to designate its arbitrator when indicating such preference. If the defending party does not designate the arbitrator within the specified time, the plaintiff party may submit the dispute to the International Court of Justice by unilateral request. Should, however, the defending party duly designate its arbitrator, then the plaintiff party shall be bound, within a further period of one month, likewise to designate an arbitrator.

"4. If the second arbitrator is not designated within the specified time, the party concerned may request the President of the International Court of Justice to make the designation at his discretion.

"5. Within a period of two months from the date of the designation of the second arbitrator, the two arbitrators designated as aforesaid shall agree on the designation of the other three members of the tribunal. If no agreement is reached within the specified time, either of the parties to the dispute may request the president of the International Court of Justice to designate a person or persons to fill any remaining vacancy or vacancies. The arbitrators designated as aforesaid shall elect one of their number to act as chairman of the tribunal.

"6. Any vacancy that may occur shall be filled by the procedure set forth in the foregoing paragraphs.

"7. As soon as the arbitral tribunal is constituted, the party which took the initiative may submit the dispute to the tribunal by unilateral request.

"8. If the normal course of the arbitral proceedings should be hampered by one of the arbitrators, then the other members of the tribunal may continue without him and their award shall be valid.

"9. In so far as the parties have not themselves, before the final constitution of the tribunal, settled the procedure to be observed, the tribunal may of its own authority establish such rules of procedure as it may consider necessary, in conformity with the provisions of the relevant articles of the Convention of The Hague of 18 October 1907 for the Pacific Settlement of International Disputes.

"10. In the absence of any stipulations agreed between the parties concerning such matters, the tribunal shall be free to determine the costs of the proceedings, including the emoluments of its members, and the apportionment of the costs among the parties."

## DOCUMENT A/CONF.13/L.25

**Convening of a second international conference of plenipotentiaries: letter dated 24 April 1958 from the Chairman of the Delegation of Cuba to the President of the Conference**

*[Original text: Spanish]  
[24 April 1958]*

I have the honour to submit for your consideration and through your good offices to the Conference, a draft resolution that envisages the convening of a second international conference of plenipotentiaries with a view to further consideration of any questions left unsettled.

As you will note, the attached draft resolution begins by stressing the substantial results achieved by the Conference as the outcome of its deliberations. Having been convened to examine the whole of international maritime law, it has undeniably fulfilled the greater part of its task

by approving agreements and other instruments on the régimes applicable to fishing and the conservation of the living resources of the high seas, the exploration and exploitation of the natural resources of the continental shelf and other matters concerning the general régime of the high seas and the access of land-locked States to the sea. Unfortunately, it does not seem possible at the present conference to reach agreement on the breadth of the territorial sea and other matters pertaining to the régime applicable thereto. This fact must therefore be recognized,

unless the various criteria and points of view expressed during the Conference can be reconciled before we finish our work.

In view of the latter consideration, my delegation does not wish the Conference to take cognizance of the draft resolution until all efforts to reach an agreement on the breadth of the territorial sea and the other matters pertaining thereto have been exhausted.

For the rest, the draft resolution simply requests the United Nations General Assembly to study at its fourteenth session in 1959, the advisability of convening a second international conference of plenipotentiaries for further consideration of the questions left unsettled by the present conference. My delegation considers that the importance of these questions for the development and codification of international maritime law fully justifies further efforts at such time as the General Assembly may consider appropriate, to solve the problems to which I have referred.

(Signed) F. V. GARCIA AMADOR  
Chairman of the Delegation of Cuba

## Annex

## CUBA : DRAFT RESOLUTION

*The United Nations Conference on the Law of the Sea,*

*Considering* that on the basis of the report prepared by the International Law Commission it has approved agreements and other instruments on the régime applicable to fishing and the conservation of the living resources of the high seas, the exploration and exploitation of the natural resources of the continental shelf and other matters pertaining to the general régime of the high seas and to the free access of land-locked States to the sea :

*Considering* that it has not been possible to reach agreement on the breadth of the territorial sea and other matters pertaining to the legal régime applicable thereto ;

*Recognizing* the desirability of making further efforts at an appropriate time to reach agreement on questions of international maritime law which have been left unsettled,

*Resolves* to request the United Nations General Assembly to study at its fourteenth session, in 1959, the advisability of convening a second international conference of plenipotentiaries for further consideration of the questions left unsettled by the present conference.

## DOCUMENT A/CONF.13/L.26 \*

**Fifth report of the Drafting Committee of the Conference:  
articles and draft resolutions adopted by the Third Committee**

[Original text : English]  
[24 April 1958]

1. The Drafting Committee of the Conference met on 24 April and considered the texts of articles and draft resolutions adopted by the Third Committee (A/CONF.13/L.21, annex).<sup>1</sup>

## I

2. The Drafting Committee recommends the following changes of a drafting nature to the texts of the articles :

A. CHANGES AFFECTING THE ENGLISH, FRENCH  
AND SPANISH TEXTS

## Article 50

Replace the words "in the present articles" by the words "in this Convention".

## Article 54, paragraph 2

Replace the words "for conservation purposes in that area" by the words "for purposes of conservation of the living resources of the high seas in that area".

## Article 56, paragraph 1

After the words "living resources" add the words "of the high seas".

## Article 58

*Paragraph 1 :* Replace the words "under the remaining fishery articles" by the words "under articles 52, 53, 54 and 56".

\* Incorporating A/CONF.13/L.26/Corr.1.

<sup>1</sup> Changes proposed by the Drafting Committee which only affect the French and Spanish texts have not been reproduced in the present document.

*Paragraph 1 (a)(iii) :* Add the words "in form or in fact" after the word "discriminate".

## B. CHANGES AFFECTING THE ENGLISH TEXT ONLY

## Article 50

Replace the words "the present articles" by the words "this Convention".

## Article 55, paragraph 3

Replace the word "pertinent" by the word "relevant".

## Article 57

*Paragraph 1 :* Replace the words "Any disagreement arising between" by the words "Any dispute which may arise between".

*Paragraph 2 :* After the words "Food and Agriculture Organization" add the words "of the United Nations".

Replace the word "countries" by the word "States".

*Paragraph 3 :* Replace the words "a proceeding" by the word "proceedings".

*Paragraph 4 :* Replace the word "proceeding" by the word "proceedings".

Put a full stop after the word "case", and begin the second sentence with the words "It shall...".

Replace the words "on these questions" by the words "on this matter".

*Paragraph 5 :* Replace the words "to extend that time limit not to exceed three months" by the words "to extend the time limit for a period not exceeding three months".

*Paragraph 6 :* Replace the word "sides" by the word "parties".

*Article 59 A*

*Paragraph 1*: Replace the words "arbitral award" by the words "award of the special commission".

*Paragraph 2*: Delete the word "arbitration" before the words "procedure" and the word "arbitral" before the word "award".

*Article 60, paragraph 2*

Replace the first few words by the following: "In this article, the expression 'fisheries conducted by means of equipment embedded in the floor of the sea' means those fisheries using gear..."

*Article 60 A*

Replace the words "interested State" by the words "State concerned".

## II

3. The Drafting Committee recommends the following changes of a drafting nature in the draft resolutions proposed by the Third Committee:

## A. CHANGES AFFECTING THE ENGLISH, FRENCH AND SPANISH TEXTS

*Resolution on conservation measures in the adjacent high seas*

*Title*. Redraft as follows: "Resolution on co-operation in conservation measures".

## B. CHANGES AFFECTING THE ENGLISH TEXT ONLY

*Resolution on conservation measures in the adjacent high seas*

Insert the word "such" before "International Conservation Agencies".

## III

## ADDITIONAL ARTICLE PROPOSED BY THE DRAFTING COMMITTEE

4. In addition to the above drafting changes, the Committee considered the question of an Italian amendment adopted by the Third Committee at its 20th meeting to replace the word "nationals" by "national ships", but which was referred to the Drafting Committee for final decision on the wording thereof.

5. After a debate the Committee decided, by 6 votes to 3, that it would make a recommendation on that matter to the plenary session.

The representative of the United Kingdom proposed the addition to the articles adopted by the Third Committee of a new article to read as follows:

"In articles 49, 51, 52, 53, 54 and 56, the term 'nationals' means fishing boats of any size having the nationality of the State concerned, irrespective of the nationality of the member of their crews".

6. The United Kingdom proposal was adopted by 6 votes to none, with 3 abstentions.

## DOCUMENT A/CONF.13/L.27

## Union of South Africa: draft resolution

[Original text: English]  
[24 April 1958]

*The United Nations Conference on the Law of the Sea,*

*Having considered* the situation of a country or territory whose people is overwhelmingly dependent upon its coastal fisheries for its livelihood or economic development,

*Having considered* also the situation of a country whose coastal population depends primarily on coastal fisheries for the animal protein of its diet and whose fishing methods are mainly limited to local fishing from small boats,

*Recognizing* that such situations call for exceptional measures befitting particular needs,

*Considering* that, because of the limited scope and exceptional nature of those situations, any measures adopted to meet them would be complementary to provisions incorporated in a universal system of international law,

*Recommends*:

(1) That where for the purpose of conservation it becomes necessary to limit the total catch of a stock or stocks of fish in an area of the high seas adjacent to a coastal State any other States fishing in that area should collaborate with the coastal State to secure just treatment of such situation by establishing agreed measures which shall recognize any preferential requirements of the coastal State relating to its dependence upon the fishery concerned while having regard to the legitimate interests of the other States;

(2) That appropriate conciliation and arbitral procedures shall be established for the resolution of any disagreements.

DOCUMENT A/CONF.13/L.28/Rev.1<sup>1</sup>

## Report of the First Committee

## OFFICERS OF THE COMMITTEE

1. At the first meeting of the Committee, on 26 February 1958, Mr. K. H. Bailey (Australia) was elected as Chairman; at the 2nd meeting on 28 February, the Committee elected as Vice-Chairman Mr. Sergio Guitierrez Olivos (Chile) and as Rapporteur Mr. Vladimir M. Koretsky (Ukrainian Soviet Socialist Republic).

## TERMS OF REFERENCE OF THE COMMITTEE

2. The rules of procedure adopted by the Conference at its first plenary meeting on 24 February 1958 established in rule 47 that the First Committee should be a Main Committee of the Conference and that to it should be allocated those articles concerning the law of the sea, contained in the report of the International Law Commission covering the work of its eighth session (A/3159), which dealt with the territorial sea and contiguous zone. These articles were articles 1 to 25 (territorial sea) and 66 (contiguous zone).

## ORGANIZATION OF THE WORK OF THE COMMITTEE

3. The First Committee considered the recommendations of the General Committee (A/CONF.13/L.2) adopted by the Conference and decided, at its 3rd meeting on 3 March, to begin its work by a general debate on the articles referred to it. A proposal by Ecuador to postpone the study of articles 1, 2, 3 and 66 until 9 April was discussed, but the Committee deferred any decision on this proposal until the end of the general debate. At its 3rd meeting, the Committee also had before it a proposal by Panama that a sub-committee be established to study the juridical régime of historic bays; at the Chairman's suggestion it was agreed that this proposal should be held over temporarily and brought before the Committee at an early convenient date (see paragraph 50 below).

4. The proposal by Ecuador, originally made at the 3rd meeting, and amended by the representative of Mexico, to change the date from Wednesday, 9 April, to Monday, 31 March, was adopted at the 23rd meeting by 46 votes to 16, with 8 abstentions. A proposal by Mexico (A/CONF.13/C.1/L.1/Rev.1), requesting the Secretariat to draw up a summary table setting out the positions of States with regard to the breadth and juridical status of the zones of the sea contiguous to their coasts was adopted at the 14th meeting by 39 votes to none, with 26 abstentions. In accordance with this request, the Secretariat prepared first a draft synoptical table (A/CONF.13/C.1/L.11) and subsequently a synoptical table (A/CONF.13/C.1/L.11/Rev.1 and Corr.1 and 2).

5. For the convenience of the plenary Conference, the First Committee submits its report in two parts. In the light of the priority to be given by the Conference to the consideration of articles 3 and 66 on the breadth of the territorial sea and on the contiguous zone, part I of the report will deal with these two subjects, while part II will report on the other articles referred to the Committee.

<sup>1</sup> The draft report of the First Committee was circulated in two parts as documents A/CONF.13/C.1/L.168 and A/CONF.13/C.1/L.168/Add.1; these two parts were submitted to the Conference, after approval by the Committee, under cover of documents A/CONF.13/L.28 and A/CONF.13/L.28/Add.1. The present text incorporates the modifications made by the Committee at the time the draft report was approved (64th and 66th meetings).

Part I of the report was adopted at the 64th meeting on 25 April 1958, after the Committee had considered the draft report dealing with that part (A/CONF.13/C.1/L.168).

## Part I: articles 3 and 66

## ARTICLE 3: BREADTH OF THE TERRITORIAL SEA

6. In the report of the International Law Commission covering the work of its eighth session (A/3159), the Commission stated, under the heading of its draft article 3, that it considered that international law did not permit an extension of the territorial sea beyond twelve miles, but that it had taken no decision as to the breadth of the territorial sea up to a limit of twelve miles. The Commission expressed the opinion that the question should be decided by an international conference of plenipotentiaries.

7. In accordance with the resolution referred to in paragraph 4 above, the Committee proceeded, on 31 March 1958, to the consideration jointly of article 1, 2, 3 and 66. These were debated at the 31st, 35th, 36th, 37th, 39th, 40th, 45th, 49th, 50th and 53rd to 55th meetings.

8. Thirteen basic proposals for an article 3 were placed before the Committee.

9. The proposals of Sweden (A/CONF.13/C.1/L.4), Ceylon (A/CONF.13/C.1/L.118 and L.149) and Italy (A/CONF.13/C.1/L.137) would have authorized the coastal State to fix the breadth of its territorial sea up to six miles.

10. Canada introduced a proposal (A/CONF.13/C.1/L.77/Rev.1) for a three-mile territorial sea, the coastal State, however, to have the same rights in respects of fishing and the exploitation of the living resources of the sea in the contiguous zone as in its territorial sea. A proposal by the United States of America was stated in similar terms (A/CONF.13/C.1/L.140).

11. India and Mexico put forward a joint proposal (A/CONF.13/C.1/L.79) entitling States to fix the breadth of their territorial sea up to twelve miles, as did also Yugoslavia (A/CONF.13/C.1/L.135). The Union of Soviet Socialist Republics (A/CONF.13/C.1/L.80) proposed that each State should determine the breadth of its territorial sea in accordance with established practice within the limits, as a rule, of three to twelve miles, having regard to historical and geographical conditions, economic interests and the interests of the security of the coastal State and of international navigation. A Colombian proposal (A/CONF.13/C.1/L.82) was stated in terms of the sovereignty of a State extending to a belt of sea twelve miles broad adjacent to its coast.

12. According to the proposal of Peru (A/CONF.13/C.1/L.133 and Add.1 and 2), each State was competent to fix its territorial sea within reasonable limits, taking into account geographical, geological and biological factors, as well as the economic needs of its population, and its security and defence. The proposal also referred to the fixing of the breadth of the territorial sea by regional agreement and to a system of reporting on the breadth adopted to periodic sessions of the Conference on the Law of the Sea.

13. A United Kingdom proposal (A/CONF.13/C.1/L.134) stated that the limit should not extend beyond six miles, with the proviso that extension to this limit should not affect existing rights of passage for aircraft and vessels, including warships, outside three miles.

14. Greece proposed a territorial sea extending to three miles (A/CONF.13/C.1/L.136).
15. Subsequently Canada together with India and Mexico replaced their two initial proposals by a joint text (A/CONF.13/C.1/L.77/Rev.2). This would have entitled a State to fix the breadth of its territorial sea up to a limit of six miles, provided that a breadth of more than six but not exceeding twelve miles would have been recognized if declared prior to 24 February 1958, the opening date of the Conference. The joint proposal established that, where the breadth of the territorial sea was less than twelve miles, the coastal State should have a fishing zone contiguous to its territorial sea extending to a limit of twelve miles, in which it would have the same fishing rights as in its territorial sea. At the 53rd meeting, however, the sponsors withdrew this draft. Portugal and Thailand therefore withdrew their proposed amendments thereto (A/CONF.13/C.1/L.141/Rev.1 and L.160 respectively), the former being adapted and then withdrawn (see 55th meeting). India and Mexico reintroduced their original proposal (A/CONF.13/C.1/L.79), while Canada submitted a revised proposal (A/CONF.13/C.1/L.77/Rev.3), entitling a State to fix the breadth of its territorial sea up to six nautical miles, with provision for a contiguous fishing zone extending to a limit of twelve nautical miles from the baseline, in which it would have the same rights in respect of fishing and the exploitation of the living resources of the sea as in its territorial sea.
16. The United States of America introduced a proposal (revised, after discussion, and submitted as document A/CONF.13/C.1/L.159/Rev.2) by which the maximum breadth of the territorial sea of any State should be six miles, the coastal State to have, in a zone of up to twelve miles from the applicable baseline, the same rights in respect of fishing and the exploitation of the living resources of the sea as in its territorial sea. The proposal contained the proviso that these rights should be subject to the right of the vessels of any State whose vessels had fished regularly in that portion of the zone having a continuous baseline and located in the same major body of water for the period of five years immediately preceding the signature of the convention, to fish in the outer six miles of that portion of the zone, under obligation to observe therein such conservation regulations as were consistent with the rules on fisheries adopted by the Conference and other rules of international law. Disputes were to be subject to arbitration in the absence of another method of peaceful solution being agreed on between the parties. The provisions concerning the fishing rights would be subject to existing or future bilateral or multilateral arrangements.
17. At the 55th meeting, the representative of Ceylon withdrew the proposals of his delegation (A/CONF.13/C.1/L.118 and L.149) in favour of the Indian-Mexican proposal (A/CONF.13/C.1/L.79). The representative of Yugoslavia likewise withdrew his proposal (A/CONF.13/C.1/L.135). At the 56th meeting, the representative of Greece withdrew the Greek proposal (A/CONF.13/C.1/L.136) and the representative of Sweden withdrew his proposal (A/CONF.13/C.1/L.4) in favour of the identical Italian proposal (A/CONF.13/C.1/L.137); the representative of Peru also withdrew his proposal (A/CONF.13/C.1/L.133 and Add.1 and 2). The first of the proposals by the United States of America (A/CONF.13/C.1/L.140) was also withdrawn.
18. The Committee proceeded to vote on article 3 at its 56th and 57th meetings. In accordance with rule 41 of the rules of procedure, it voted on the proposals in the order in which they had been submitted.
19. The Committee decided to vote on the two paragraphs of the Canadian proposal (A/CONF.13/C.1/L.77/Rev.3) separately. The first paragraph, proposing a six-mile

territorial sea, was rejected by 48 votes to 11, with 23 abstentions; the second paragraph was adopted by 37 votes to 35, with 9 abstentions.

20. The joint proposal by India and Mexico (A/CONF.13/C.1/L.79) received 35 votes in favour and 35 against, with 12 abstentions and was, therefore, under the terms of rule 45 on equally divided votes, regarded as rejected. The USSR proposal (A/CONF.13/C.1/L.80) was rejected by 44 votes to 29, with 9 abstentions.

21. The representative of the United Kingdom withdrew his proposal (A/CONF.13/C.1/L.134). The representative of Italy withdrew the Italian proposal (A/CONF.13/C.1/L.137) in favour of that submitted by the United States (A/CONF.13/C.1/L.159/Rev.2), and the representative of Sweden therefore reintroduced his own proposal (A/CONF.13/C.1/L.4), which he had previously withdrawn in favour of the Italian proposal.

22. At the 57th meeting, the Colombian proposal (A/CONF.13/C.1/L.82 and Corr.1) as orally amended and (without objection) divided for voting purposes at the 55th meeting—was rejected by 42 votes to 33, with 7 abstentions. The Swedish proposal (A/CONF.13/C.1/L.4) was likewise rejected, by 49 votes to 16, with 4 abstentions. The United States proposal was then rejected by 38 votes to 36, with 9 abstentions. A motion to reconsider the Indian-Mexican proposal (A/CONF.13/C.1/L.79) failed, by 39 votes to 36, with 7 abstentions.

23. The amendment put forward by Saudi Arabia (A/CONF.13/C.1/L.152) to any proposal on the breadth of the territorial sea, to make an exception in the case of historic waters was automatically dropped.

24. Thus, no proposal specifying the breadth of the territorial sea succeeded in obtaining a majority of the votes in the Committee.

25. The First Committee therefore reports to the plenary Conference only the adoption of the following text for a contiguous fishing zone, as an article 3:

*Article 3*

“A State has a fishing zone contiguous to its territorial sea, extending to a limit twelve nautical miles from the baseline from which the breadth of its territorial sea is measured, in which it has the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea.”

ARTICLE 66 : CONTIGUOUS ZONE

26. The Committee voted on amendments to article 66 at its 58th meeting. A Peruvian proposal for a substitute text (A/CONF.13/C.1/L.139) was withdrawn. A Colombian proposal (A/CONF.13/C.1/L.82 and Corr.1) for a zone extending for twelve miles from the outer limit of the territorial sea was rejected by 49 votes to 1, with 27 abstentions. A Mexican proposal (A/CONF.13/C.1/L.141/Rev.1) had been eliminated by the action of the Committee on the Canadian proposal for a contiguous fishing zone (see para. 19 above) and this was also the case with a similar provision in the proposal of Yugoslavia (A/CONF.13/C.1/L.54). The representative of Iceland withdrew his proposal relating to fisheries (A/CONF.13/C.1/L.131) in favour of action in the Third Committee. The representative of Italy withdrew his amendment (A/CONF.13/C.1/L.138) in favour of a revised text of paragraph 1 proposed by Poland, which was then adopted by 33 votes to 27, with 15 abstentions. An amendment by Ceylon (A/CONF.13/C.1/L.55) to include a reference to immigration was adopted by 37 votes to 15, with 20 abstentions. The Polish text having included a reference to security, it was unnecessary to vote upon that provision in the amendments of Yugoslavia (A/CONF.13/C.1/L.54) and of the Republic of Korea (A/CONF.13/C.1/L.84),

while consideration of the amendments of the Philippines (A/CONF.13/C.1/L.13) was made unnecessary by the proposals of Poland and Ceylon. A new paragraph proposed by Yugoslavia, concerning the delimitation of the zone between opposite or adjacent States, was next adopted by 52 votes to 3, with 19 abstentions.

27. Article 66, as thus amended, was adopted by 50 votes to 18, with 8 abstentions.

28. The First Committee accordingly reports its adoption of the following text :

*“ Article 66*

“ 1. In a zone of the high seas contiguous to its territorial sea, the coastal State may take the measures necessary to prevent and punish infringements of its customs, fiscal, immigration or sanitary regulations, and violations of its security.

“ 2. This contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

“ 3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.”

*Part II: articles 1 and 2, and 4 to 25 inclusive*

29. At its 66th meeting, the Committee adopted as part II of its report the draft presented by the Rapporteur in document A/CONF.13/C.1/L.168/Add.1. The texts of the articles and of the draft resolution adopted by the Committee appear in the annex to the present report.

ARTICLES 1 AND 2

30. In accordance with the decision of the Committee at its 23rd meeting (see para. 4 above) to postpone consideration of articles 1, 2, 3 and 66 and to consider those articles jointly, articles 1 and 2 were considered during the general discussion on the four articles. Reference to the discussions of the Committee in relation to articles 3 and 66 has already been made in part I of this report.

31. At the time of voting at the 58th meeting, five proposals relating to article 1 remained before the Committee.<sup>1</sup> The proposal of the Netherlands (A/CONF.13/C.1/L.83) was rejected by 49 votes to 6, with 18 abstentions; the proposal of the United Kingdom (A/CONF.13/C.1/L.83) was rejected by 49 votes to 6, with 18 abstentions; the proposal of the United Kingdom (A/CONF.13/C.1/L.134) for a new text of this article was adopted by 61 votes to 1, with 8 abstentions.

32. As a result of the adoption of this new text, Yugoslavia withdrew its amendment (A/CONF.13/C.1/L.57). The Chairman stated that it was unnecessary to proceed with the amendment of Turkey (A/CONF.13/C.1/L.145) and that the International Law Commission text of article 1 should be considered as having been entirely replaced by the United Kingdom text just adopted.

33. In relation to article 2, at the time of voting, at the 59th meeting, all the amendments had been withdrawn;<sup>2</sup>

<sup>1</sup> The proposals by Colombia (A/CONF.13/C.1/L.82) and Denmark (A/CONF.13/C.1/L.81) had been withdrawn in favour of the United Kingdom proposal (A/CONF.13/C.1/L.134): the Greek proposal (A/CONF.13/C.1/L.63) and that of Peru (A/CONF.13/C.1/L.139) had also been withdrawn.

<sup>2</sup> France, Denmark, Colombia and Netherlands (A/CONF.13/C.1/L.6, L.81, L.82 and Corr.1, para. 1, and L.83).

the International Law Commission text of article 2 was therefore adopted.

ARTICLE 4

34. This article was considered by the Committee at its 52nd meeting. Eleven amendments were before the Committee.<sup>3</sup> It referred this article to its drafting committee, with the suggestion that that committee consult also with technical experts on the question of the definition of the low-water line. The text as recommended by the drafting committee (A/CONF.13/C.1/L.167) was adopted by the Committee at its 65th meeting.

ARTICLE 5

35. Eighteen States originally submitted amendments to article 5. In view of the number of proposals, the Committee agreed, at the 43rd meeting, on the proposal of the Chairman, that a working party composed of the sponsors, together with Sweden, which had declared its intention of submitting amendments to the article, should be entrusted with the task of reducing the number of proposals.

36. The Committee considered article 5 at its 48th, 51st and 52nd meetings.

37. At the first of these meetings, the United Kingdom introduced a revised version of its original proposal (A/CONF.13/C.1/L.62/Corr.1), in which account had been taken of the views of other delegations. The Federal Republic of Germany, Greece, Italy and Japan supported the United Kingdom proposal, but jointly proposed an additional paragraph (A/CONF.13/C.1/L.157) for adoption either as an amendment to the International Law Commission's text or to the United Kingdom text.

38. At the 51st meeting, Sweden proposed two oral sub-amendments to the United Kingdom proposal, which were accepted by the sponsor; the United Kingdom also accepted oral sub-amendments by India and Mexico.

39. The Committee voted on article 5 at its 52nd meeting. The following proposals remained to be voted on: Yugoslavia (A/CONF.13/C.1/L.58); United Kingdom (A/CONF.13/C.1/L.62/Corr.1), replacing the text of the International Law Commission in its entirety; Netherlands (A/CONF.13/C.1/L.67); United States of America (A/CONF.13/C.1/L.86); Norway (A/CONF.13/C.1/L.97); Mexico (A/CONF.13/C.1/L.99); Chile (A/CONF.13/C.1/L.100); Portugal (A/CONF.13/C.1/L.101); Iceland (A/CONF.13/C.1/L.142); Federal Republic of Germany, Greece, Italy and Japan (A/CONF.13/C.1/L.157).

40. Those amendments referring both to the International Law Commission's text and to the revised United Kingdom proposal were put to the vote first, with the following results :

The Chilean proposal was rejected by 29 votes to 21, with 6 abstentions.

The four-power proposal was rejected by 30 votes to 13, with 12 abstentions.

The Mexican proposal was rejected by 26 votes to 20, with 10 abstentions.

The Netherlands proposal was rejected by 32 votes to 11, with 14 abstentions.

The Yugoslav proposal was rejected by 34 votes to 8, with 10 abstentions.

The alternative proposal of Yugoslavia was rejected by 33 votes to 11, with 13 abstentions.

The United States proposal was adopted by 24 votes to 14, with 23 abstentions.

<sup>3</sup> A/CONF.13/C.1/L.6, L.58, L.62, L.63/Corr.1, L.81, L.85, L.87, L.89, L.90, L.94, L.143.

The Portuguese proposal (amended orally in the light of decisions already taken) was adopted by 33 votes to 16, with 10 abstentions.

41. The revised United Kingdom proposal (A/CONF.13/L.62/Corr.1) was then put to the vote, paragraph by paragraph, with the following results:

*Paragraph 1*

The words "as a whole" were adopted by 29 votes to 24, with 10 abstentions.

The whole of paragraph 1 was adopted by 47 votes to 5, with 12 abstentions.

*Paragraph 2*

The first sentence was adopted by 54 votes to 1, with 8 abstentions.

The second sentence, amended by Sweden, was adopted by 31 votes to 23, with 12 abstentions.

*Paragraph 3*

Withdrawn.

*Former paragraph 4* (amended by Mexico)

This paragraph was adopted by 43 votes to 12, with 11 abstentions.

*Former paragraph 5*

This paragraph was adopted by 62 votes to 0, with 2 abstentions.

*Former paragraph 6* (amended by India)

This paragraph was adopted by 44 votes to 15, with 8 abstentions.

42. The Committee then rejected, by 27 votes to 18, with 20 abstentions, proposals by Norway and Iceland (A/CONF.13/C.1/L.97 and L.142) to delete the last sentence of paragraph 1 of the International Law Commission's text which had formed paragraph 3 of the United Kingdom text and had been withdrawn by that delegation. The Committee then adopted, by 35 votes to 13, with 18 abstentions, the amendment by Mexico to that text (A/CONF.13/C.1/L.99, point 4).

43. The United Kingdom text, as amended, was adopted by 44 votes to 9, with 13 abstentions.

44. Adjustments in the text were then made by the Committee, at its 65th meeting, on the report of the drafting committee (A/CONF.13/C.1/L.167).

NEW ARTICLE 5 A

45. The Committee had before it at its 52nd meeting a number of similar proposals<sup>1</sup> for adding to article 4 the following provision: "Waters within the baseline of the territorial sea are considered as internal waters". This proposal was adopted by the Committee by 60 votes to 1, with 8 abstentions. As regards a proposal by the representative of Turkey that the text of the new paragraph should contain a reference to internal seas, the Committee took note that this inclusion was unnecessary, there being unanimous agreement that internal seas were considered to be internal waters.

46. The new paragraph was referred to the drafting committee together with article 4. The drafting committee

<sup>1</sup> A/CONF.13/C.1/L.58, L.63/Corr.1, L.85, L.94. The Committee had also had the same text referred to it by the Second Committee (A/CONF.13/C.1/L.143).

reported favourably on the Yugoslav proposal (A/CONF.13/C.1/L.58) to place this provision after article 5, rather than in article 4, and proposed to include in the new article the related provision already adopted by the Committee as paragraph 6 of article 5 on straight baselines. The text as recommended by the drafting committee was adopted by the Committee at its 65th meeting.

ARTICLE 6

47. The only proposal concerning this article was submitted by Spain (A/CONF.13/C.1/L.90) and was to the effect that it should be combined with article 4. The matter was referred to the drafting committee, which reported (A/CONF.13/C.1/L.167) in favour of the existing arrangement. The text of article 6 as drafted by the International Law Commission was accordingly adopted by the Committee at its 65th meeting.

ARTICLE 7

48. The Committee had before it at its 47th meeting nine amendments relating to article 7.<sup>2</sup> A new paragraph 1 proposed by the United Kingdom (A/CONF.13/C.1/L.62) was adopted by 28 votes to 21, with 20 abstentions. The fifteen-mile closing line contained in the text of the International Law Commission was then changed to twenty-four miles through the adoption, by 31 votes to 27, with 13 abstentions, of an amendment proposed by Bulgaria, Poland and the USSR (A/CONF.13/C.1/L.103) and by Guatemala (A/CONF.13/C.1/L.105).

49. The new paragraph 5 proposed by the United Kingdom was rejected by 28 votes to 18, with 22 abstentions. The remaining amendments and rearrangements proposed by the United Kingdom to paragraphs 1, 2 and 3 of the International Law Commission's text were referred to the drafting committee.

50. As regards paragraph 4 on historic bays, the amendment proposed by the United Kingdom (A/CONF.13/C.1/L.62) was withdrawn at the 48th meeting, and that by Japan (A/CONF.13/C.1/L.104) at the 63rd meeting. The International Law Commission's text for paragraph 4 was then adopted at the 63rd meeting. A draft resolution submitted by India and Panama proposing a study of the régime of historic bays (A/CONF.13/C.1/L.158/Rev.1) was adopted by 54 votes to 2, with 10 abstentions.

51. The final text of article 7 was adopted by the Committee, on the report of the drafting committee, at the 65th meeting.

ARTICLE 8

52. Article 8 and two amendments to it by Norway (A/CONF.13/C.1/L.97) and Portugal (A/CONF.13/C.1/L.101) were considered by the Committee at its 46th meeting.

The amendment by Norway was rejected by 54 votes to 6, with 10 abstentions. The amendment by Portugal to add a new paragraph was rejected by a roll-call vote of 33 to 15, with 23 abstentions. The International Law Commission's text of article 8 was then adopted by 70 votes to none, with 1 abstention.

ARTICLE 9

53. Article 9 and the amendments proposed thereto were considered by the Committee at its 46th meeting. There

<sup>2</sup> A/CONF.13/C.1/L.62, L.63, L.97, L.101, L.102, L.103, L.104, L.105, L.109.

were originally eight amendments to this article.<sup>1</sup> Prior to the voting, the amendment of Spain (A/CONF.13/C.1/L.111) was referred to the drafting committee since it related to the Spanish text only; the amendment of India (A/CONF.13/C.1/L.107) was orally amended; and the representative of Argentina accepted the amendment of Uruguay (A/CONF.13/C.1/L.68) to his own amendment (A/CONF.13/C.1/L.7/Rev.1). The voting was as follows:

The amendment of India (A/CONF.13/C.1/L.107), as orally amended, was rejected by 30 votes to 1, with 33 abstentions.

The amendment of the Netherlands (A/CONF.13/C.1/L.67) was rejected by 24 votes to 22, with 21 abstentions.

The amendment of Argentina (A/CONF.13/C.1/L.7/Rev.1), as amended by Uruguay, was adopted by 35 votes to 17, with 14 abstentions.

The United States amendment (A/CONF.13/C.1/L.110) was then orally amended, consequent upon the adoption of the Argentine amendment, by adding the words "and buoyed channels" after "roadsteads"; this was adopted by 54 votes to none, with 12 abstentions.

The Argentine proposal as a whole, as amended, was adopted by 52 votes to 7, with 8 abstentions.

#### ARTICLE 10

54. Article 10 was considered by the Committee at its 52nd meeting. There were originally six amendments submitted to the article,<sup>2</sup> of which two, namely, those of Spain (A/CONF.13/C.1/L.113) and Mexico (A/CONF.13/C.1/L.114), were referred to the drafting committee at the 52nd meeting. Prior to the voting, the United States orally amended its amendment at the suggestion of the representative of Chile, and Yugoslavia withdrew the second part of its amendment (A/CONF.13/C.1/L.52). The voting was as follows:

The amendment of Burma (A/CONF.13/C.1/L.3) was rejected by 32 votes to 1, with 22 abstentions.

The United States amendment (A/CONF.13/C.1/L.112) as orally amended was adopted by 37 votes to 6, with 14 abstentions.

The amendment of Yugoslavia (A/CONF.13/C.1/L.59) for a new paragraph 2 was adopted by 47 votes to 1, with 7 abstentions.

Article 10 as a whole, as amended, was adopted by 62 votes to none, with 1 abstention.

55. The article was re-drafted by the Committee, on the basis of the report of the drafting committee (A/CONF.13/C.1/L.167), at its 65th meeting.

#### ARTICLE 11

56. The Committee took up article 11 at its 60th meeting. An amendment proposed by the Netherlands (A/CONF.13/C.1/L.67) was withdrawn and a new title and text on low-tide elevations submitted by the United States (A/CONF.13/C.1/L.115) was adopted by 25 votes to 5, with 27 abstentions. A paragraph 2 proposed by the United Kingdom (A/CONF.13/C.1/L.62) was also adopted, by 50 votes to 1, with 7 abstentions.

57. The redraft of the article recommended by the drafting committee (A/CONF.13/C.1/L.167) was approved at the 65th meeting.

<sup>1</sup> A/CONF.13/C.1/L.7/Rev.1, L.67, L.68, L.97, L.101, L.107, L.110, L.111: the amendments of Norway (L.97) and Portugal (L.101) were withdrawn at the 46th meeting.

<sup>2</sup> A/CONF.13/C.1/L.3, L.59, L.98, L.112, L.113, L.114. The proposal of the Philippines (L.98) was later withdrawn.

#### ARTICLES 12, 13 AND 14

58. Articles 12, 13 and 14 were considered by the Committee at its 60th and 61st meetings. At the latter, there remained fifteen amendments covering the three articles, to which references are given in the summary record of that meeting. Upon voting on the proposals relating to article 12 at the 61st meeting, the proposal of Norway (A/CONF.13/C.1/L.97) was voted upon in parts as follows:

The first sentence of paragraph 1, which had the effect of merging articles 12 and 14 under one heading was adopted by 39 votes to 19, with 9 abstentions.

The phrase "historic title or other" in the second sentence as amended during the meeting, was adopted by 25 votes to 13, with 31 abstentions.

The phrase "special circumstances" in the second sentence was adopted by 38 votes to 7, with 22 abstentions.

The second sentence of paragraph 1, as amended, was adopted by 32 votes to 15, with 19 abstentions.

Paragraph 1 as amended during the meeting, was adopted by 39 votes to 13, with 14 abstentions.

The adoption of paragraph 1 of the amended Norwegian proposal made it unnecessary to vote on the amendments submitted by Yugoslavia (A/CONF.13/C.1/L.60), the Federal Republic of Germany (A/CONF.13/C.1/L.121) and Portugal (A/CONF.13/C.1/L.101).

Paragraph 2 of the Norwegian proposal was rejected by 26 votes to 24, with 14 abstentions.

The proposals submitted by Greece, the United States of America, Chile and Turkey (A/CONF.13/C.1/L.63, L.116, L.123, L.146) to delete paragraphs 2 and 3 of the International Law Commission's text were adopted by 30 votes to 25, with 13 abstentions.

Paragraph 4 of the International Law Commission's text was then adopted by 67 votes to none.

59. The Chairman stated that the decision on paragraph 4 would be subject to the drafting committee's report on the amendments submitted by Portugal (A/CONF.13/C.1/L.101) and the United States (A/CONF.13/C.1/L.116) relating to that paragraph; a further consequence of the voting on article 12, that is to say on paragraph 1 of the Norwegian proposal, was that it became unnecessary to consider any of the amendments relating to article 14 of the text of the International Law Commission.

60. Minor changes in the text recommended by the drafting committee (A/CONF.13/C.1/L.167) were approved at the 65th meeting.

61. Of the three amendments relating to article 13, only one, that of the Netherlands (A/CONF.13/C.1/L.108), was put to the vote; it was rejected by 43 votes to 6, with 18 abstentions. On the proposal of Mexico, the Committee adopted the International Law Commission's text of article 13 and referred the amendments of the United States (A/CONF.13/C.1/L.125) and Portugal (A/CONF.13/C.1/L.101) to the drafting committee. The latter's redraft of the article was adopted by the Committee at its 65th meeting. After paragraph 2 had been adopted by 26 votes to 7, with 10 abstentions, the text was approved without objection.

#### ARTICLE 15

62. The Committee considered article 15 at its 25th, 26th, 28th to 31st, 33rd, 36th and 65th meetings. There were originally twelve amendments submitted to the article, to which references can be found in the relevant summary records. The following is a description, paragraph by paragraph, of the work of the Committee in arriving at the text of the article.

*Paragraph 3*

63. At the 25th meeting, the Committee adopted a suggestion by the Chairman that the sponsors of amendments of substance to paragraph 3 should consult together informally with a view to consolidating their amendments. The delegations concerned were Yugoslavia, Romania, United Kingdom, Federal Republic of Germany, Portugal, Netherlands, and the United States of America (A/CONF.13/C.1/L.15, L.23, L.24, L.25, L.26, L.27, L.28). At the 28th meeting, the United States introduced, as the text approved by this working group, its revised amendment (A/CONF.13/C.1/L.28/Rev.1). At the time of voting at the 33rd meeting, there were four amendments relating to this paragraph. They were put to the vote in the following order:

The amendment of Chile, Ecuador, Haiti, Mexico, Panama, Peru, Uruguay, Venezuela (A/CONF.13/C.1/L.74) was rejected by a roll-call vote of 32 to 31, with 5 abstentions;

The amendment of India (A/CONF.13/C.1/L.73) was adopted by 38 votes to 19, with 12 abstentions;

The amendment of Turkey (A/CONF.13/C.1/L.65) was adopted by 38 votes to 9, with 14 abstentions;

The amendment of the United States (A/CONF.13/C.1/L.28/Rev.1), as amended, was adopted by 35 votes to 22, with 11 abstentions;

Paragraph 3, as amended, was adopted by 55 votes to none, with 8 abstentions.

*Paragraph 5*

64. After the amendment of Portugal to paragraph 5 (A/CONF.13/C.1/L.26) had been withdrawn in favour of the French amendment (A/CONF.13/C.1/L.6), the French amendment was adopted, at the 37th meeting, by 65 votes to none, with 2 abstentions, and paragraph 5, as amended, was then adopted by 59 votes to one.

*Proposals for additional paragraphs*

65. At the 26th meeting, Denmark (A/CONF.13/C.1/L.29), Italy (A/CONF.13/C.1/L.30), Yugoslavia (A/CONF.13/C.1/L.15) and Canada, the last orally supporting the Yugoslav proposal, accepted the Chairman's suggestion to consolidate a text regarding the right of innocent passage for fishing vessels. The consolidated text appeared as document A/CONF.13/C.1/L.64, later revised (A/CONF.13/C.1/L.64/Rev.1). Prior to the voting, at the 37th meeting, the sponsors of this joint proposal withdrew in favour of the United Kingdom amendment (A/CONF.13/C.1/L.132) after the United Kingdom representative had agreed to the deletion of the last sentence. The Mexican representative then reintroduced the four-power proposal (A/CONF.13/C.1/L.64/Rev.1) in the name of Mexico, and this was adopted by the Committee by a roll-call vote of 29 to 23, with 14 abstentions. This was considered as tantamount to rejection of the United Kingdom amendment.

66. A proposal by Yugoslavia (A/CONF.13/C.1/L.15) for a new paragraph relating to flying-boats and similar aircraft on the surface was put to the vote at the 37th meeting and was rejected by 53 votes to one, with 13 abstentions.

*Paragraphs 1, 2 and 4*

67. Paragraphs 1, 2 and 4 of article 15 were referred to the drafting committee, since the few amendments proposed were of a formal character. On the report of the drafting committee (A/CONF.13/C.1/L.167) the Committee adopted the International Law Commission's text of these

three paragraphs and made minor changes of style and arrangement in approving the text of the article as a whole.

## ARTICLE 16

68. The Committee considered article 16 at its 26th and 38th meetings. There were five amendments to this article.<sup>1</sup> At the 38th meeting, the amendments were put to the vote in the following order:

The joint amendment of the Union of Soviet Socialist Republics and Bulgaria (A/CONF.13/C.1/L.46) was rejected by 46 votes to 12, with 13 abstentions;

The amendment of the United States of America (A/CONF.13/C.1/L.38) was adopted by 26 votes to 18, with 25 abstentions;

In consequence, the United Kingdom amendment (A/CONF.13/C.1/L.37) relating to paragraph 1 was not required to be put to the vote and the amendment to paragraph 2 was then referred to the drafting committee;

The amendment of Yugoslavia (A/CONF.13/C.1/L.16) was rejected by 17 votes to 11, with 43 abstentions;

Article 16, as amended, was then adopted by 59 votes to 1, with 10 abstentions.

69. At its 65th meeting, the Committee approved drafting changes reported by the drafting committee.

## ARTICLE 17

70. Article 17 was considered by the Committee at its 27th, 28th, 32nd, 33rd and 34th meetings. There were originally eleven amendments submitted to this article.<sup>2</sup> The following is a description, paragraph by paragraph, of the way in which the Committee arrived at the eventual text of the article.

71. At the 27th meeting, the Chairman suggested that the delegations of Chile, France, Greece, Netherlands, Portugal, the United Kingdom, the United States and Yugoslavia should consult together with a view to merging their proposals<sup>3</sup> into a single text for paragraphs 1, 3 and 4, as well as for any additional paragraphs. The Committee accepted this suggestion.

*Paragraph 1*

72. As a result of consultations between delegations there remained before the Committee at the 34th meeting, when paragraph 1 was voted upon, only one amendment, submitted by Greece, the Netherlands, Portugal, the United Kingdom, the United States and Yugoslavia, which was adopted by 36 votes to 21, with 10 abstentions.

*Paragraph 2*

73. There were no amendments to this paragraph so that the International Law Commission's text was accepted, without being put to the vote, at the 34th meeting.

*Paragraph 3*

74. As a result of consultations between delegations, a four-power proposal (A/CONF.13/C.1/L.70) replaced those formerly standing in the name of the United Kingdom, the United States, Portugal and the Netherlands (A/CONF.13/C.1/L.37, L.39, L.47, L.51). Therefore, at the 34th meeting, when this paragraph was put to the

<sup>1</sup> A/CONF.13/C.1/L.16, L.18, L.37, L.38, L.46.

<sup>2</sup> A/CONF.13/C.1/L.6, L.17, L.31, L.32, L.37, L.39, L.44, L.47, L.51, L.52, L.56.

<sup>3</sup> A/CONF.13/C.1/L.56, L.6, L.31, L.51, L.47, L.37, L.39, L.17.

vote, there remained the following amendments, which were voted upon as follows. The amendment of Greece (A/CONF.13/C.1/L.31) as amended at the 32nd meeting, was adopted by 34 votes to 11, with 20 abstentions; the four-power amendment was adopted by 32 votes to 27, with 8 abstentions. Paragraph 3, as amended, was then adopted by 31 votes to 27, with 5 abstentions.

#### *Paragraph 4*

75. After the United States and Chile had withdrawn their amendments (A/CONF.13/C.1/L.39, L.56) at the 32nd and 33rd meetings respectively, and the three remaining amendments had been combined in a single joint proposal by the Netherlands, Portugal and the United Kingdom (A/CONF.13/C.1/L.71), this joint proposal, as amended at the 33rd meeting, was adopted at the 34th meeting by a roll-call vote of 31 to 30, with 10 abstentions.

#### *Proposals for additional paragraphs*

76. Of the three proposals for new paragraphs, namely, those of France, the Netherlands and Bolivia (A/CONF.13/C.1/L.6, L.51, L.52), the last was referred to the Fifth Committee and the first two were voted upon at the 34th meeting. The French proposal was rejected by 23 votes to 16, with 25 abstentions; the Netherlands proposal was rejected by 31 votes to 18, with 19 abstentions. Drafting amendments were approved by the Committee at its 65th meeting.

#### ARTICLE 18

77. Article 18 was considered by the Committee at its 27th, 33rd, 34th, 35th and 36th meetings. There were originally eight amendments to this article.<sup>1</sup> At the 33rd meeting, a proposal (A/CONF.13/C.1/L.72) in the name of Greece, the Netherlands, Portugal, the United Kingdom, the United States and Yugoslavia was introduced so that at the time of voting at the 34th meeting there remained only three amendments, which were taken in the following order:

The Mexican amendment (A/CONF.13/C.1/L.45) was adopted by a roll-call vote of 33 to 30, with 10 abstentions.

This was considered as tantamount to a rejection of the six-power amendment.

The Greek amendment (A/CONF.13/C.1/L.32) was voted upon in two parts; the first part, up to the word "nor", was adopted by 31 votes to 15, with 18 abstentions, and the second was rejected by 21 votes to 9, with 36 abstentions.

78. At the 35th meeting, article 18, as amended, was put to the vote as a whole by roll-call and was rejected by 34 votes to 28, with 10 abstentions. At the 36th meeting, the original text of the International Law Commission was put to the vote and adopted by 59 votes to none, with 3 abstentions. Drafting modifications were approved at the 65th meeting.

#### ARTICLE 19

79. The Committee considered article 19 at its 27th and 28th meetings. Of the three amendments to this article, that of the United Kingdom (A/CONF.13/C.1/L.37) was treated as a purely formal amendment, that of Spain (A/CONF.13/C.1/L.36) was referred to the drafting committee, so that at the 38th meeting only that of Norway (A/CONF.13/C.1/L.119) remained. This was adopted by 33 votes to 10, with 26 abstentions and the Inter-

<sup>1</sup> A/CONF.13/C.1/L.19, L.32, L.36, L.37, L.40, L.45, L.47, L.51.

national Law Commission's text, as amended, was then adopted by 64 votes to 1, with 7 abstentions. Drafting alterations were approved at the 65th meeting.

#### ARTICLE 20

80. The Committee considered article 20 at its 27th, 28th and 30th meetings. There were originally seven amendments to this article.<sup>2</sup> The following is a description, paragraph by paragraph, of the work of the Committee in arriving at the text of the article.

#### *Paragraph 1*

81. There were three amendments to this paragraph which were put to the vote at the 38th meeting in the following order:

The amendment of Pakistan (A/CONF.13/C.1/L.53) was adopted by 35 votes to 8, with 30 abstentions;

The United States amendment (A/CONF.13/C.1/L.41) was adopted by 33 votes to 21, with 20 abstentions;

The United Kingdom amendment (A/CONF.13/C.1/L.37) was adopted by 56 votes to 4, with 13 abstentions;

Paragraph 1, as amended, was adopted by 64 votes to none, with 7 abstentions.

#### *Paragraph 2*

82. At the 38th meeting, the United States amendment (A/CONF.13/C.1/L.41) deleting the words "lying in the territorial sea or" was adopted by 21 votes to 20, with 34 abstentions. There was, therefore, no need to proceed with the United Kingdom amendment to this paragraph (A/CONF.13/C.1/L.37) and the International Law Commission's text of the paragraph, as amended, was then adopted by 68 votes to none, with 4 abstentions.

#### *Paragraph 3*

83. There were no amendments to this paragraph and the International Law Commission's text was adopted unanimously at the 38th meeting.

#### *Proposals for additional paragraphs*

84. There were three proposals under this heading which were treated in the following order at the 38th meeting:

The proposal of Greece (A/CONF.13/C.1/L.33), as amended by Yugoslavia, was adopted by 44 votes to 5, with 17 abstentions;

The United Kingdom proposal (A/CONF.13/C.1/L.37) was adopted by 50 votes to 5, with 18 abstentions.

The adoption of the United Kingdom proposal was considered as tantamount to a rejection of the proposal of Turkey (A/CONF.13/C.1/L.88), and the United Kingdom proposal, as adopted, was then sent to the drafting committee for consideration, together with the similar Yugoslav proposal (A/CONF.13/C.1/L.20). The voting on the article as a whole was deferred until after the report of the drafting committee was received. The latter amalgamated the United Kingdom and Yugoslav texts and the new paragraph became paragraph 5 of article 20. The revised article was adopted by the Committee at its 65th meeting.<sup>3</sup>

<sup>2</sup> A/CONF.13/C.1/L.6, L.20, L.33, L.37, L.41, L.53, L.88.

<sup>3</sup> At the 66th meeting, when the draft report of the Committee (A/CONF.13/C.1/L.168/Add.1) was under consideration, the representative of Turkey stated that paragraph 5 of this article was unacceptable to Turkey. The representatives of Chile and Uruguay also stated that the wording of this article conflicted with the provisions of the laws of their countries.

## ARTICLE 21

85. The Committee considered article 21 at its 28th, 38th, 39th and 40th meetings. There were originally seven amendments<sup>1</sup> to this article of which two, namely, part of the United States (A/CONF.13/C.1/L.42) and Portuguese (A/CONF.13/C.1/L.47) amendments relating to the title of the article, were referred to the drafting committee at the 38th meeting. The following is a description, paragraph by paragraph, of the work of the Committee in arriving at the text of the article.

*Paragraph 1*

86. At the 40th meeting, the only remaining amendment, that of the United States (A/CONF.13/C.1/L.42), was voted upon as follows:

The amendment to insert the word "generally" was rejected by 37 votes to 8, with 21 abstentions;

The amendment to replace the words "may not arrest" by "should not stop" was adopted by 28 votes to 9, with 29 abstentions;

The International Law Commission's text, as amended, was adopted by 54 votes to none, with 7 abstentions.

*Paragraph 2*

87. The amendment of France (A/CONF.13/C.1/L.6), having been referred to the drafting committee at the 40th meeting, the Committee then voted upon and rejected the United States amendment (A/CONF.13/C.1/L.42) by 44 votes to 5, with 12 abstentions. The International Law Commission's text was then approved without being put to the vote.

*Paragraph 3*

88. The United States amendment (A/CONF.13/C.1/L.42) to delete this paragraph was withdrawn at the 40th meeting, and the International Law Commission's text of the paragraph was then approved without being put to the vote.

*Proposals for additional paragraphs*

89. There were two proposals under this heading, that of Denmark (A/CONF.13/C.1/L.49) which was withdrawn at the 39th meeting, and that of the Netherlands (A/CONF.13/C.1/L.51), in support of which the United Kingdom had withdrawn its own amendment (A/CONF.13/C.1/L.37) at the 40th meeting. The Committee decided to adopt the principle embodied in the Netherlands proposal, in the form of a general recommendation to the Conference (see paragraph 97 below).

## ARTICLES 22 AND 23

90. The Committee considered five amendments relating to the form or content of article 22.<sup>2</sup> Two amendments were withdrawn; that of Romania (A/CONF.13/C.1/L.44) on immunity was rejected by 28 votes to 10, with 14 abstentions; that of the Republic of Korea (A/CONF.13/C.1/L.50) on previous notification was also rejected, by 37 votes to 6, with 11 abstentions. A United Kingdom proposal to eliminate the articles by rearrangement and changes in the headings was referred to the drafting committee.

91. As to article 23, there were six amendments.<sup>3</sup> The

<sup>1</sup> A/CONF.13/C.1/L.6, L.36, L.37, L.42, L.47, L.49, L.51.

<sup>2</sup> A/CONF.13/C.1/L.36, L.37, L.44, L.50, L.51.

<sup>3</sup> A/CONF.13/C.1/L.34, L.36, L.37, L.47, L.48, L.50.

proposal of the Republic of Korea corresponding to that under article 22 was rejected at the 48th meeting by 41 votes to 7, with 14 abstentions. The amendment of the Federal Republic of Germany to insert a cross-reference to article 19 was withdrawn, then reintroduced by India, and adopted by 18 votes to 15, with 28 abstentions. All other proposals being withdrawn, the article went to the drafting committee for consideration of the United Kingdom proposal mentioned above.

92. The conclusion of the drafting committee (A/CONF.13/C.1/L.167) was that the cross-reference to article 19 prevented these two articles (which otherwise represented merely a method of arrangement) from being deleted in favour of a rearrangement of headings. The Committee adopted the International Law Commission's text of article 22, and of article 23 as amended, at its 65th meeting.

## ARTICLE 24

93. The Committee considered article 24 at its 41st and 42nd meetings. There were originally nine amendments<sup>4</sup> to this article. Prior to voting at the 42nd meeting the amendments of the United States (A/CONF.13/C.1/L.43), Portugal (A/CONF.13/C.1/L.47) and Greece (A/CONF.13/C.1/L.34) were withdrawn, the last on condition that the amendment of the Republic of Korea (A/CONF.13/C.1/L.50) to article 23 should be put to the vote. The representative withdrew his amendment (A/CONF.13/C.1/L.36) during the course of voting. The voting was as follows:

The amendment of the Federal Republic of Germany (A/CONF.13/C.1/L.48) was rejected by 35 votes to 22, with 8 abstentions;

The amendment of the Netherlands (A/CONF.13/C.1/L.51), as orally amended at the 42nd meeting, was rejected by 38 votes to 17, with 10 abstentions;

The amendment of Poland (A/CONF.13/C.1/L.35) was rejected by 28 votes to 18, with 21 abstentions;

The amendment of the United Kingdom (A/CONF.13/C.1/L.37/Corr.2) was rejected by 27 votes to 25, with 13 abstentions;

The amendment of Yugoslavia (A/CONF.13/C.1/L.21) to add a new paragraph 2, amended to read "warship" instead of "ship" was rejected by 33 votes to 7, with 22 abstentions;

The amendment of Yugoslavia to add a new paragraph 3 was adopted by 26 votes to 4, with 33 abstentions;

The International Law Commission's text of article 24, as amended, was then adopted by 54 votes to 5, with 8 abstentions.

94. Drafting changes were approved at the 65th meeting.

## ARTICLE 25

95. The Committee had before it, at its 43rd meeting, four amendments to article 25.<sup>5</sup> Two of these were withdrawn; that of Yugoslavia (A/CONF.13/C.1/L.22) was rejected by 22 votes to 4, with 32 abstentions.

96. A rearrangement of the text suggested by the Netherlands (A/CONF.13/C.1/L.51/Corr.2) was found by the drafting committee to be prevented by the considerations stated under articles 22 and 23 above. The Committee, at its 65th meeting, therefore adopted the International Law Commission's text with one drafting alteration.

<sup>4</sup> A/CONF.13/C.1/L.21, L.34, L.35, L.36, L.37/Corr.2, L.43, L.47, L.48, L.51.

<sup>5</sup> A/CONF.13/C.1/L.22, L.36, L.47, L.51/Corr.2.

KIND OF INSTRUMENT REQUIRED TO EMBODY THE RESULTS  
OF THE WORK OF THE FIRST COMMITTEE

97. At its 65th meeting on 25 April the Committee decided to leave it to the Conference to decide on the kind of instrument required to embody the results of its work. Without prejudice to any decision which the Conference may take, the Committee recommend the inclusion of a provision similar to that proposed by the Drafting Committee of the Conference in respect of the articles adopted by the Second Committee (A/CONF.13/L.37, para. 3). This provision should state that the articles adopted shall not affect conventions or other international agreements already in force, as between States parties to them.

**Annex**

**I**

**Text of the articles concerning the territorial sea  
and the contiguous zone adopted by the First Committee<sup>1</sup>**

**TERRITORIAL SEA**

**SECTION I. GENERAL**

**Article 1**

*Juridical status of the territorial sea*

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

**Article 2**

*Juridical status of the air space over the  
territorial sea and of its bed and subsoil*

The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

**SECTION II. LIMITS OF THE TERRITORIAL SEA**

**Article 4**

*Normal baseline*

Except where otherwise provided in these articles, the baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

**Article 5**

*Straight baselines*

1. In localities where the coastline as a whole is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the territorial sea is measured.
2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters. Except where justified on historical grounds or imposed by the peculiar geography of the coast concerned, the length of the straight baseline provided for in paragraph 1 shall not exceed fifteen miles.
3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.
4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in

determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts to which due publicity must be given.

**Article 5 A**

*Internal waters*

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.
2. Where the establishment of a straight baseline in accordance with article 5 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 15 to 25, shall exist in those waters.

**Article 6**

*Outer limit of the territorial sea*

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

**Article 7**

*Bays*

1. This article relates only to bays the coasts of which belong to a single State.
2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.
3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.
4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.
5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles, a straight baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.
6. The foregoing provisions shall not apply to so-called "historic" bays, or in any cases where the straight baseline system provided for in article 5 is applied.

**Article 8**

*Ports*

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

**Article 9**

*Roadsteads*

1. Buoyed channels giving access to ports, and roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in

<sup>1</sup> For the text of articles 3 and 66, see above, paragraphs 25 and 28.

the territorial sea. The coastal State must clearly demarcate such roadsteads and buoyed channels and indicate them on charts together with their boundaries, to which due publicity must be given.

2. This article shall not apply to buoyed channels giving access to ports of more than one State.

#### Article 10

##### *Islands*

1. An island is a naturally formed area of land, surrounded by water, which is above water at high-tide.

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

#### Article 11

##### *Low-tide elevations*

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low-tide but submerged at high-tide. Where a low-tide elevation is wholly or partly at a distance, from the mainland or an island, not exceeding the breadth of the territorial sea, the low-water line on that elevation may be used as the baseline for measuring the territorial sea.

2. Where a low-tide elevation is situated wholly at a distance, from the mainland or an island, exceeding the breadth of the territorial sea, it has no territorial sea of its own.

#### Article 12

##### *Delimitation of the territorial sea between States with opposite or adjacent coasts*

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured. This provision shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

#### Article 13

##### *Delimitation of the territorial sea at the mouth of a river*

1. If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line on the banks.

2. If the river flows into an estuary the coasts of which belong to a single State, article 7 shall apply.

#### Article 14 (Eliminated)

### SECTION II. RIGHT OF INNOCENT PASSAGE

#### *Sub-section A. Rules applicable to all ships*

#### Article 15

##### *Meaning of the right of innocent passage*

1. Subject to the provisions of the present articles, ships of all States shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with the present rules and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent them from fishing in the territorial sea.

6. Submarines are required to navigate on the surface and to show their flag.

#### Article 16

##### *Duties of the coastal State*

1. The coastal State must not hamper innocent passage through the territorial sea.

2. The coastal State is required to give appropriate publicity to any dangers to navigation within its territorial sea of which it has knowledge.

#### Article 17

##### *Rights of protection of the coastal State*

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which the admission of those ships to those waters is subject.

3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

#### Article 18

##### *Duties of foreign ships during their passage*

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

#### *Sub-section B. Merchant ships*

#### Article 19

##### *Charges to be levied upon foreign ships*

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

#### Article 20

##### *Arrest on board a foreign ship*

1. The criminal jurisdiction of the coastal State should, generally, not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases ;

(a) If the consequences of the crime extend to the coastal State ; or

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea ;

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies, or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, before taking any steps advise the consular authority of the flag State and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interest of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

#### Article 21

##### *Arrest of foreign ships for the purpose of exercising civil jurisdiction*

1. A coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. A coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving the internal waters.

#### *Sub-section C. Government ships other than warships*

##### Article 22

##### *Government ships operated for commercial purposes*

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

#### Article 23

##### *Government ships operated for non-commercial purposes*

The rules contained in sub-section A and in article 19 shall apply to government ships operated for non-commercial purposes.

#### *Sub-section D. Warships*

##### Article 24

##### *Passage*

1. The coastal State may make the passage of warships through the territorial sea subject to previous authorization or notification. Normally it shall grant innocent passage subject to the observance of the provisions of articles 17 and 18.

2. During passage warships have complete immunity from the jurisdiction of any State other than its flag State.

##### Article 25

##### *Non-observance of the regulations*

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

## II

### **Text of the draft resolution adopted by the First Committee**

#### RÉGIME OF HISTORIC WATERS

##### *The First Committee,*

*Considering* that the International Law Commission has not provided for the régime of historic waters including historic bays,

*Recognizing* the importance of the juridical status of such areas,

*Recommends* that the Conference should refer the matter to the General Assembly of the United Nations with the request that the General Assembly should make appropriate arrangements for the study of the juridical régime of historic waters including historic bays, and for the result of these studies to be sent to all member States of the United Nations.

## DOCUMENT A/CONF.13/L.29

### **United States of America: proposal**

[Original text: English]  
[24 April 1958]

Article 3 shall read as follows:

"1. The maximum breadth of the territorial sea of any State shall be six miles.

"2. The coastal State shall in a zone having a maximum breadth of twelve miles, measured from the applicable baseline, determined as provided in these rules, have the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea ; provided that such rights shall be subject to the right

of the vessels of any State whose vessels have fished regularly in that portion of the zone having a continuous baseline and located in the same major body of water for the period of five years immediately preceding the signature of this convention, to fish in the outer six miles of that portion of the zone, under obligation to observe therein such conservation regulations as are consistent with the rules on fisheries adopted by this conference and other rules of international law.

"3. Any dispute with respect to the interpretation or

application of this article shall, at the request of any party to the dispute, be submitted to arbitration unless the parties agree to another method of peaceful solution.

“4. For the purpose of this convention the term “mile” means a nautical mile (which is 1,852 metres), reckoned at sixty to one degree of latitude.

“5. As respects the parties thereto, the provisions of paragraph 2 of this article shall be subject to such bilateral

or multilateral arrangements, if any, as may exist or be entered into.”

*Note.*—It is proposed that this article be entered into with the express understanding that each party to the convention undertakes to consider sympathetically the request of another party to consult on the question of whether the rights granted by the article are being exercised in such manner as to work an inequity upon one or more of the other parties and, if so, what measures should and can be taken to remedy the situation.

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**DOCUMENT A/CONF.13/L.30**

**Union of Soviet Socialist Republics: proposal**

[Original text: Russian]  
[24 April 1958]

Article 3 to read as follows:

“Each State shall determine the breadth of its territorial waters in accordance with established practice within the limits, as a rule, of three to twelve miles, having regard to historical and geographical conditions, economic interests, the interests of the security of the coastal State and the interests of international navigation.”

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**DOCUMENT A/CONF.13/L.31\***

**United States of America: proposal**

[Original text: English]  
[24 April 1958]

Article 66 to read as follows:

“1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to

“(a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

“(b) Punish infringement of the above regulations committed within its territory or territorial sea.

“2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

“3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.”

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\* Incorporating document A/CONF.13/L.31/Add.1.

## DOCUMENT A/CONF.13/L.32

## Sixth report of the Drafting Committee of the Conference

[Original text : English]  
[25 April 1958]

1. The Drafting Committee of the Conference met on 23 and 24 April to consider the examples of final clauses given in the note by the Secretariat (A/CONF.13/L.7). The Committee also had before it its own recommendations with regard to the final clauses adopted by the Fourth Committee.

2. The Drafting Committee recommends to the Conference the following final clauses for inclusion, where appropriate, in the conventions or other similar instruments to be adopted by the Conference.

*Signature*

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly to become a party to the Convention.

*Ratification*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Accession*

This Convention shall be open for accession by the States mentioned in article . . . . . The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Note.*—The representatives of France and Czechoslovakia were opposed to the inclusion of this clause on the basis that accession to a treaty can only take place when the treaty has entered into force. Similarly, in connexion with the Entry into Force clause below, both these representatives objected to the inclusion of the words "or accession" in the first and second paragraphs of that clause.

*Entry into Force*

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instruments of ratification or accession.

*Reservations*

I

No reservations may be made to this Convention.

II

At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles . . . . . inclusive.

Any contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

*Note.*—The Drafting Committee considers that the decision on whether or not reservations should be allowed to a convention or other instrument, and if so to which articles, is essentially a question of principle which should be decided by the Conference. The Drafting Committee therefore recommends the two above alternatives to provide for both the case in which no reservations should, in the view of the Conference, be permitted and the case where reservations to certain articles should be permitted.

*Revision*

After the expiration of a period of five years from the date on which this Convention shall enter into force a request for the revision of this Convention may be made at any time by any contracting party by means of a notification in writing addressed to the Secretary-General.

The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

*Note.*—The Committee considered that the inclusion of this revision clause made unnecessary any clause on denunciation.

*Notifications*

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article . . . . . :

(a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles . . . . .

(b) Of the date on which this Convention will come into force, in accordance with article . . . . .

(c) Of requests for revision in accordance with article . . . . .

(d) Of reservations to this Convention, in accordance with article . . . . .

*Deposit of the Convention, and languages*

The original of this Convention of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States referred to in article . . . . .

## DOCUMENT A/CONF.13/L.33

## Cuba: proposal

[Original text: Spanish and English]  
[25 April 1958]

The following is the text of a preamble to precede the articles on the conservation of the living resources of the high seas, should it be decided to adopt those articles as a separate instrument. The text given below is that appearing as the preamble to the draft on conservation prepared by the International Law Commission at its seventh session.<sup>1</sup>

*“Considering that*

“1. The development of modern techniques for the exploitation of the living resources of the sea has increased man’s ability to meet the need of the world’s expanding population for food but has also exposed some of these resources to the danger of being over exploited;

<sup>1</sup> *Official Records of the General Assembly, Tenth Session, Supplement No. 9 (A/2934), p. 13.*

“2. Measures for the conservation of the living resources of the sea should be adopted when scientific evidence indicates that they are necessary to maintain or increase the productivity of these resources;

“3. The primary objective of conservation of the living resources of the sea is to obtain the optimum sustainable yield so as to obtain a maximum supply of food and other marine products in a form useful to mankind;

“4. When formulating conservation programmes, account should be taken of the special interest of the coastal State in maintaining the productivity of the resources of the high seas contiguous to its coast;

“5. The nature of the problems involved in the conservation of the living resources of the sea is such that there is a clear necessity that they be solved, whenever possible, on the basis of international co-operation through the concerted action of all the States concerned.”

## DOCUMENT A/CONF.13/L.34

Burma, Colombia, Indonesia, Mexico, Morocco, Saudi Arabia,  
United Arab Republic and Venezuela: proposal

[Original text: English and Spanish]  
[25 April 1958]

Article 3 to read as follows:

“1. Every State is entitled to fix the breadth of its territorial sea up to a limit of twelve nautical miles measured from the baseline which may be applicable in conformity with articles 4 and 5.

“2. Where the breadth of its territorial sea is less than twelve nautical miles measured as above, a State has a fishing zone contiguous to its territorial sea extending to a limit twelve nautical miles from the baseline from which the breadth of its territorial sea is measured in which it has the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea.”

## DOCUMENT A/CONF.13/L.37

Seventh report of the Drafting Committee of the Conference:  
Convention on the High Seas

[Original text: English]  
[25 April 1958]

1. The Drafting Committee met on 25 April and decided to recommend the following wording for the Spanish text of paragraph 1(b) of article 46 as amended by the Conference at its 10th plenary meeting:

“(b) Que el buque se dedica a la trata de esclavos.”

2. The Drafting Committee decided to recommend the following preamble to accompany any convention embodying the results of the work of the Second Committee:

“[The States parties to the Convention]

“*Desiring* to codify the rules of international law relating to the high seas,

“*Recognizing* that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to . . . . 1958, adopted the following provisions as generally declaratory of established principles of international law,

“*Have agreed* as follows: . . . .”

3. The Drafting Committee decided to recommend, as an article to follow the other articles adopted by the Second Committee, the following text embodying the decision of

that committee to state that the articles adopted do not override specific conventions in force :

“The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States parties to them.”

4. The Drafting Committee took note of the approval by the Conference at its 12th plenary meeting of the Fifth Committee's recommendations regarding articles 15, 27

and 28 (A/CONF.13/L.11). The approved modifications will be incorporated forthwith in articles 27 and 28 ; the Committee will make the necessary change in article 15 when it receives the text of that article from the First Committee.

7. The Drafting Committee will make its recommendation regarding the place where the new article on access to the sea of land-locked countries will be inserted as soon as possible.

## DOCUMENT A/CONF.13/L.40

### **Eighth report of the Drafting Committee of the Conference: judicial settlement of disputes**

[Original text: English]  
[26 April 1958]

1. The Conference, having considered at its 13th plenary meeting the fourth report of the Drafting Committee (A/CONF.13/L.24), informed the Drafting Committee of its decision to consider the proposal of Switzerland (A/CONF.13/BUR/L.3) regarding the judicial settlement of disputes. At its meeting on 25 April, the Drafting Committee considered the text of the proposal of Switzerland for an optional protocol of signature and now recommends to the Conference the following draft protocol of signature.

#### *Optional Protocol of Signature concerning the compulsory settlement of disputes*

The States represented at the United Nations Conference on the Law of the Sea held at the European Office of the United Nations in Geneva from 24 February 1958 to . . . . April 1958,

Expressing their wish to resort, in all matters concerning them in respect of any disputes arising out of the interpretation or application of any article of the Convention(s) on the Law of the Sea of . . . . 1958, to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement is provided in the Convention(s) or has been agreed upon by the parties within a reasonable period,

Have appointed the undersigned plenipotentiaries, who, having communicated their full powers, found in good and due form, have agreed as follows :

#### *Article I*

Disputes arising out of the interpretation or application of the aforesaid Convention(s) shall lie within the compulsory jurisdiction of the International Court of Justice, and may accordingly be brought before the Court by an application made by any party to the dispute being a party to this protocol.

#### *Article II*

This undertaking relates to all the provisions of the Convention(s) on the Law of the Sea except articles 52, 53, 54, 55, 56, to which articles 57, 58, 59 and 59A remain applicable.

#### *Article III*

The parties may agree, within a period of two months after on party has notified its opinion to the other that a dispute exists, to resort not to the Court but to an arbitral tribunal. After the expiry of the said period, either party to this protocol may bring the dispute before the Court by an application.

#### *Article IV*

Within the same period of two months the parties to this protocol may agree to adopt a conciliation procedure before resorting to the Court.

The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

#### *Article V*

This protocol shall remain open for signature by all States who become parties to the Convention(s) on the Law of the Sea adopted by the United Nations Conference on the Law of the Sea and is subject to ratification, where necessary, according to the constitutional requirements of the signatory States.

#### *Article VI*

The Secretary-General of the United Nations shall inform all States who become parties to the Convention(s) on the Law of the Sea of signatures to this protocol and of the deposit of instruments of ratification in accordance with article V.

#### *Article VII*

The original of this protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States referred to in article V.

IN WITNESS WHEREOF, the undersigned representatives of States have signed the present protocol.

Done at Geneva, this . . . . day of April 1958.

[Signatures]

## DOCUMENT A/CONF.13/L.45

**Ninth report of the Drafting Committee of the Conference:  
Convention on Fishing and Conservation of the Living Resources of the High Seas**

[Original text: English]  
[26 April 1958]

1. The Drafting Committee of the Conference met on 26 April and considered the preamble proposed by Cuba (A/CONF.13/L.33) to the Convention on Fishing and Conservation of the Living Resources of the High Seas, adopted on the report of the Third Committee.

2. The Committee decided, after some discussion, to recommend that the preamble consist of two paragraphs only (paragraphs 1 and 5 of the text proposed by Cuba). Since the other paragraphs reproduced certain provisions only from among the articles of the Convention, it might be preferable to avoid selecting any particular provision for inclusion in the preamble.

3. The Committee decided that, in view of the rejection by the Conference of article 60 A, there was no longer any reason that the Convention should consist of two sections. It recommends, therefore, that the articles adopted on the report of the Third Committee be numbered consecutively throughout.

4. The attention of the Drafting Committee was drawn to the fact that the Conference had approved as an additional article a text defining the term "nationals". The Committee decided to recommend that this article, which read as follows, should be inserted at the end of the Convention :

"In articles 49, 51, 52, 53, 54 and 56, the term 'nationals' means fishing boats or craft of any size having the nationality of the State concerned, according to the law of that State, irrespective of the nationality of the members of their crews."

5. The Drafting Committee recommends that no headings be given to the articles in the Convention.

6. The Committee decided to recommend that, in the title of the Convention, the term "high seas" be used instead of the word "sea".

7. Taking into account paragraphs 2 and 6 above, the title, introduction and preamble of the Convention would, therefore, read as follows :

"CONVENTION ON FISHING AND CONSERVATION  
OF THE LIVING RESOURCES OF THE HIGH SEAS

"The States represented at the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to . . . . April 1958,

"Considering that the development of modern techniques for the exploitation of the living resources of the sea has not only increased man's ability to meet the need of the world's expanding population for food but has also exposed some of these resources to the danger of being over-exploited,

"Considering also that the nature of the problems involved in the conservation of the living resources of the high seas is such that there is a clear necessity that they be solved, whenever possible, on the basis of international co-operation through the concerted action of all the States concerned,

"Have appointed the undersigned plenipotentiaries, who, having communicated their full powers, found in good and due form, have agreed as follows : . . ."

## DOCUMENT A/CONF.13/L.47

**Tenth report of the Drafting Committee of the Conference:  
articles 1 and 2, and 4 to 25 adopted by the First Committee**

[Original text: English]  
[27 April 1958]

1. The Drafting Committee of the Conference met on 26 April to consider the texts of articles 1 and 2 and 4 to 25 adopted by the First Committee (A/CONF.13/L.28/Rev.1, annex). The Drafting Committee was advised of certain drafting changes made by the First Committee at the time the latter adopted its report for submission to the Conference, and took these into account in making its own recommendations.

2. The Drafting Committee also took into account the decision of the Conference, on the report of the Fifth Committee (A/CONF.13/L.11), to approve an amendment to article 15 regarding the right of innocent passage for ships of States having no access to the sea. The Committee recommends the following text for paragraph 1 of article 15 incorporating the modification :

"Article 15

"Subject to the provisions of the present articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea."

3. The Drafting Committee, in line with its recommendation regarding the Convention on Fishing and Conservation of the Living Resources of the High Seas (A/CONF.13/L.45), recommends that no headings be given to the articles adopted by the First Committee. However, the Committee recommends that the titles of the sections and sub-sections be retained, and proposes that the titles of sub-sections B, C and D be modified as follows :

"Sub-section B. Rules applicable to merchant ships"

"Sub-section C. Rules applicable to government ships other than warships"

"Sub-section D. Rules applicable to warships"

4. In addition to the above, the Drafting Committee recommends a number of drafting changes in the texts adopted by the First Committee, as follows :<sup>1</sup>

<sup>1</sup> Changes affecting the French and Spanish texts only have not been reproduced in the present document.

## CHANGES AFFECTING THE ENGLISH TEXT

(1) *Article 4*

Insert the word "normal" before "baseline".

(*Note.*—The First Committee deleted the word "normal" in the French and Spanish texts. However, since the Drafting Committee recommends the deletion of the headings to the articles, the word should be inserted in the text).

(2) *Article 5*

*Paragraph 1*: Insert the words "breadth of the" before "territorial sea".

*Paragraph 6*: Insert a comma after the word "charts".

(3) *Article 7*

*Paragraph 6*: Replace the word "cases" by "case".

(4) *Article 9*

*Paragraph 1*: Replace the words "such roadsteads and buoyed channels" by "buoyed channels and such roadsteads".

(5) *Article 11*

*Paragraph 1*: Replace the second sentence by the following: "Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea."

*Paragraph 2*: Replace by the following: "Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own."

(6) *Article 12*

*Paragraph 1*: Replace "This provision shall not apply" by "The provision of this paragraph shall not apply."

(7) *Article 13*

*Paragraph 1*: Replace the words "on the banks" by "of its banks".

*Paragraph 2*: Insert the words "the provisions of" before "article 7".

(8) *Article 15*

*Paragraph 5*: Replace the word "them" by "these vessels".

(9) *Article 16*

*Paragraph 2*: Replace "navigation within its territorial sea of which it has knowledge" by the following: "navigation, of which it has knowledge, within its territorial sea".

(10) *Article 17*

*Paragraph 3*: Replace the word "among" by "amongst".

(11) *Article 20*

*Sub-paragraph 1 (b)*: Add the word "or" at the end.

*Sub-paragraph 1 (c)*: Replace the comma by a semicolon.

*Paragraph 3*: Transpose the words "before taking any steps" to come after "flag State".

(12) *Article 21*

*Paragraphs 1 and 2*: Replace the words "A coastal State" by "The coastal State".

(13) *Article 24*

*Paragraph 2*: Replace the words "its flag State" by "the flag State".

## DOCUMENT A/CONF.13/L.49

## Australia, Canada, Ceylon and Ghana: draft resolution

[Original text: English]  
[27 April 1958]

*The United Nations Conference on the Law of the Sea,*

*Considering* that the Conference has already adopted conventions and other instruments with regard to all the matters referred to it with the exception of the breadth of the territorial sea and the extent of the fishing rights which should pertain to coastal States in the contiguous zone,

*Considering* further that it would be contrary to the interests of all States, and could create difficulties in the application of the several conventions and other instruments already adopted by the Conference, if agreement is not eventually reached on these important matters,

*Believing* that the prospects of securing general agreement on these two matters would be improved by an adjournment of the discussion of them which would enable the governments of the participating States in the interval

to conduct further discussions among themselves,

*Decides*:

(a) To recommend that all States should, pending the outcome of the adjourned discussions above-mentioned, refrain from extending the limits of their territorial sea or the limits within which they claim exclusive fishing rights;

(b) To request the Secretary-General of the United Nations to reconvoke the present conference, at the Headquarters of the United Nations, after consultation with the President of the Conference and the participating States at the earliest practicable date after the conclusion of the thirteenth session of the General Assembly, for the purpose of further considering the breadth of the territorial sea and the extent of the fishing rights which should pertain to coastal States in the contiguous zone.

## DOCUMENT A/CONF.13/L.50

## Declaration by the Chairmen of the Delegations of Chile, Ecuador and Peru

[Original text : Spanish]  
[27 April 1958]

The debates at this Conference and the various decisions taken at it which relate, directly or indirectly, to the conservation and utilization of the resources of the sea are evidence of the increasing recognition of the special right of the coastal State, inherent in its geographical position.

Accordingly, although it was possible to discern a rather wider measure of support for our claims concerning the sea, we declare our resolve to use every occasion, whether in negotiations with other countries or at future international conferences, for the purpose of securing the establishment and extension of a more just régime of the sea that will safeguard effectively the recognized special right of the coastal States to defend their economy and the livelihood of their populations.

The reasons which, in recent years, have led Chile, Ecuador and Peru to enact certain legislative provisions and to enter into certain agreements—to which Costa Rica has become a party—still remain valid.

In the absence of international agreement on sufficiently comprehensive and just provisions recognizing and creating a reasonable balance among all the rights and interests, and also in view of the results of this Conference, the regional system applied in the southern Pacific, which stands for the protection of situations vital to the countries of the region, remains in full force so long as just and humane solutions are not worked out.

(Signed)

Luis Melo LECAROS,  
Chairman of the  
Delegation of  
Chile

Jose V. TRUJILLO,  
Chairman of the  
Delegation of  
Ecuador

Alberto ULLOA,  
Chairman of the  
Delegation of  
Peru

CONVENTIONS, RESOLUTIONS, OPTIONAL PROTOCOL OF SIGNATURE  
ADOPTED BY THE CONFERENCE, AND FINAL ACT

## DOCUMENT A/CONF.13/L.52

Convention on the Territorial Sea and the Contiguous Zone  
(adopted by the Conference at its 20th plenary meeting)

*The States Parties of this Convention  
Have agreed as follows :*

## PART I

## TERRITORIAL SEA

## SECTION I. GENERAL

## Article 1

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

## Article 2

The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

## SECTION II. LIMITS OF THE TERRITORIAL SEA

## Article 3

Except where otherwise provided in these articles, the

normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

## Article 4

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.
2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.
3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.
4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

#### Article 5

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

#### Article 6

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

#### Article 7

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles, a straight baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight baseline system provided for in article 4 is applied.

#### Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

#### Article 9

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit

of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

#### Article 10

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

#### Article 11

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low-tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

#### Article 12

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

#### Article 13

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

### SECTION III. RIGHT OF INNOCENT PASSAGE

#### Sub-section A. Rules applicable to all ships

#### Article 14

1. Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.
6. Submarines are required to navigate on the surface and to show their flag.

*Article 15*

1. The coastal State must not hamper innocent passage through the territorial sea.
2. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

*Article 16*

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.
2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.
3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.
4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

*Article 17*

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

***Sub-section B. Rules applicable to merchant ships***

*Article 18*

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.
2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

*Article 19*

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) If the consequences of the crime extend to the coastal State; or

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

*Article 20*

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

***Sub-section C. Rules applicable to government ships other than warships***

*Article 21*

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

*Article 22*

1. The rules contained in sub-section A and in article 18 shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

***Sub-section D. Rules applicable to warships***

*Article 23*

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial

sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

## PART II

### CONTIGUOUS ZONE

#### Article 24

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to:
  - a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;
  - b) Punish infringement of the above regulations committed within its territory or territorial sea.
2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.
3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

## PART III

### FINAL ARTICLES

#### Article 25

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

#### Article 26

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention.

#### Article 27

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 28

This Convention shall be open for accession by any

States belonging to any of the categories mentioned in article 26. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 29

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 30

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

#### Article 31

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 26:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 26, 27 and 28;
- (b) Of the date on which this Convention will come into force, in accordance with article 29;
- (c) Of requests for revision in accordance with article 30.

#### Article 32

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 26.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention.

DONE AT GENEVA, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

## DOCUMENT A/CONF.13/L.53

### Convention on the High Seas (adopted by the Conference at its 18th plenary meeting)

*The States Parties to this Convention,*

*Desiring to codify the rules of international law relating to the high seas,*

*Recognizing that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958, adopted the following provisions as*

generally declaratory of established principles of international law,

*Have agreed as follows:*

#### Article 1

The term "high seas" means all parts of the sea that

are not included in the territorial sea or in the internal waters of a State.

#### Article 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal States :

- (1) Freedom of navigation ;
- (2) Freedom of fishing ;
- (3) Freedom to lay submarine cables and pipelines ;
- (4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

#### Article 3

1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord :

- (a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory ; and
- (b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.

2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions.

#### Article 4

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

#### Article 5

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship ; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

#### Article 6

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not

claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

#### Article 7

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of an intergovernmental organization flying the flag of the organization.

#### Article 8

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

#### Article 9

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

#### Article 10

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to :

- (a) The use of signals, the maintenance of communications and the prevention of collisions ;
- (b) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments ;
- (c) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

#### Article 11

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

#### Article 12

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers :

- (a) To render assistance to any person found at sea in danger of being lost ;

- (b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him ;
- (c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and —where circumstances so require—by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

#### Article 13

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall, *ipso facto*, be free.

#### Article 14

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

#### Article 15

Piracy consists of any of the following acts :

(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed :

- (a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft ;
- (b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State ;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft ;

(3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

#### Article 16

The acts of piracy, as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

#### Article 17

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

#### Article 18

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

#### Article 19

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

#### Article 20

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

#### Article 21

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

#### Article 22

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting :

- (a) That the ship is engaged in piracy ; or
- (b) That the ship is engaged in the slave trade ; or
- (c) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (a), (b) and (c) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

#### Article 23

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 24 of the Convention on the Territorial Sea and the Contiguous Zone, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft:

(a) The provisions of paragraphs 1 to 3 of this article shall apply *mutatis mutandis*;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the rights of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

#### Article 24

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

#### Article 25

1. Every State shall take measures to prevent pollution of the seas from the dumping of radio-active waste, taking into account any standards and regulations which may be formulated by the competent international organizations.

2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radio-active materials or other harmful agents.

#### Article 26

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### Article 27

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its

flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

#### Article 28

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

#### Article 29

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

#### Article 30

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States parties to them.

#### Article 31

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

#### Article 32

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 33

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 31. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 34

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 35

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a

request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

#### Article 36

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 31 :

(a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 31, 32 and 33 ;

(b) Of the date on which this Convention will come into force, in accordance with article 34 ;

(c) Of requests for revision in accordance with article 35.

#### Article 37

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 31.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention.

DONE AT GENEVA, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

## DOCUMENT A/CONF.13/L.54

### Convention on Fishing and Conservation of the Living Resources of the High Seas (adopted by the Conference at its 18th plenary meeting)

*The States Parties to this Convention,*

*Considering* that the development of modern techniques for the exploitation of the living resources of the sea, increasing man's ability to meet the need of the world's expanding population for food, has exposed some of these resources to the danger of being over-exploited,

*Considering* also that the nature of the problems involved in the conservation of the living resources of the high seas is such that there is a clear necessity that they be solved, whenever possible, on the basis of international co-operation through the concerted action of all the States concerned,

*Have agreed* as follows :

#### Article 1

1. All States have the right for their nationals to engage in fishing on the high seas, subject (a) to their treaty obligations, (b) to the interests and rights of coastal States as provided for in this Convention, and (c) to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

2. All States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

#### Article 2

As employed in this Convention, the expression "conservation of the living resources of the high seas" means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products. Conservation programmes should be formulated with a view to securing in the first place a supply of food for human consumption.

#### Article 3

A State whose nationals are engaged in fishing any stock or stocks of fish or other living marine resources in any area of the high seas where the nationals of other States are not thus engaged shall adopt, for its own nationals, measures in that area when necessary for the purpose of the conservation of the living resources affected.

#### Article 4

1. If the nationals of two or more States are engaged in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, these States shall, at the request of any of them, enter into negotiations with a view to prescribing by agreement for their nationals the necessary measures for the conservation of the living resources affected.

2. If the States concerned do not reach agreement within twelve months, any of the parties may initiate the procedure contemplated by article 9.

#### Article 5

1. If, subsequent to the adoption of the measures referred to in articles 3 and 4, nationals of other States engage in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, the other States shall apply the measures, which shall not be discriminatory in form or in fact, to their own nationals not later than seven months after the date on which the measures shall have been notified to the Director-General of the Food and Agriculture Organization of the United Nations. The Director-General shall notify such measures to any State which so requests and, in any case, to any State specified by the State initiating the measure.

2. If these other States do not accept the measures so adopted and if no agreement can be reached within twelve months, any of the interested parties may initiate the procedure contemplated by article 9. Subject to paragraph 2 of article 10, the measures adopted shall remain obligatory pending the decision of the special commission.

#### Article 6

1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.

2. A coastal State is entitled to take part on an equal footing in any system of research and regulation for purposes of conservation of the living resources of the high seas in that area, even though its nationals do not carry on fishing there.

3. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a

State shall, at the request of that coastal State, enter into negotiations with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

4. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall not enforce conservation measures in that area which are opposed to those which have been adopted by the coastal State, but may enter into negotiations with the coastal State with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

5. If the States concerned do not reach agreement with respect to conservation measures within twelve months, any of the parties may initiate the procedure contemplated by article 9.

#### Article 7

1. Having regard to the provisions of paragraph 1 of article 6, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months.

2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

- (a) That there is a need for urgent application of conservation measures in the light of the existing knowledge of the fishery;
- (b) That the measures adopted are based on appropriate scientific findings;
- (c) That such measures do not discriminate in form or in fact against foreign fishermen.

3. These measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Convention, of any disagreement as to their validity.

4. If the measures are not accepted by the other States concerned, any of the parties may initiate the procedure contemplated by article 9. Subject to paragraph 2 of article 10, the measures adopted shall remain obligatory pending the decision of the special commission.

5. The principles of geographical demarcation as defined in article 12 of the Convention on the Territorial Sea and the Contiguous Zone shall be adopted when coasts of different States are involved.

#### Article 8

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas not adjacent to its coast, has a special interest in the conservation of the living resources of the high seas in that area, may request the State or States whose nationals are engaged in fishing there to take the necessary measures of conservation under articles 3 and 4 respectively, at the same time mentioning the scientific reasons which in its opinion make such measures necessary, and indicating its special interest.

2. If no agreement is reached within twelve months, such State may initiate the procedure contemplated by article 9.

#### Article 9

1. Any dispute which may arise between States under articles 4, 5, 6, 7 and 8 shall, at the request of any of the parties, be submitted for settlement to a special commission of five members, unless the parties agree to seek a solution

by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations.

2. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within three months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon the request of any State party, be named by the Secretary-General of the United Nations, within a further three-month period, in consultation with the States in dispute and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

3. Any State party to proceedings under these articles shall have the right to name one of its nationals to the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission, but without the right to vote or to take part in the writing of the commission's decision.

4. The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the parties to the dispute, failing agreement by the parties on this matter.

5. The special commission shall render its decision within a period of five months from the time it is appointed unless it decides, in case of necessity, to extend the time limit for a period not exceeding three months.

6. The special commission shall, in reaching its decisions, adhere to these articles and to any special agreements between the disputing parties regarding settlement of the dispute.

7. Decisions of the commission shall be by majority vote.

#### Article 10

1. The special commission shall, in disputes arising under article 7, apply the criteria listed in paragraph 2 of that article. In disputes under articles 4, 5, 6 and 8, the commission shall apply the following criteria, according to the issues involved in the dispute:

(a) Common to the determination of disputes arising under articles 4, 5 and 6 are the requirements:

- (i) That scientific findings demonstrate the necessity of conservation measures;
- (ii) That the specific measures are based on scientific findings and are practicable; and
- (iii) That the measures do not discriminate, in form or in fact, against fishermen of other States;

(b) Applicable to the determination of disputes arising under article 8 is the requirement that scientific findings demonstrate the necessity for conservation measures, or that the conservation programme is adequate, as the case may be.

2. The special commission may decide that pending its award the measures in dispute shall not be applied, provided that, in the case of disputes under article 7, the measures shall only be suspended when it is apparent to the commission on the basis of *prima facie* evidence that the need for the urgent application of such measures does not exist.

*Article 11*

The decisions of the special commission shall be binding on the States concerned and the provisions of paragraph 2 of Article 94 of the Charter of the United Nations shall be applicable to those decisions. If the decisions are accompanied by any recommendations, they shall receive the greatest possible consideration.

*Article 12*

1. If the factual basis of the award of the special commission is altered by substantial changes in the conditions of the stock or stocks of fish or other living marine resources or in methods of fishing, any of the States concerned may request the other States to enter into negotiations with a view to prescribing by agreement the necessary modifications in the measures of conservation.

2. If no agreement is reached within a reasonable period of time, any of the States concerned may again resort to the procedure contemplated by article 9 provided that at least two years have elapsed from the original award.

*Article 13*

1. The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals except in areas where such fisheries have by long usage been exclusively enjoyed by such nationals. Such regulations will not, however, affect the general status of the areas as high seas.

2. In this article, the expression "fisheries conducted by means of equipment embedded in the floor of the sea" means those fisheries using gear with supporting members embedded in the sea floor, constructed on a site and left there to operate permanently or, if removed, restored each season on the same site.

*Article 14*

In articles 1, 3, 4, 5, 6 and 8, the term "nationals" means fishing boats or craft of any size having the nationality of the State concerned, according to the law of that State, irrespective of the nationality of the members of their crews.

*Article 15*

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

*Article 16*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 17*

This Convention shall be open for accession by any

States belonging to any of the categories mentioned in article 15. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 18*

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

*Article 19*

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 6, 7, 9, 10, 11 and 12.

2. Any contracting State making a reservation in accordance with the preceding paragraph may at any time withdrawn the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

*Article 20*

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any contracting party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

*Article 21*

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 15:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 15, 16 and 17;
- (b) Of the date on which this Convention will come into force, in accordance with article 18;
- (c) Of requests for revision in accordance with article 20;
- (d) Of reservations to this Convention, in accordance with article 19.

*Article 22*

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 15.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention.

DONE AT GENEVA, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

## DOCUMENT A/CONF.13/L.55

## Convention on the Continental Shelf

(adopted by the Conference at its 18th plenary meeting)

*The States Parties to this Convention**Have agreed as follows:**Article 1*

For the purpose of these articles, the term "continental shelf" is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

*Article 2*

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

*Article 3*

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

*Article 4*

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

*Article 5*

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.
2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.
3. The safety zones referred to in paragraph 2 of this

article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.
5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.
6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.
7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.
8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless, the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

*Article 6*

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

*Article 7*

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

*Article 8*

This Convention shall, until 30 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention.

*Article 9*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 10*

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 11*

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

*Article 12*

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.
2. Any contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

*Article 13*

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any contracting party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

*Article 14*

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;
- (b) Of the date on which this Convention will come into force, in accordance with article 11;
- (c) Of requests for revision in accordance with article 13;
- (d) Of reservations to this Convention, in accordance with article 12.

*Article 15*

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention.

DONE AT GENEVA, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

**DOCUMENT A/CONF.13/L.56****Resolutions adopted by the Conference****I****NUCLEAR TESTS ON THE HIGH SEAS**

*Resolution adopted on the report of the Second Committee, in connexion with article 2 of the Convention on the High Seas*

*The United Nations Conference on the Law of the Sea,*

*Recalling that the Conference has been convened by the General Assembly of the United Nations in accordance with resolution 1105 (XI) of 21 February 1957,*

*Recognizing that there is a serious and genuine apprehension on the part of many States that nuclear explosions constitute an infringement of the freedom of the seas,*

*Recognizing that the question of nuclear tests and production is still under review by the General Assembly under various resolutions on the subject and by the Disarmament Commission, and is at present under constant review and discussion by the governments concerned,*

*Decides to refer this matter to the General Assembly of the United Nations for appropriate action.*

*10th plenary meeting  
23 April 1958*

**II****POLLUTION OF THE HIGH SEAS BY RADIO-ACTIVE MATERIALS**

*Resolution adopted on the report of the Second Committee, relating to article 25 of the Convention on the High Seas*

*The United Nations Conference on the Law of the Sea, Recognizing the need for international action in the field of disposal of radio-active wastes in the sea,*

*Taking into account action which has been proposed by various national and international bodies and studies which have been published on the subject,*

*Noting that the International Commission on Radio-*

logical Protection has made recommendations regarding the maximum permissible concentration of radio-isotopes in the human body and the maximum permissible concentration in air and water,

*Recommends* that the International Atomic Energy Agency, in consultation with existing groups and established organs having acknowledged competence in the field of radiological protection, should pursue whatever studies and take whatever action is necessary to assist States in controlling the discharge or release of radio-active materials to the sea, in promulgating standards, and in drawing up internationally acceptable regulations to prevent pollution of the sea by radio-active materials in amounts which would adversely affect man and his marine resources.

*10th plenary meeting  
23 April 1958*

### III

#### INTERNATIONAL FISHERY CONSERVATION CONVENTIONS

*Resolution adopted on the report of the Third Committee  
The United Nations Conference on the Law of the Sea,*

*Taking note* of the opinion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in April/May 1955, as expressed in paragraph 43 of its report,<sup>1</sup> as to the efficacy of international conservation organizations in furthering the conservation of the living resources of the sea,

*Believing* that such organizations are valuable instruments for the co-ordination of scientific effort upon the problem of fisheries and for the making of agreements upon conservation measures,

*Recommends:*

1. That States concerned should co-operate in establishing the necessary conservation régime through the medium of such organizations covering particular areas of the high seas or species of living marine resources and conforming in other respects with the recommendations contained in the report of the International Technical Conference on the Conservation of the Living Resources of the Sea;

2. That these organizations should be used so far as practicable for the conduct of the negotiations between States envisaged under articles 4, 5, 6 and 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, for the resolution of any disagreements and for the implementation of agreed measures of conservation.

*15th plenary meeting  
25 April 1958*

### IV

#### CO-OPERATION IN CONSERVATION MEASURES

*Resolution adopted on the report of the Third Committee*

*The United Nations Conference on the Law of the Sea,*

*Taking note* of the opinion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in April/May 1955, as reported in paragraphs 43 (a), 54 and others of its report,<sup>1</sup> that any effective conservation management system must have the participation of all States engaged in substantial exploitation of the stock or stocks of living marine organisms which are the object of the conservation management system or having a special interest in the conservation of that stock or stocks,

*Recommends* to the coastal States that, in the cases where a stock or stocks or fish or other living marine resources inhabit both the fishing areas under their jurisdiction and areas of the adjacent high seas, they should co-operate with such international conservation organizations as may be responsible for the development and application of conservation measures in the adjacent high seas, in the adoption and enforcement, as far as practicable, of the necessary conservation measures on fishing areas under their jurisdiction.

*15th plenary meeting  
25 April 1958*

### V

#### HUMANE KILLING OF MARINE LIFE

*Resolution adopted on the report of the Third Committee*

*The United Nations Conference on the Law of the Sea*

*Requests* States to prescribe, by all means available to them, those methods for the capture and killing of marine life, especially of whales and seals, which will spare them suffering to the greatest extent possible.

*15th plenary meeting  
25 April 1958*

### VI

#### SPECIAL SITUATIONS RELATING TO COASTAL FISHERIES

*Resolution adopted on the report of the Third Committee*

*The United Nations Conference on the Law of the Sea,*

*Having considered* the situation of countries or territories whose people are overwhelmingly dependent upon coastal fisheries for their livelihood or economic development.

*Having considered also* the situation of countries whose coastal population depends primarily on coastal fisheries for the animal protein of its diet and whose fishing methods are mainly limited to local fishing from small boats.

*Recognizing* that such situations call for exceptional measures befitting particular needs,

*Considering* that, because of the limited scope and exceptional nature of those situations, any measures adopted to meet them would be complementary to provisions incorporated in a universal system of international law.

*Believing* that States should collaborate to secure just treatment of such situations by regional agreements or by other means of international co-operation,

*Recommends:*

1. That where, for the purpose of conservation, it becomes necessary to limit the total catch of a stock or stocks of fish in an area of the high seas adjacent to the territorial sea of a coastal State, any other States fishing in that area should collaborate with the coastal State to secure just treatment of such situation, by establishing agreed measures which shall recognize any preferential requirements of the coastal State resulting from its dependence upon the fishery concerned while having regard to the interests of the other States;

2. That appropriate conciliation and arbitral procedures shall be established for the settlement of any disagreement.

*16th plenary meeting  
26 April 1958*

<sup>1</sup> United Nations publication, sales No : 1955.II.B.2.

## VII

## RÉGIME OF HISTORIC WATERS

*Resolution adopted on the report of the First Committee*

*The United Nations Conference on the Law of the Sea, Considering that the International Law Commission has not provided for the régime of historic waters, including historic bays,*

*Recognizing the importance of the juridical status of such areas,*

*Decides to request the General Assembly of the United Nations to arrange for the study of the juridical régime of historic waters, including historic bays, and for the communication of the results of such study to all States Members of the United Nations.*

*20th plenary meeting  
27 April 1958*

## VIII

CONVENING OF A SECOND UNITED NATIONS CONFERENCE  
ON THE LAW OF THE SEA

*The United Nations Conference on the Law of the Sea,*

*Considering that, on the basis of the report prepared by the International Law Commission,<sup>1</sup> it has approved agreements and other instruments on the régime applicable to fishing and the conservation of the living resources of the high seas, the exploration of the continental shelf and the exploitation of its natural resources and other matters*

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

pertaining to the general régime of the high seas and to the free access of land-locked States to the sea,

*Considering that it has not been possible to reach agreement on the breadth of the territorial sea and some other matters which were discussed in connexion with this problem,*

*Recognizing that, although agreements have been reached on the régime applicable to fishing and the conservation of the living resources of the high seas, it has not been possible, in those agreements, to settle certain aspects of a number of inherently complex questions,*

*Recognizing the desirability of making further efforts at an appropriate time to reach agreement on questions of the international law of the sea, which have been left unsettled,*

*Resolves to request the General Assembly of the United Nations to study, at its thirteenth session, the advisability of convening a second international conference of plenipotentiaries for further consideration of the questions left unsettled by the present Conference.*

*21st plenary meeting  
27 April 1958*

## IX

## TRIBUTE TO THE INTERNATIONAL LAW COMMISSION

*The United Nations Conference on the Law of the Sea, on the conclusion of its proceedings,*

*Resolves to pay a tribute of gratitude, respect and admiration to the International Law Commission for its excellent work in the matter of the codification and development of international law, in the form of various drafts and commentaries of great juridical value.*

*21st plenary meeting  
27 April 1958*

## DOCUMENT A/CONF.13/L.57

## Optional Protocol of Signature concerning the Compulsory Settlement of Disputes

*The States parties to this Protocol and to any one or more of the Conventions on the Law of the Sea adopted by the United Nations Conference on the Law of the Sea held at Geneva from 24 February to 27 April 1958,*

*Expressing their wish to resort, in all matters concerning them in respect of any dispute arising out of the interpretation or application of any article of any Convention on the Law of the Sea of 29 April 1958, to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement is provided in the Convention or has been agreed upon by the parties within a reasonable period,*

*Have agreed as follows:*

*Article I*

Disputes arising out of the interpretation or application of any Convention on the Law of the Sea shall lie within the compulsory jurisdiction of the International Court of Justice, and may accordingly be brought before the Court by an application made by any party to the dispute being a party to this Protocol.

*Article II*

This undertaking relates to all the provisions of any Convention on the Law of the Sea except, in the Convention on Fishing and Conservation of the Living Resources of

the High Seas, articles 4, 5, 6, 7 and 8, to which articles 9, 10, 11 and 12 of that Convention remain applicable.

*Article III*

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party to this Protocol may bring the dispute before the Court by an application.

*Article IV*

1. Within the same period of two months, the parties to this Protocol may agree to adopt a conciliation procedure before resorting to the International Court of Justice.
2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

*Article V*

This Protocol shall remain open for signature by all States who become parties to any Convention on the Law

of the Sea adopted by the United Nations Conference on the Law of the Sea and is subject to ratification, where necessary, according to the constitutional requirements of the signatory States.

#### Article VI

The Secretary-General of the United Nations shall inform all States who become parties to any convention on the law of the sea of signatures to this Protocol and of the deposit of instruments of ratification in accordance with article V.

#### Article VII

The original of this Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article V.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Protocol.

DONE AT GENEVA, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

### DOCUMENT A/CONF.13/L.58

#### Final Act of the Conference

1. The General Assembly of the United Nations, by resolution 1105 (XI) of 21 February 1957, decided to convene an international conference of plenipotentiaries to examine the law of the sea, taking account not only of the legal but also of the technical, biological, economic and political aspects of the problem, and to embody the results of its work in one or more international conventions or such other instruments as it might deem appropriate. The General Assembly also recommended that the conference should study the question of free access to the sea of land-locked countries, as established by international practice or treaties.

2. The United Nations Conference on the Law of the Sea met at the European Office of the United Nations at Geneva from 24 February to 27 April 1958.

3. The governments of the following eighty-six States were represented at the Conference: Afghanistan, Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Federation of Malaya, Finland, France, Federal Republic of Germany, Ghana, Greece, Guatemala, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Republic of Korea, Laos, Lebanon, Liberia, Libya, Luxembourg, Mexico, Monaco, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, San Marino, Saudi Arabia, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Republic of Viet-Nam, Yemen, Yugoslavia.

4. At the invitation of the General Assembly, the following specialized agencies had observers at the Conference:

- International Labour Organisation;
- United Nations Food and Agriculture Organization;
- United Nations Educational, Scientific and Cultural Organization;
- International Civil Aviation Organization;
- World Health Organization;
- International Telecommunication Union;
- World Meteorological Organization.

5. At the invitation of the General Assembly, the following

intergovernmental organizations also had observers at the Conference:

- Conseil Général des Pêches pour la Méditerranée;
- Indo-Pacific Fisheries Council;
- Inter-American Tropical Tuna Commission;
- Inter-Governmental Committee for European Migration;
- International Council for the Exploration of the Sea;
- International Institute for the Unification of Private Law;

League of Arab States;

Organization of American States;

Permanent Conference for the Exploitation and Conservation of the Maritime Resources of the South Pacific.

6. The Conference elected His Royal Highness Prince Wan Waithayakon Krommun Naradhip Bongsprabandh (Thailand) as President.

7. The Conference elected as Vice-Presidents Argentina, China, France, Guatemala, India, Italy, Mexico, Netherlands, Poland, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

8. The following committees were set up:

#### General Committee

Chairman: The President of the Conference.

#### First Committee (Territorial Sea and Contiguous Zone)

Chairman: Mr. K. H. Bailey (Australia).

Vice-Chairman: Mr. S. Gutiérrez Olivos (Chile).

Rapporteur: Mr. Vladimir M. Koretsky (Ukrainian Soviet Socialist Republic).

#### Second Committee (High Seas: General Régime)

Chairman: Mr. O. C. Gundersen (Norway).

Vice-Chairman: Mr. Edwin Glaser (Romania).

Rapporteur: Mr. José Madeira Rodrigues (Portugal).

#### Third Committee (High Seas: Fishing; Conservation of Living Resources)

Chairman: Mr. Carlos Sucre (Panama).

Vice-Chairman: Mr. E. Krispis (Greece).

Rapporteur: Mr. N. K. Pannikar (India).

#### Fourth Committee (Continental Shelf)

Chairman: Mr. A. B. Perera (Ceylon).

Vice-Chairman : Mr. R. A. Quarshie (Ghana).

Rapporteur : Mr. L. Díaz Gonzáles (Venezuela).

*Fifth Committee* (Question of free access to the sea of land-locked countries)

Chairman : Mr. J. Zourek (Czechoslovakia).

Vice-Chairman : Mr. W. Guevara Arze (Bolivia).

Rapporteur : Mr. A. H. Tabibi (Afghanistan).

*Drafting Committee*

Chairman : Mr. J. A. Correa (Ecuador).

*Credentials Committee*

Chairman : Mr. M. Wershof (Canada).

9. The Secretary-General of the United Nations was represented by Mr. C. A. Stavropoulos, the Legal Counsel. Mr. Yuen-li Liang, Director of the Codification Division of the Office of Legal Affairs of the United Nations, was appointed Executive Secretary.

10. The General Assembly, by its resolution convening the Conference, referred to the Conference the report of the International Law Commission covering the work of its eighth session as a basis for consideration of the various problems involved in the development and codification of the law of the sea ; the General Assembly also referred to the Conference the verbatim records of the relevant debates in the General Assembly, for consideration by the Conference in conjunction with the Commission's report.

11. The Conference also had before it the comments by governments on the articles concerning the law of the sea prepared by the International Law Commission, the memorandum submitted by the Preliminary Conference of Land-locked States held in Geneva from 10 to 14 February 1958, and preparatory documentation prepared by the Secretariat of the United Nations, by certain specialized agencies and by independent experts invited by the Secretariat to assist in the preparation of this documentation.

12. On the basis of the deliberations, as recorded in the summary records and reports of the committees and in the records of the plenary meetings, the Conference prepared and opened for signature the following conventions (annexes I to IV) :

Convention on the Territorial Sea and the Contiguous Zone

(adopted on 27 April 1958, on the report of the First Committee)

(A/CONF.13/L.52) ;

Convention on the High Seas

(adopted on 27 April 1958, on the report of the Second Committee)

(A/CONF.13/L.53 and Corr.1) ;

Convention on Fishing and Conservation of the Living Resources of the High Seas

(adopted on 26 April 1958, on the report of the Third Committee)

(A/CONF.13/L.54 and Add.1) ;

Convention on the Continental Shelf

(adopted on 26 April 1958, on the report of the Fourth Committee)

(A/CONF.13/L.55).

The Conference also adopted the following *Protocol* (annex V) :

Optional Protocol of Signature concerning the compulsory settlement of disputes

(adopted by the Conference on 26 April 1958)

(A/CONF.13/L.57).

In addition, the Conference adopted the following *resolutions* (annex VI)

(A/CONF.13/L.56) :

Nuclear tests on the high seas

(Resolution adopted on 27 April 1958, on the report of the Second Committee, in connexion with article 2 of the Convention on the High Seas) ;

Pollution of the high seas by radio-active materials

(Resolution adopted on 27 April 1958, on the report of the Second Committee, relating to article 25 of the Convention on the High Seas) ;

International fishery conservation conventions

(Resolution adopted on 25 April 1958, on the report of the Third Committee) ;

Co-operation in conservation measures

(Resolution adopted on 25 April 1958, on the report of the Third Committee) ;

Humane killing of marine life

(Resolution adopted on 25 April 1958, on the report of the Third Committee) ;

Special situations relating to coastal fisheries

(Resolution adopted on 26 April 1958, on the report of the Third Committee) ;

Régime of historic waters

(Resolution adopted on 27 April 1958, on the report of the First Committee) ;

Convening of a second United Nations Conference on the Law of the Sea

(Resolution adopted by the Conference on 27 April 1958) ;

Tribute to the International Law Commission

(Resolution adopted by the Conference on 27 April 1958).

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE AT GENEVA this twenty-ninth day of April, one thousand nine hundred and fifty-eight, in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the United Nations Secretariat.





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