

United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Documents:
A/CONF.13/C.5/SR.16-20

Summary Records of the 16th to 20th Meetings of the Fifth Committee

Extract from the *Official Records of the United Nations Conference on the Law of
The Sea, Volume VII (Fifth Committee
(Question of Free Access to the Sea of Land-locked Countries))*

26. Father DE RIEDMATTEN (Holy See) said that it would be a positive achievement if the Committee proposed an arbitral procedure for the settlement of disputes between land-locked States and States of transit.

THE NINETEEN-POWER PROPOSAL
(A/CONF.13/C.5/L.6), SECTION VIII

27. Father DE RIEDMATTEN (Holy See) deprecated the phrase "provided that such future agreements do not institute a less favourable régime and do not conflict with the aforesaid articles". Parties must not be given reason to regret signing the convention.

THE THREE-POWER PROPOSAL
(A/CONF.13/C.5/L.7), PART I, PARA. 1

28. Mr. PROBST (Switzerland) considered that paragraph 1 was too general and might give rise to misunderstandings. It would be difficult in some cases — for instance, in regard to pollution of the high seas — to claim that the terms "all States", "each State", and "every State" should be understood to comprise land-locked States as well as States possessing a sea-coast.

29. Mr. SCHEFFER (Netherlands) said that, since the provisions of the instrument to be drafted by the Conference were to be applicable to ships of any flag, the text of paragraph 1 was completely justified.

30. Father de RIEDMATTEN (Holy See) said that the members of the Conference should come to a decision on the definition of "land-locked States" or "States without a sea-coast", otherwise the future might bring unpleasant surprises.

THE THREE-POWER PROPOSAL
(A/CONF.13/C.5/L.7), PART I, PARA. 2

31. Mr. CHU (China) thought that paragraph 2 might reduce the scope of article 28 of the International Law Commission's draft report (Right of Navigation).

THE THREE-POWER DRAFT RESOLUTION (A/CONF.13/
C.5/L.7, PART II), FIRST PARAGRAPH OF THE
PREAMBLE

32. Mr. GUEVARA ARZE (Bolivia) asked the sponsors of the proposal what, in their opinion, was the legal force of a resolution.

33. Mr. JOHNSON (United Kingdom) explained that the sponsors of the proposal felt that the problem of access to the sea of land-locked countries was very difficult and could not be solved at once by a convention. The difficulties would have to be resolved gradually, and so the sponsors had presented their proposal in the form of a resolution, which would admittedly have less legal force than a convention, but would have quite as much as a resolution of the General Assembly of the United Nations.

34. Mr. TABIBI (Afghanistan) said that the General Assembly of the United Nations by no means expected the Conference to restrict itself to the approval of resolutions, but hoped that it would prepare an instrument of indisputable legal force.

35. Mr. RECALDE de VARGAS (Paraguay), agreeing with the representative of Afghanistan, said that he reserved the right to take up the matter again.

36. Mr. BOURBONNIERE (Canada) and Mr. BHUTTO (Pakistan) did not think that the General Assembly had expressly requested the Conference to prepare a legal instrument.

37. Mr. SHAHA (Nepal) said that at the Committee's fifth meeting he had had to draw his colleagues' attention to paragraph 6 of document A/CONF.13/11, prepared by the Secretariat, where it was stated that resolution 1105 (XI) of the General Assembly "contained no specific recommendation to the Conference... to embody in an international convention or other instruments the results of its study of the question of free access to the sea of land-locked countries. At the same time, there would appear to be no reason why the Conference should not embody the results of its work on this question in a suitable form of instrument if it considers it appropriate to do so".

38. At the proposal of Mr. MASCARENHAS (Brazil), the CHAIRMAN said that the question of the form to be given to the Conference's recommendations would be studied at the next meeting.

THE THREE-POWER DRAFT RESOLUTION (A/CONF.13/
C.5/L.7, PART II), SECOND PARAGRAPH OF THE
PREAMBLE

39. Mr. MASCARENHAS (Brazil) said that the text of sub-paragraph 2 was not clear. It would be preferable and more accurate to state that the Economic Conference of the Organization of American States had adopted a declaration and three resolutions, some of which pertained to the question of free access to the sea of land-locked countries.

THE THREE-POWER DRAFT RESOLUTION (A/CONF.13/
C.5/L.7, PART II), FOURTH PARAGRAPH OF THE
PREAMBLE

40. Mr. GUEVARA ARZE (Bolivia) considered that sub-paragraph 4 was clumsily worded, for it made the question of free access to the sea of land-locked countries appear a minor concern of a conference which, already having other matters before it, had delegated that question to the Fifth Committee. The text should therefore be redrafted.

The meeting rose at 11 p.m.

SIXTEENTH MEETING

Wednesday, 9 April 1958, at 2.45 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the proposals submitted to the
Committee (A/CONF.13/C.5/L.6 to L.9) (continued)

1. Mr. BREUER (Federal Republic of Germany) spoke of the interest that his country, pre-eminently a transit country, took in the work of the Committee. Since other

delegations had explained in detail the point of view of transit States, he would confine himself to a few additional observations. The question of free access to the sea of land-locked countries belonged to the field of conventional international law; it required concrete solutions allowing for the needs of land-locked States and of transit States and aiming at conciliation. The fact that no acute problem had arisen in that field argued against improvisation, and he would therefore support any effort to embody the results of the Committee's work in a resolution similar to that of the three Powers (A/CONF.13/C.5/L.7, section II).

2. Mr. KING (United States of America) insisted that it was essential for the Committee to find a common denominator as a basis for an understanding between land-locked States and transit States, and pointed to the divergence of views revealed during the debates on the nineteen-power and three-power proposals. Speaking of the discussions concerning the powers of the Committee, during which reference had been made to resolution 1105 (XI) of the General Assembly, he pointed out that there was some question as to the form the Committee's conclusions should take. However, his delegations reserved its position on this point.

3. His delegation would introduce a draft amendment to modify operative paragraph 3 of part II of the three-power proposal (A/CONF.13/C.5/L.7, section II). Under the draft amendment, coastal States would facilitate as far as possible access to the sea of land-locked States and recognize fully their needs in regard to transit trade; they would grant them all facilities for the purpose according to international law and international practice, taking into account future requirements from the economic development of land-locked States.

4. Mr. DONOSO SILVA (Chile) pointed out that the Spanish translation of document A/CONF.13/C.5/L.6 contained a linguistic error; in article IV the words "a un trato más favorable" should be replaced by the words "al trato más favorable". Besides that error of wording, his delegation considered that there were grounds for not extending to coast-wise trade the facilities granted to land-locked States in the internal or territorial waters of coastal States.

5. Moreover, regarding article VII of the document, his delegation had taken cognizance of the note in which the Bolivian delegation stated that its arrangements for transit through the territory of the coastal States towards the Pacific were broad and liberal, and remained in force at all times and in all circumstances, and that consequently the clause included in article VII was not applicable to those arrangements. Bolivia enjoyed ample facilities on Chilean territory. The measures envisaged in article VII would only be applied where strictly necessary for the protection of Chilean interests in security and public health; they would not be such as to infringe recognized Bolivian rights. For that reason, he considered that the note by the delegation of Bolivia was hardly justified. In addition, article VIII of the same document contained a safeguard which should completely reassure the Bolivian delegation.

6. Mr. GUEVARA ARZE (Bolivia), repeating for the benefit of the Chilean representative, who had been absent from the previous meeting, the statement which

he had made for the information of the representative of Argentina, said that the note which appeared in article VII of the nineteen-power proposal had no other aim than to establish Bolivia's determination that its contractual obligations towards neighbouring countries should not be increased. It did not seek to obtain any advantage beyond those which it had been granted by virtue of agreements concluded with neighbouring countries. The text of article VII presented a certain danger in not defining the circumstances in which the transit State could make reservations in regard to commercial traffic in transit from land-locked States. An unfavourable situation might result for those countries. Admittedly, article VIII contained a safeguard, but the Bolivian delegation had wished to meet the possibility that article VII might be adopted without article VIII. That was why it wished to maintain the note to which the Chilean representative had alluded. He recognized the merits of the Chilean representative's remarks on coast-wise traffic by ships of land-locked States in the internal and territorial waters of coastal States.

7. The CHAIRMAN drew the attention of members of the Committee to the letter from the Chairman of the First Committee to the Chairman of the Fifth Committee (A/CONF.13/C.5/L.9). If no observations were forthcoming, the document would be studied in conjunction with the other proposals submitted to the Committee. He referred to the suggestion that a working party should be set up, and invited members of the Committee to consider it.

Appointment of a working party

8. Mr. LOOMES (Australia) and Mr. BOURBONNIERE (Canada) thought that it was not advisable to set up a working party until consideration had been given to the form in which the results of the Committee's work should be expressed. The working party could then be given the necessary instructions and in particular it could be stated whether the text to be prepared should be a convention, a resolution or some other kind of instrument.

9. Mr. GUEVARA ARZE (Bolivia) took the opposite view and contended that the Committee should not make the results of its work dependent on the form in which they were expressed. If the working party was able to prepare a text which gave satisfaction to its members, who would be chosen to represent the various viewpoints, the final form of the text could easily be decided by voting on whether it should take the form of articles for inclusion in the convention to be prepared by the Conference or of a resolution or a declaration. If the question of form were to be given priority, the progress of the Committee's work would suffer a serious and possibly lasting setback.

10. Mr. GERONINE (Byelorussian Soviet Socialist Republic) considered that, in the light of the Committee's discussions, the proposed working party should be asked to prepare a single document, but its form was a matter for the Committee to decide later.

11. Mr. SHAHA (Nepal) thought that the proposed working party should itself decide on the form of the

text to be prepared by it. That solution was a logical one, since the working party would represent the different opinions and parts of the world ; moreover, it was the only way in which the Committee could finish its work within the allotted time.

12. Mr. BACCHETTI (Italy) thought that directives would have to be given to the working party ; otherwise it would embark on the same general discussion as had taken place in the Committee. The form of the instrument was not a secondary matter, for the nature of the undertaking to be given by States was highly important. Only when the form had been decided on could the working party endeavour to prepare the compromise text which all the participants wanted.

13. Mr. USTOR (Hungary), while agreeing that the form of the future instrument was important, thought that the Committee might do what the other committees of the Conference were doing, and endeavour first of all to reach an agreement on substance. Besides, it could instruct the working party to submit proposals on the form of the instrument.

14. Mr. SAVELIEV (Union of Soviet Socialist Republics) said that many delegations had tried to reconcile the viewpoints expressed in the nineteen-power and three-power proposals, and the desire for a compromise formed a solid basis for the discussions of the proposed working party. It was to be hoped that the working party would manage to prepare a text satisfactory to all the delegations. It was difficult to decide immediately on the form which the Committee's recommendations should take, for the form of the document embodying the working party's conclusions was closely linked with the results of the work of the other committees. The working party could therefore start its work while observing the work of the other committees, and then submit to the Fifth Committee concrete proposals regarding the final form in which its conclusions should be expressed.

15. The CHAIRMAN asked whether the members of the Committee had any objection to the setting up of a working party having as its terms of reference the study of both the form and the content of the instrument to be submitted to the Committee.

16. Mr. FREMLIN (Sweden) considered that the Committee should appoint a working party and lay down its terms of reference, specifying in particular the form in which it wished the working party to express its conclusions. With the conclusions before it the Committee could study them and give further instructions to the working party for the second stage of its work.

17. After the representative of Canada had recalled that a draft amendment submitted by the United States delegation was before the Committee, the CHAIRMAN said that, although he regretted that the United States delegation had not submitted its amendment sooner, he wondered whether it would not be possible to consider it in conjunction with the question of the setting up of the working party.

18. Mr. KING (United States of America) pointed out that no time limit had been set for the submission of amendments, and his delegation had been unable to table its amendment until the discussion of the proposals

contained in A/CONF.13/C.5/L.6 and A/CONF.13/C.5/L.7 had been closed. The United States delegation had no objection to the Committee defining the working party's terms of reference before taking up the United States draft amendment.

19. Mr. PECHOTA (Czechoslovakia) thought that the amendments before the Committee could quite well be studied by the working party itself.

20. Mr. JOHNSON (United Kingdom) considered that the Swedish delegation had made a constructive proposal worthy of detailed study. For its part, the United Kingdom delegation would like to propose that the Committee should set up a working party to study simple questions first, such as the right to a flag and the right of navigation ; at the same time, the working party could be asked to prepare general recommendations on the form in which the Committee's conclusions should be expressed. In the meantime, the United States amendment could be studied by the Committee itself.

21. Mr. BHUTTO (Pakistan) opposed the United Kingdom proposal, as it sought to combine substantive elements with those of form. It was necessary first to determine the form. For that reason, he would support the Swedish proposal.

22. Mr. SHAHA (Nepal) supported the United Kingdom proposal. He also considered that the United States amendment would considerably improve the three-power proposal.

23. After a procedural discussion in which Mr. MASCARENHAS (Brazil) and Mr. BHUTTO (Pakistan) participated, Mr. JOHNSON (United Kingdom) said that he would withdraw his proposal in favour of the Swedish proposal.

24. Mr. USTOR (Hungary) and Mr. SCHEFFER (Netherlands) regretted that the United Kingdom had not maintained its suggestion to ask the working party to study, as a first stage, both the form in which the instrument should be expressed and the substance of the provisions which, in the proposals before the Committee, concerned the right of navigation and the right to a flag.

25. Mr. GUEVARA ARZE (Bolivia) took over and introduced as a formal proposal the suggestion previously withdrawn by the United Kingdom. In other words, he proposed that a working party be asked to report on the form to be given to the results of the Committee's work and to submit a text on the provisions common to the two main proposals before the Committee.

26. After a procedural discussion in which Father DE RIEDMATTEN (Holy See), Mr. BHUTTO (Pakistan) and Mr. SHAHA (Nepal) took part, the CHAIRMAN suggested that the Committee might like to postpone its study of the proposals on the working party's terms of reference to the next meeting, thus giving the sponsors time to consult one another and to submit written texts.

It was so decided.

The meeting rose at 5.15 p.m.

SEVENTEENTH MEETING

Thursday, 10 April 1958, at 2.45 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

**Appointment of a working party
(A/CONF.13/C.5/L.11 to L. 13) (continued)**

TERMS OF REFERENCE OF THE WORKING PARTY

1. The CHAIRMAN invited the Committee to consider a Swedish proposal (A/CONF.13/C.5/L.11) relating to the appointment and terms of reference of a working party, a Hungarian amendment to that proposal (A/CONF.13/C.5/L.12), and a Bolivian proposal on the same subject (A/CONF.13/C.5/L.13).
2. Mr. FREMLIN (Sweden) said that he hoped that the compromise solution which his delegation proposed would commend itself to the majority of members of the Committee.
3. Mr. USTOR (Hungary) admitted that the Swedish proposal would facilitate and expedite the work of the Committee. Nevertheless, his delegation, which represented a land-locked State, had felt bound to put forward a draft amendment (A/CONF.13/C.5/L.12) providing that the working party should be able to deal not only with the question of which type of instrument it preferred but also with the substance of the matter. In that way, the working party would be able to study the problem as a whole.
4. Mr. WILLFORT (Austria) considered that the Committee should decide expressly whether a working party should be set up before determining its functions. With that reservation the Swedish proposal seemed to place the working party in the most favourable position. The party's work would, however, be still easier if its field of activity were more precisely defined. With a view to limiting the initial task of the working party, his delegation therefore formally proposed that the words "articles II and III of document A/CONF.13/C.5/L.6" should be substituted for the words "the results of the Committee's work" in the Swedish proposal. The questions to which those two articles related were in fact the easiest to solve.
5. Mr. GUEVARA ARZE (Bolivia) thought that the Swedish proposal was based on incorrect premises, since it would instruct the working party to make recommendations concerning the form in which "the results of the Committee's work should be expressed", whereas so far the Committee's work had not led to any result.
6. His delegation had therefore considered it necessary to present a different proposal (A/CONF.13/C.5/L.13) on the same subject. Though it was true that the Committee's work had not produced a general result, a partial agreement might be said to have been reached on certain rights of land-locked States, such as the right to fly a flag and to sail the high seas. It was thus reasonable to instruct the working party to deal with such points in its draft. In regard to other questions which were still controversial, the working party should be instructed to draft a text and suggest the form which the Committee might give to them.
7. Mr. GEAMANU (Romania) said he would support the Bolivian proposal. The Swedish proposal lacked precision; it was impossible to tell whether the words "the form or forms in which the results of the Committee's work should be expressed" referred to the wording itself or the nature of the text to be drawn up.
8. The CHAIRMAN, referring to the oral amendment made by the Austrian delegation to the Swedish proposal, said that in view of the small amount of time at the Committee's disposal it should decide on that amendment although the prescribed time limits had not been observed.
9. Mr. KING (United States of America) was ready to support the Swedish proposal. The Hungarian amendment concerned questions of substance, and he would not vote for it. The Austrian amendment seemed acceptable, but it would be preferable to adopt the Swedish text, which had the merit of simplicity. The Bolivian proposal could only be considered if the Committee first decided to appoint a working party.
10. Mr. BHUTTO (Pakistan) said that he would vote for the Swedish proposal, against the Hungarian amendment, and against the Bolivian proposal.
11. Mr. PECHOTA (Czechoslovakia) said he would support the proposal submitted by the Bolivian delegation, which corresponded exactly to the stage which the Committee's work had reached: It would open the way to settlement of the questions already considered and also of questions of form and substance which were still outstanding.
12. Mr. SCHEFFER (Netherlands) considered the text of the Swedish proposal acceptable. He emphasized that the composition of the working party should be perfectly balanced.
13. Mr. SANDBERG (Secretariat) pointed out that the Swedish proposal established 11 April as the date on which the working party's report should be presented to the Committee. All the available interpreters had already been appointed to the various committees for that day. He hoped that the working party would be able to carry out its task without interpreters.
14. Mr. FREMLIN (Sweden) agreed to alter his delegation's proposal to make 12 April the date for the presentation of the report.
It was so agreed.
15. After a procedural discussion concerning the order of priority of the proposals submitted to the Committee, *the oral amendment of the Austrian delegation was put to the vote.*
The Austrian amendment was rejected by 29 votes to 3, with 21 abstentions.
The Hungarian amendment (A/CONF.13/C.5/L.12) was put to the vote.
At the request of Mr. BHUTTO (Pakistan), *a vote was taken by roll-call. The Dominican Republic, having been drawn by lot by the Chairman, was called upon to vote first.*
In favour: Hungary, Laos, Nepal, Panama, Paraguay, Romania, Union of Soviet Socialist Republics, Afgha-

nistan, Bolivia, Bulgaria, Byelorussian Soviet Socialist Republic, Costa Rica, Czechoslovakia.

Against: Ecuador, El Salvador, France, Federal Republic of Germany, Greece, India, Iran, Italy, Mexico, New Zealand, Norway, Pakistan, Spain, Sweden, Switzerland, Thailand, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Argentina, Australia, Austria, Brazil, Canada, Chile, China, Colombia.

Abstaining: Ghana, Indonesia, Israel, Japan, Netherlands, Portugal, Saudi Arabia, Tunisia, United Arab Republic, Venezuela, Burma, Cambodia, Ceylon.

The Hungarian amendment was rejected by 29 votes to 13, with 13 abstentions.

The Swedish proposal (A/CONF.13/C.5/L.11) was put to the vote.

The Swedish proposal was adopted by 29 votes to 13, with 11 abstentions.

16. The CHAIRMAN pointed out that the Swedish proposal having been adopted, there was no reason to put the Bolivian proposal to the vote.

17. Father DE RIEDMATTEN (Holy See) explained that his vote in favour of the Swedish proposal should not be taken to indicate opposition to the Bolivian proposal. His delegation merely considered that the Committee's debates had not reached a stage where the Bolivian proposal could be adopted.

The meeting was adjourned at 5.15 p.m. and resumed at 6.25 p.m.

COMPOSITION OF THE WORKING PARTY

18. The CHAIRMAN announced that during the adjournment the Committee's officers had prepared a list of 12 members to make up the working party. The list comprised 4 representatives of land-locked States (Afghanistan, Bolivia, Switzerland and Czechoslovakia), 4 representatives of transit States adjoining land-locked States (Thailand, Chile, Netherlands, Romania), and 4 representatives of maritime States (Ceylon, Mexico, United Kingdom, Tunisia). He asked members of the Committee to comment on the proposed list.

19. Mr. SCHEFFER (Netherlands) considered that his country should not appear amongst the countries adjoining land-locked States.

20. Mr. PECHOTA (Czechoslovakia) said that the Netherlands had been chosen because it was a transit State for the land-locked States of Europe.

21. Mr. BOURBONNIERE (Canada) proposed the following list: 4 land-locked States (Czechoslovakia, Nepal, Bolivia, Switzerland); 4 transit States (Chile, Federal Republic of Germany, Italy, Thailand); and 4 coastal States (Mexico, Netherlands, Tunisia, United Kingdom).

22. The CHAIRMAN announced that the composition of the working party would be decided by secret ballot.

23. He called on the Committee to appoint four representatives of land-locked States.

At the invitation of the Chairman, Father de Riedmatten (Holy See) and Mr. Cardona (Mexico) acted as tellers.

A vote was taken by secret ballot.

Number of ballot papers	52
Invalid ballots	0
Number of valid ballots	52
Abstentions	0
Number of members voting	52
Required majority	27
Number of votes obtained	
Switzerland	46
Bolivia	41
Czechoslovakia	40
Nepal	33

Having obtained the required majority, Switzerland, Bolivia, Czechoslovakia and Nepal were appointed members of the working party.

24. The CHAIRMAN called on the Committee to appoint four representatives of States adjoining land-locked States.

At the invitation of the Chairman, Father de Riedmatten (Holy See) and Mr. Cardona (Mexico) acted as tellers.

A vote was taken by secret ballot.

Number of ballot papers	52
Invalid ballots	0
Number of valid ballots	52
Abstentions	0
Number of members voting	52
Required majority	27
Number of votes obtained	
Thailand	51
Chile	41
Italy	33
Federal Republic of Germany	31

Having obtained the required majority, Thailand, Chile, Italy and the Federal Republic of Germany were appointed members of the working party.

25. The CHAIRMAN called on the Committee to appoint four representatives of coastal States.

At the invitation of the Chairman, Father de Riedmatten (Holy See) and Mr. Cardona (Mexico) acted as tellers.

A vote was taken by secret ballot.

Number of ballot papers	52
Invalid ballots	0
Number of valid ballots	52
Abstentions	0
Number of members voting	52
Required majority	27
Number of votes obtained	
United Kingdom	48
Mexico	46
Tunisia	43
Ceylon	27
Netherlands	27

Having obtained the required majority, the United Kingdom, Mexico and Tunisia were appointed members of the working party.

The CHAIRMAN announced that, as Ceylon and the Netherlands had obtained an equal number of votes, another ballot would be held at the next meeting.

The meeting rose at 8 p.m.

EIGHTEENTH MEETING

Friday, 11 April 1958, at 2.45 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the proposals submitted to the Committee (A/CONF.13/C.5/L.10, L.15) (continued)¹

1. Mr. MULLER (Switzerland) said he was afraid the Committee had reached a deadlock. It had lost two days setting up a working party to settle the question of the form in which its conclusions were to be expressed. However, although tendencies of another kind had emerged, there were also trends towards conciliation, as shown, for example, by the United States amendment (A/CONF.13/C.5/L.10). It was in an attempt to reach agreement that the Swiss delegation was submitting its proposal.
2. The first part of the draft needed no comment. The substance would not, he thought, be criticized, and as for the final wording, that would be left to the Committee to decide. The second part, which constituted the compromise, contained, *mutatis mutandis*, the seven principles of the preliminary conference of land-locked States (A/CONF.13/C.5/L.1, annex VII, p. 1) in a flexible, condensed form; they were in no sense demands.
3. The principles concerning access to the sea were set forth as part of the freedom of the seas which land-locked States should enjoy on the same footing as coastal States. The text proposed, which corresponded to the Geneva Statute of 1923, did not ask for anything more than equality, and that had never been contested. Those principles should guide the States concerned in drawing up the necessary agreements. They would serve as an outline-law, for which draft article 48 of the International Law Commission (A/3159) could be taken as a model. The coastal States would therefore be in a position to accept the suggested draft, and the land-locked States would have access to the sea. It might perhaps be objected that the rights would remain theoretical if the coastal States concerned refused to conclude an agreement with a land-locked State. The Swiss delegation believed that the value of the rules formulated was not impaired by the fact that agreements implementing the principles set forth would have to be concluded, or that there was a possibility of their being infringed.
4. The proposal did not contain provisions for recourse to the procedure contemplated in article 57 because Switzerland had proposed a general clause for the settlement of disagreements by compulsory arbitration.
5. The CHAIRMAN asked the representative of the United States if he wished the Committee to proceed to the study of the amendment submitted by his delegation (A/CONF.13/C.5/L.10) or would agree to consideration of the document being deferred until the working party had submitted its report to the Committee.
6. Mr. KING (United States) agreed that consideration

¹ Resumed from the 16th meeting.

of the document submitted by his delegation should be postponed until the working party had presented its report on the form to be given to the Committee's conclusions.

Appointment of a working party (continued)

COMPOSITION OF THE WORKING PARTY (continued)

7. The CHAIRMAN pointed out that the Committee had to proceed to a second ballot to elect a twelfth and last State to the working party, since the delegations of Ceylon and the Netherlands had tied at the first ballot.

At the invitation of the Chairman, Father de Riedmatten (Holy See) and Mr. Cardona (Mexico) acted as tellers.

A vote was taken by secret ballot.

Number of ballot papers	67
Invalid ballots	1
Number of valid ballots	66
Abstentions	1
Number of members voting	65
Required majority	33
Number of votes obtained	
Ceylon	36
Netherlands	29

Having obtained the required majority, Ceylon was appointed a member of the working party.

8. Mr. TILLEKARATNE (Ceylon) expressed his gratitude to the members of the Committee whose votes had enabled his country to be represented on the working party. His delegation was fully conscious of the magnitude of the task entrusted to it. He emphasized that the problems confronting the working party were not insoluble, and expressed his conviction that it would fulfil its task and submit to the Committee a report which could be examined in a constructive spirit.

The meeting rose at 3.40 p.m.

NINETEENTH MEETING

Monday, 14 April 1958, at 2.45 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the Working Party's report (A/CONF.13/C.5/L.16)

1. Mr. PERERA (Ceylon), speaking as Chairman of the Working Party, said that during the Working Party's two meetings all its members had shown a very real desire to find a way out of the deadlock reached by the Committee.
2. The Working Party had decided by a majority vote that the matters dealt with in section I of the nineteen-power proposal (A/CONF.13/C.5/L.6), in the Chilean amendment to that proposal (A/CONF.13/C.5/L.8), and in the Swiss proposal (A/CONF.13/C.5/L.15) should be embodied in a convention. It had decided unanimously that sections II and III of the nineteen-power proposal, the first part of the three-power proposal (A/CONF.13/C.3/L.7), operative paragraph 4 of the three-power proposal, and the Bolivian proposal

transmitted by the First Committee (A/CONF.13/C.5/L.9) should also be embodied in a convention.

3. The Working Party unanimously decided that part II (except for operative paragraph 4) of the three-power proposal and the United States amendment to that proposal (A/CONF.13/C.5/L.10) should be embodied in a resolution.

4. There was also a majority decision of the Working Party that sections IV, V, VI, VII and VIII of the nineteen-power proposal should be embodied in a declaration.

5. The results achieved had been modest, because the Working Party had not been empowered to consider matters of substance, although matters of form and substance were closely interconnected. A number of reservations made with a view to solving outstanding difficulties were appended to the report. Brief as it was, the report assembled all the essential facts and might serve as a basis of discussion for any body made responsible for drafting a specific text.

6. Mr. ASANTE (Ghana) congratulated the Working Party on the way in which it had carried out its assignment and suggested that to save time it be entrusted with the further task of preparing for the Committee a draft text based on its report.

The meeting was adjourned at 4.15 p.m., and resumed at 4.30 p.m.

7. Mr. KING (United States of America) congratulated the Working Party on its report. An examination of the report showed that it had not been possible to reach unanimity on all points. Being anxious to speed up the Committee's work, the United States delegation formally proposed that the Committee give priority to consideration of the Swiss proposal (A/CONF.13/C.5/L.15), which had the twofold advantage of embodying the matters before the Committee in a convention and emanating from a land-locked country.

8. Mr. BOURBONNIERE (Canada) supported the United States representative's proposal. His delegation had been very much impressed by the Swiss delegation's endeavours to find compromise solutions. It hoped that by according priority to consideration of that proposal the Committee would finally find a formula acceptable to the great majority of its members.

9. In addition, a time-limit should be set for the submission of amendments to the Swiss proposal.

10. Mr. DONOSO SILVA (Chile) supported the United States proposal, since consideration of the Swiss proposal in plenary meeting would lighten the Working Party's task.

11. Mr. GUEVARA ARZE (Bolivia) said that the contents of the Swiss proposal had already been thoroughly studied and further discussion of it would merely be going over ground already covered. The Committee should therefore take a decision on it.

12. If the United States proposal was accepted, amendments to the Swiss proposal would be submitted and there would be further delay. Such amendments should preferably be studied by the Working Party.

13. The Swiss proposal provided for only the conventional form, but some matters might be better em-

bodied in a resolution or a declaration. He did not oppose the Swiss proposal, which represented some advance towards a solution.

14. Mr. ASANTE (Ghana) proposed that the Report of the Fifth Committee to the Plenary Conference should consist only or in part of suggested amendments to articles of the International Law Commission draft as amended by other committees.

15. The Swiss proposal could be studied and the Committee could then see whether it wanted to submit other proposals to the Conference.

16. Mr. PERERA (Ceylon) pointed out that according to the agenda the business of the meeting was to be consideration of the Working Party's report, and the Committee must accordingly take a decision on that report. If it were to examine the Swiss proposal or the United States proposal (A/CONF.13/C.5/L.10), the discussion would start afresh.

17. The CHAIRMAN ruled that the Committee should first take a decision on the report and then study the proposals in order of submission.

18. Mr. BREUER (Federal Republic of Germany) said that during the Working Party's discussions his delegation had opposed the inclusion of section I of the nineteen-power proposal, because free use of the sea was guaranteed to land-locked States by international law but access to the sea through the territory of another State was a completely different matter, land being divided among sovereign States.

19. As a rule, transit was by roads or railways built or administered by or under the direction of the transit State, which therefore had exclusive rights, modifiable only by agreement, over them. The codification of international law related to generally applicable rules. The Committee was not competent to create a kind of easement of international law affecting some States and not others. A transit regulation like the Barcelona Convention and Statute was an instrument of general scope, and was therefore based on the principle of reciprocity, which completely satisfied the legitimate aspirations of land-locked States.

20. Germany had always granted its neighbours transit facilities answering their requirements and had ratified the Barcelona Convention and Statute. It was in that spirit also that the delegation of the Federal Republic of Germany had proposed an amendment to the Swiss proposal, which it considered to be the best basis for a convention.

21. Mr. PROBST (Switzerland) said that results would be achieved more quickly if the Swiss proposal were adopted. The points covered by the proposal were precisely those which the Committee had been discussing. The approving comments received by the Swiss delegation showed that its proposal provided something new — a less dogmatic approach to the problems. The Committee would be well advised to take a decision on it and thus perhaps eliminate a number of proposals which were complicating its task.

22. Mr. PERERA (Ceylon) said that the Working Party had studied the Swiss proposal, and he proposed that its report be given priority.

23. Mr. KING (United States of America) asked that a vote be taken on his proposal that the Committee give priority to consideration of the Swiss proposal.
24. Mr. TABIBI (Afghanistan) hoped that the Committee would not take a vote, for it would then find itself in a difficult position. The Working Party had studied all the proposals and submitted its report, on which the Committee should take a decision. The Swiss proposal, which was a good basis for work, would be considered by the Working Party in preparing the definitive text.
25. Mr. JOHNSON (United Kingdom) said that the members of the Working Party who had made reservations should be allowed to state their reasons. The Committee should not refer the matter to the Working Party without giving it clear terms of reference. He proposed that discussion of the report should be adjourned, and that the Swiss proposal and the amendments thereto be studied at the next day's meeting.
26. Mr. SCHEFFER (Netherlands) said he had read the Working Party's report with great interest but regretted that it had not been unanimous on the form in which the Committee's work should be expressed. Its report had not saved any time. The first thing was to study the substance and then consider suitable forms of expression for it.
27. Father DE RIEDMATTEN (Holy See) hoped that the Committee would turn to the substance of the matter.
28. Mr. JOHNSON (United Kingdom) explained that the United Kingdom delegation had entered three reservations, which were set forth in paragraph 12 of the report. The reason for the third reservation was that there was a world of difference between the proposal enunciating the right of free access to the sea in a purely unilateral form and the Swiss proposal, which would make such right subject to reciprocity and agreement between the States concerned.
29. The Working Party had had a long discussion on the nature of declarations and resolutions and had tried to discover whether declarations needed to be ratified. The United Kingdom delegation had recalled that The Hague Conference had refused to embody its work in the form of a declaration, on the grounds that a majority should not claim the right to draft a declaration embodying existing rules of international law which, if correctly formulated, were binding upon all States, including those which had not ratified the declaration. His delegation did not consider that a declaration of that kind would be an appropriate form of instrument. Perhaps there were different forms of declaration and one could be drafted which did not claim to formulate rules binding upon States not accepting it.
30. It would be a mistake to give the Working Party a new task without first considering the Swiss proposal.
31. Mr. PECHOTA (Czechoslovakia) expressed his delegation's support for the recommendations of the Working Party, which, although it had not reported unanimously on some points, had given an opinion on the very important question of the form of the instrument.
32. Like the Nepalese delegation, his delegation had made a reservation in regard to section IX of the nineteen-power proposal. The provision for the exclusion of the application of the most-favoured-nation clause represented a very important part of the right of free access to the sea of land-locked countries and should not, therefore, be separated from the remaining sections contained in the nineteen-power proposal.
33. The Working Party's report made it possible to form a clearer view of the proposals submitted. The close relationship between form and substance was evident. The Czechoslovak delegation had supported the proposal that the Working Party should be instructed to examine both form and substance.
34. Mr. ASANTE (Ghana) presented the following proposal:
- “The Fifth Committee takes note of the report of the Working Party to the Fifth Committee contained in document A/CONF.13/C.5/L.16 and accepts their findings that the recommendations of the Fifth Committee to the Plenary Session should be in the form partly of a convention and partly of resolutions and/or declarations.”
35. Mr. GUEVARA ARZE (Bolivia) said that during the discussions in the Working Party his delegation had, like other delegations, maintained that the results of the Committee's work should be presented in three forms. Arrangements sanctioned by practice and by bilateral or multilateral treaties and corresponding to the general trend of international law could be embodied in a convention. There might, however, be arrangements of a special character adapted to regional needs which could not be appropriately embodied in a universal convention even if they had been given official sanction in treaties; and those should therefore be embodied in a declaration.
36. As the United Kingdom representative had said, there were declarations and declarations. It must therefore be made clear that such a declaration would not be binding upon all States; because there was a special character to every situation.
37. Lastly, arrangements that were in process of formation but which had not yet become rules of universal international law could be embodied in a resolution. That type of document imposed no obligations but helped to form the law of the future.
38. As for section IX of the nineteen-power proposal, the Bolivian delegation, which had abstained from voting on it, considered that it should figure in a resolution.
39. Under the vigorous direction of its Chairman, Mr. Perera, the Working Party had obtained results which gave grounds for believing that a solution satisfactory to all could be found.
40. Mr. SHAHA (Nepal) proposed the outright adjournment of the meeting.
- The Nepalese proposal was rejected by 27 votes to 16, with 8 abstentions.*
41. Following a suggestion by Father DE RIEDMATTEN (Holy See), Mr. JOHNSON (United Kingdom) proposed that consideration of the Working Party's

report and of the Ghana delegation's proposal relating thereto should be adjourned till the next meeting.

It was so agreed.

The meeting rose at 6.30 p.m.

TWENTIETH MEETING

Tuesday, 15 April 1958, at 3 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the proposals submitted to the Committee (A/CONF.13/C.5/L.15, L.17, L.18, L.20) (continued)¹

1. The CHAIRMAN, having invited the Committee to continue consideration of the report of the Working Party (A/CONF.13/C.5/L.16) and the proposal by Ghana (A/CONF.13/C.5/L.19), Father DE RIEDMATTEN (Holy See) suggested that it would be preferable, in order to expedite the conduct of business, to give priority to study of the Swiss proposal (A/CONF.13/C.5/L.15) and the amendments proposed to it. Having decided that question, the Committee could return to its consideration of the report of the Working Party and the proposal by Ghana, and then deal with the question of its future work.

2. Mr. ASANTE (Ghana) paid tribute to the Swiss delegation for submitting, in its desire to achieve a compromise, a highly interesting proposal. He was willing for the proposal and the proposed amendments thereto to be considered before his delegation's proposal, as the representative of the Holy See had suggested.

3. Father DE RIEDMATTEN (Holy See) assured the representative of Ghana that the Holy See would support the Ghana proposal when the Committee came to examine the Working Party's report as a whole. He formally requested that his own proposal to study the Swiss proposal first be put to the vote.

The Committee decided by 29 votes to 4, with 16 abstentions, to give priority to study of the Swiss proposal and the proposed amendments thereto.

4. Mr. PROBST (Switzerland) said that the proposal (A/CONF.13/C.5/L.15) had been submitted by his delegation in the hope of obtaining the agreement of the majority of the Committee. Referring to the English and Spanish renderings of the original, he said that as far as the English text was concerned, it would be preferable not to use the term "land-locked"; the phrase "les Etats riverains ou non de la mer", proposed for article 15 ought to be translated as: "States, whether coastal or not". In the text proposed for article 27, the English would be nearer to the French original if the words "non-coastal States" were used instead of "land-locked States". Similarly, in the text proposed for article 28, the words "whether coastal or land-locked" should be replaced by the words "whether coastal or

not". Finally, in part II of the document, the words "land-locked States" should be replaced by the words "States not having a sea-coast".

5. In the Spanish text, the words "le libre transit" had been translated by the phrase "el derecho de libre tránsito", whereas the Swiss delegation had deliberately avoided using the term "droit de libre transit" in its anxiety to avoid all dogmatic bias. He asked for the words "el derecho" to be deleted from the Spanish text.

6. Mr. BREUER (Federal Republic of Germany) considered that the Swiss proposal offered an excellent basis for preparing a convention relating to land-locked countries. However, paragraph 1 of part II would be distinctly improved if it were amended to mention the principles other than that of reciprocity which were enunciated in the Barcelona Statute. His delegation would also like to have the minor changes listed in document A/CONF.13/C.5/L.17 made in the Swiss text.

7. Mr. SCHEFFER (Netherlands) considered that the Swiss proposal was acceptable. The Swiss representative's observations on the English and Spanish translation of the proposal were, he thought, well-founded. Apart from such questions of rendering, it would be advisable to mention in the second and third sub-paragraphs of paragraph 1 of part II, the rules of international conventions already in force. The following text should therefore be added to the two sub-paragraphs: "In conformity with the legal provisions of international conventions in force". The word "guarantee" in paragraph 1, third sub-paragraph, should be replaced by the word "accord". Finally, it would be preferable for paragraph 2 of part II to be worded as follows:

"A State not having a sea-coast shall settle by bilateral or regional agreement with the State or States situated between it and the sea all additional matters relating to freedom of transit and equal treatment in ports taking into account the special conditions of the States concerned."

8. Mr. ASANTE (Ghana) remarked that the proposals made by the Netherlands representative and those made by the representative of the Federal Republic of Germany had a point in common. He accordingly asked the Netherlands representative whether he had any objection to the amendment proposed by the Federal Republic of Germany.

9. Mr. SCHEFFER (Netherlands) thought that the proposal submitted by the Federal Republic of Germany was satisfactory to the extent that it mentioned the Statute of Barcelona; it would, however, be preferable if the final text of the proposal referred to all international conventions already concluded in the matter, and not merely to the Statute of Barcelona.

10. Mrs. DE HARTINGH (France) said she found the Swiss proposal acceptable in principle. The French delegation had submitted an amendment (A/CONF.13/C.5/L.18) in order to introduce a clarification which would round off the Swiss proposal without altering its purport. The amendment consisted merely of a refer-

¹ Resumed from the 18th meeting.

ence to the Barcelona Convention and Statute of 20 April 1921 on Freedom of Transit and the Geneva Convention and Statute of 9 December 1923 on the International Régime of Maritime Ports.

11. Mr. BREUER (Federal Republic of Germany) agreed to include the reference to the Geneva Convention as well as to the Barcelona Statute in his proposal, in accordance with the Netherlands representative's suggestion.

12. Mr. KING (United States of America) recalled that he had already had occasion to emphasize the need to find a common denominator between the interests of land-locked States and those of coastal States. The United States amendment (A/CONF.13/C.5/L.20) was motivated by the desire to ensure free collaboration between the different countries.

13. His delegation had also submitted an amendment to the three-power proposal (A/CONF.13/C.5/L.7); he wished to reserve his delegation's right to revert to that matter when the Committee resumed consideration of the three-power proposal.

14. Mr. GUEVARA ARZE (Bolivia) stated that his delegation intended to submit an amendment to the Swiss proposal. The amendment would consist in replacing the word "accord" by the word "guarantee" in the second sub-paragraph of paragraph 1 of the article in part II of the Swiss proposal. In the same sub-paragraph, the words "and in conformity with the agreements in force on the subject" should be added after the word "reciprocity".

15. He further remarked that his delegation could not agree that the Geneva and Barcelona conventions should be the only international agreements already concluded to be mentioned. Besides the Barcelona and Geneva declarations, relations between land-locked States and their neighbours had given rise to a series of bilateral treaties which could not be revoked. It would be inadvisable to overlook the juridical system which had been built up between the land-locked States of Latin America and their neighbours over thirty years of co-operation.

16. Mr. MASCARENHAS (Brazil) said he would support the Swiss proposal, which offered all necessary safeguards for the parties concerned. He also endorsed the statement made by the Bolivian representative with regard to the numerous bilateral agreements at present governing the relations between coastal and land-locked States.

17. Mr. MARTINEZ MONTERO (Uruguay), while supporting the Swiss proposal, recalled the reservations he had already made on the subject of preferential treatment in territorial waters and ports. Such a preferential régime was provided for under Uruguayan law. Furthermore, although the Uruguayan delegation was prepared to support the Swiss proposal in principle, it would be unable to vote until it had seen in writing all the amendments submitted orally.

18. Mr. PECHOTA (Czechoslovakia) saw a certain parallelism between the fundamental principles established by the Preliminary Conference of Land-locked

States and those set forth in the Swiss proposal, which his delegation was prepared to support. He remarked, however, that the proposal did not include all the principles recommended by the Preliminary Conference; its adoption should therefore not exclude other proposals which might also be of interest.

19. Commenting on the amendments proposed to the Swiss proposal, he thought that the amendment submitted by the Federal Republic of Germany (A/CONF.13/C.5/L.17) would weaken the Swiss proposal. The proposal submitted by the French delegation (A/CONF.13/C.5/L.18) failed to mention bilateral agreements, an omission unacceptable to the Czechoslovak delegation. The amendment submitted by the United States delegation (A/CONF.13/C.5/L.20) would merely complicate the otherwise simple wording of the Swiss proposal. As for the proposals presented orally by the Bolivian and Netherlands delegations, the Czechoslovak delegation reserved the right to comment upon them at a later stage.

20. Mr. WILLFORT (Austria) congratulated the Swiss representative, who by submitting his proposal, had greatly helped to improve the atmosphere of the discussions in the Committee. His delegation was prepared to support the proposal. He understood the Bolivian representative's apprehension, and thought that no country could surrender rights obtained under bilateral agreements, particularly as the provisions of the Barcelona and Geneva conventions should be regarded as minimum provisions.

21. Mr. BACCHETTI (Italy) paid tribute to the spirit of co-operation shown by the delegation of Switzerland in submitting its proposal. Before committing himself, he would need to study carefully the text of the proposal and the proposed amendments thereto.

22. Mr. DONOSO SILVA (Chile) considered that, in submitting its proposal, the Swiss delegation had made a most effective contribution to the Committee's work. None of the proposed amendments aimed at introducing any fundamental changes in the proposal; all were merely designed to clarify it. Since it would appear possible to combine them all in a single draft, the Chilean delegation proposed that their sponsors discuss the possibility of drafting a joint text.

23. The Chilean delegation agreed with the representatives of the Netherlands and Bolivia that, in referring expressly to the principles of the Barcelona Convention and Statute of 1921 on freedom of transit and the Geneva Convention and Statute of 1923 on the international régime of maritime ports, there was a risk of appearing to ignore other bilateral or multilateral treaties on the same subject. On the other hand, his delegation saw no objection to the use of some general expression such as, say, "existing agreements".

24. Mr. BOURBONNIERE (Canada) stated that the Swiss proposal (A/CONF.13/C.5/L.15) had received the support of the largest number of delegations. He paid tribute to the wisdom and realism inherent in it. He hoped that the sponsors of the nineteen-power proposal (A/CONF.13/C.5/L.6) and the three-power proposal (A/CONF.13/C.5/L.7) would agree to withdraw their texts. This would facilitate the Committee's

work and demonstrate that all those taking part were eager to reach a compromise. In point of fact, nearly all the points dealt with in the latter two proposals were contained in the Swiss proposal.

25. The Canadian delegation proposed that part I of the Swiss proposal, to which no amendments had been suggested, be put to the vote at once. Thereafter, to help in taking a decision on Part II, the sponsors of the various draft amendments might endeavour to agree on a joint text, as the Chilean representative had suggested.

26. Mr. BELTRAMINO (Argentina) welcomed the Swiss proposal, which aimed at providing the Committee with compromise solutions in a condensed form. In principle, his delegation accepted the proposal, together with the Bolivian amendment to it. It also supported the Chilean proposal that a drafting group be asked to merge into a single text the various proposed amendments to the Swiss proposal.

27. Mr. ADOR (Haiti) was happy to note that the substance of the Swiss proposal had met with the approval of all members, and that all that remained was to round off the text.

28. The sponsors of proposed amendments to the Swiss proposal might, as suggested by the Chilean representative, form a drafting group among themselves and with the help of the Swiss delegation, draw up a text which could then be put to the vote in the Committee.

29. Father DE RIEDMATTEN (Holy See) stated that his delegation supported the Swiss proposal and the Bolivian amendment thereto. It likewise supported the Chilean proposal for the preparation of a joint amendment. He urged the sponsors of the various amendments to show a spirit of conciliation and make every effort to reach solutions which would not only receive virtually unanimous approval at the Conference but also lead subsequently to the greatest possible number of ratifications.

30. Mr. SAVELIEV (Union of Soviet Socialist Republics) considered that the Swiss proposal constituted an excellent working basis. Together with the nineteen-power proposal and the three-power proposal, it would enable the Working Party to arrive at a final solution.

31. His delegation could not accept the amendment proposed by the Federal Republic of Germany (A/CONF.13/C.5/L.17). It could see no point in complicating the wording of the text by a reference to conventions and statutes that had not been universally ratified and which many countries found themselves unable to ratify. The Committee had to find a text which would satisfy all participating States and establish an instrument which could remain in force for several decades.

32. Mrs. DE HARTINGH (France) stated that, in its desire to satisfy the Bolivian delegation, the French delegation would agree to round off the reference to the Barcelona Convention of 1921 on freedom of transit and the Geneva Convention of 1923 on the international régime of maritime ports with a text which might take the following form: "and other existing conventions, such as those concluded by Latin American countries".

At the same time, she thought it would be more logical to insert that reference in paragraph 2 rather than paragraph 1 of part II of the Swiss proposal.

33. M. KING (United States of America) said he supported the Chilean representative's proposal that in compliance with the recommendations of the General Committee a joint amendment should be drafted. He also favoured the Haitian proposal that the single text to be drawn up by the sponsors of the various proposed amendments to the Swiss proposal should be put to the vote. Finally, he gave his backing to the Canadian representative's suggestion that the Committee should vote without delay on part I of the Swiss proposal, as no amendment to it had been proposed.

34. Mr. LOOMES (Australia) said his delegation gave general support to the Swiss proposal and would vote for it, subject to any modifications which might be made later as a result of amendments. It was well drafted and could serve as a basis for a decision by the Committee. The Australian delegation also supported the Chilean proposal for the drafting of a joint amendment and, like the Canadian representative, hoped that the sponsors of the nineteen-power proposal and the three-power proposal would withdraw their texts.

35. Mr. PECHOTA (Czechoslovakia) said that the Swiss proposal was not the only one. The others, in particular the nineteen-power proposal, the three-power proposal and the report of the Working Party (A/CONF.13/C.5/L.16) should not be put aside. They should therefore be considered at the same time as the Swiss proposal, and the Committee would thus be able to choose the best solution.

36. Mr. TABIBI (Afghanistan) congratulated the Swiss delegation on its proposal, which should enable the Committee to reach agreement on the most important points for embodiment in a convention. But it would be improper to neglect the report of the Working Party and the other proposals previously submitted to the Committee. In the nineteen-power proposal particularly, there were principles which its sponsors could not readily agree to withdraw. The Committee must not only draft articles for incorporation in a convention, but also decide on those which were to be included in resolutions or declarations.

37. The Afghan delegation generally approved of the Swiss proposal, but reserved the right to submit amendments designed not to weaken it, like the amendment proposed by the Federal Republic of Germany (A/CONF.13/C.5/L.17), but to improve it.

38. Mr. SHAHA (Nepal) said he thought the Swiss proposal was well drafted, took into account the different points of view and was entirely acceptable in its present form. In some respects it went further than the nineteen-power proposal, since it offered a decision on the form of the text.

39. However, the Committee should not fail to examine the other proposals and the report of the Working Party (A/CONF.13/C.5/L.16). Before going on to the next stage of its work, it should instruct a smaller body, which might be the Working Party already constituted

or another working party, to consider what should be done about the recommendations made in the report.

40. Mr. JOHNSON (United Kingdom) said he thought the proposed amendments to the Swiss proposal did not differ so greatly that their sponsors could not succeed in drawing up a joint text. He strongly urged delegations from European States not to insist on an express reference to the Barcelona and Geneva conventions being inserted in the text. Although those conventions were not exclusively European (there were non-European powers among the signatories), there was a danger that such a reference might seem to exclude other important treaties and conventions. On the other hand, a general phrase such as "the agreements in force" would exclude neither the Barcelona and Geneva conventions nor any other treaty.

41. The United Kingdom delegation was in a position to state that the sponsors of the three-power proposal (A/CONF.13/C.5/L.7) were prepared to withdraw it. It had served a constructive purpose when submitted, but had now been superseded by the Swiss proposal.

42. Mr. GERONIN (Byelorussian S.S.R.) praised the work done by the Swiss delegation and the proposal to which it had led. However, that proposal was silent on one important issue: that every land-locked State had the right of free access to the sea as the consequence of a more general principle, that of freedom of the high seas, which could be understood to mean that the sea was by its nature open to all.

43. The right of free access to the sea, already recognized as belonging to land-locked States in many bilateral and multilateral agreements, must be affirmed and developed. The Swiss proposal was therefore not the only one to be considered. Echoing the remarks made by the Soviet Union representative, he expressed the view that the Working Party should draft a document acceptable to all participants, also taking into account the report of the Working Party (A/CONF.13/C.5/L.16) and the proposals previously submitted to the Committee.

44. Mr. USTOR (Hungary) said he hoped that the praiseworthy efforts of the Swiss delegation would soon lead the Committee to a favourable result. For land-locked States the proposal might seem weak. The first paragraph of its part II did not re-enunciate the phrase "right of free access to the sea" which was used in the preamble of that part. The Swiss proposal would be further weakened if the amendments proposed by the United States of America (A/CONF.13/C.5/L.20) and by the Federal Republic of Germany (A/CONF.13/C.5/L.17) were adopted.

45. The nineteen-power proposal (A/CONF.13/C.5/L.6) had not been withdrawn, so there were still two proposals before the Committee. The Hungarian delegation thought, first, that — as several other delegations had suggested — an attempt should be made to unify the various proposed amendments to the Swiss proposal, and secondly, that the already existing Working Party should be entrusted with the task of seeking a compromise between the nineteen-power proposal and the Swiss proposal.

46. Mr. DONOSO SILVA (Chile), again proposed that the sponsors of the various proposed amendments to

the Swiss proposal be requested to meet together with a view to framing a single text.

It was so decided.

The meeting rose at 5.40 p.m.

TWENTY-FIRST MEETING

Tuesday, 15 April 1958, at 8.15 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the proposals submitted to the Committee (A/CONF.13/C.5/L.15, L.17, L.18, L.20, L.23) (continued)

1. The CHAIRMAN said that consideration of the Swiss proposal (A/CONF.13/C.5/L.15) and of the proposed amendments thereto could be quickly completed, whereupon the Committee could at once dispose of the Working Party's report (A/CONF.13/C.5/L.16), with a view to passing on as quickly as possible to the question of the Committee's further work, which was a matter of urgency.

2. Mr. JUSUF (Indonesia) considered that the Swiss proposal had been amply discussed at the previous meeting, and that consideration of that point could be rapidly completed, as the Chairman hoped, thanks to the joint text which would no doubt be submitted by the sponsors of the amendments to the Swiss proposal. All representatives would surely agree that the Working Party had scrupulously fulfilled the terms of reference entrusted to it by the Committee; consequently, consideration of the Working Party's report could also be quickly terminated, and the Committee would undoubtedly approve the recommendations contained therein. Finally, the Indonesian delegation, in an effort to enable the Committee to complete its work as quickly as possible, had joined with the delegation of Iceland in submitting a proposal (A/CONF.13/C.5/L.22), whereby the Working Party would be further called upon to prepare, not later than 18 April, its recommendations concerning the substance and wording of provisions suitable for inclusion partly in a convention and partly in a declaration and a resolution.

3. Mr. SRESHTHAPUTRA (Thailand) supported the Swiss proposal, paying tribute to the spirit of conciliation and goodwill it displayed.

4. Replying to a question by Mr. BOURBONNIERE (Canada), the CHAIRMAN stated that discussion of the Swiss proposal was not closed, but that, since no other representative had asked to speak on that proposal, the Committee could now turn to consideration of the Working Party's report.

5. Mr. KING (United States of America) was of the opinion that, before continuing consideration of the Swiss proposal, it would be advisable to await the results of the discussions going on between the sponsors of amendments to that proposal, who expected to be able to submit a joint text to the Committee at its next meeting.

6. Mr. TABIBI (Afghanistan) expressed his profound regret that a joint text had not been laid before the Committee at the present meeting.