

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

Geneva, Switzerland  
24 February to 27 April 1958

## **Summary Records of the 14<sup>th</sup> Plenary Meeting**

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

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 or 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.