

United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Summary Records of the 1st Plenary Meeting

Extract from the *Official Records of the United Nations Conference on the Law of The Sea, Volume II (Plenary Meetings)*

SUMMARY RECORDS OF THE PLENARY MEETINGS

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)

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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.¹ That proposal had been

¹ 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 attend¹ 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

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