

United Nations Conference on the Law of the Sea

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Documents:
A/CONF.13/C.5/SR.21-25

Summary Records of the 21st to 25th Meetings of the Fifth Committee

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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 It had served a constructive purpose when submitted, but had now been superseded by the Swiss proposal.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.

Consideration of the Working Party's report
(A/CONF.13/C.5/L.16) (*continued*)¹

7. Mr. MASCARENHAS (Brazil) said he would like some further information concerning the Working Party's recommendation on section IX of the nineteen-power proposal (A/CONF.13/C.5/L.6). Brazil's attitude would depend on the eventual decision on the principle set forth there, that of the exclusion of the application of the most-favoured-nation clause. As a matter of fact, Brazil had concluded many treaties based on the application of that clause and was also taking an active part in the work of GATT, whose whole mechanism also rested on its application.
8. Mr. SHAHA (Nepal) stated that the Working Party's recommendations were acceptable to the Nepalese delegation. He proposed that the Committee should consider them one by one. In his opinion, the Working Party's report should receive the Committee's full attention and he regretted that some representatives tended to attach less importance to it than it deserved. The Swiss proposal should, he thought, be referred to the Working Party for study.
9. In reply to the question put by the representative of Brazil, he pointed out that according to sub-paragraph (2)(a) of paragraph 3 of the Working Party's report, section IX of the nineteen-power proposal should be embodied in a conference resolution.
10. Mr. MASCARENHAS (Brazil) pointed out that paragraph 3 referred to draft recommendations submitted by the United Kingdom representative and not to the recommendations of the Working Party itself. Paragraph 7 of the report stated expressly that in the Working Party "a proposal that the matter dealt with in section IX of the nineteen-power proposal should be embodied in a declaration was rejected by a majority"; but no indication was given of the form which the Working Party recommended should be given to that part of the nineteen-power proposal.
11. Mr. PECHOTA (Czechoslovakia) said he thought that it could be inferred from a comparison of paragraphs 3 and 7 of the report that the Working Party was of the opinion that section IX of the nineteen-power proposal should not be embodied in a declaration but in a resolution. Of course, that did not mean that the Working Party either approved or disapproved of the contents of section IX, for it had no authority to express its opinion on matters of substance.
12. Mr. MASCARENHAS (Brazil) noted that in the second sentence of paragraph 7 of its report, which referred specifically to the matters to be embodied in a resolution, the Working Party had not mentioned section IX. He hoped that it would be possible to have the Working Party's intentions made completely clear.
13. Mr. ASANTE (Ghana) said that the Swiss proposal had been well received by many delegations representative both of land-locked and of coastal States. That was because the proposal emanated from a country which had long experience of international discussions, and had done much for the maintenance of peace. As Switzerland had concluded numerous bilateral agree-
- ments with its neighbours enabling it to enjoy full freedom of the seas, one could be assured that its proposal was designed solely to assist the Committee in carrying out its task successfully.
14. Dealing with the report under discussion, he recalled that the Working Party had received no mandate from the Committee to express an opinion on the substance of the questions but only on the form in which they should be expressed. Approval of the report would in no way bind the Committee when it came to submit its own report to the Conference.
15. With regard to the nineteen-power proposal, which was still before the Committee, it must be noted that some parts of it had been incorporated in the Swiss proposal, which, it seemed, could be adopted by the Committee with minor amendments. Nor must it be forgotten that the land-locked States were in a minority in the Committee and that, whatever form was adopted for the results of the Committee's work, some of those countries would still have problems to solve which they could not settle without the co-operation of the coastal States. He therefore asked the members of the Committee to make every effort to ensure that some other parts of the nineteen-power proposal were added to the Swiss proposal in the form of an amendment, for example. In that way, the delegations of the land-locked States would not have the impression that their proposals had escaped consideration for merely procedural reasons.
16. In his opinion, the Committee could first give its approval to the Working Party's report, which referred only to the form in which the results of the Committee's work should be expressed, could then proceed to consideration of the Swiss proposal on the understanding that additions might be made to it, and could conclude by examining certain parts of the nineteen-power proposal which might well be incorporated in the Swiss proposal.
17. Mr. BREUER (Federal Republic of Germany) proposed that the Committee should adjourn its discussion in order to give the sponsors of the amendments to the Swiss proposal the time to prepare a joint text.
18. Mr. PECHOTA (Czechoslovakia) said he thought that before adjourning the discussion the Committee should conclude the study of the Working Party's report.
19. Mr. BREUER (Federal Republic of Germany) said that in his view the Committee could more easily carry on its work when it had before it the joint text submitted by the sponsors of the amendments to the Swiss proposal.
20. Mr. TABIBI (Afghanistan) said he supported the proposal by the representative of the Federal Republic of Germany and requested that the discussion should be adjourned until the following morning and not the following afternoon. The sponsors of the amendments to the Swiss proposal could hold a meeting before the Committee met.

It was so decided.

The meeting rose at 9.50 p.m.

¹ Resumed from the 19th meeting.

TWENTY-SECOND MEETING

Wednesday, 16 April 1958, at 10.30 a.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.21, L.23) (continued)

1. Mr. WILLFORT (Austria) thought that the Committee might usefully continue its consideration of the Swiss proposal (A/CONF.13/C.5/L.15) and amendments thereto (A/CONF.13/C.5/L.17, L.18, L.20, L.21, L.23). He therefore proposed that the Committee should consider the questions before it in the following order: Swiss proposal and amendments thereto; Working Party's report (A/CONF.13/C.5/L.16); further work of the Committee.

The Austrian proposal was adopted by 30 votes to 9, with 6 abstentions.

2. Mr. KANDAN (Turkey) considered that the Swiss proposal would simplify the Committee's work of codification. The Turkish delegation could accept part I of that proposal without reservation, but as regards part II it would support only paragraph 2 (on equal treatment in ports and freedom of transit), for it could not accept provisions under which one category of States would have special duties towards another category of States. The countries concerned still retained the right to conclude agreements with one another and to accede to the 1921 Barcelona Convention and the 1923 Geneva Convention.

3. Mr. KING (United States of America) said that, pursuant to the Committee's decision, the sponsors of the various amendments to the Swiss proposal had endeavoured in a spirit of real co-operation to draft a single text. They had been unable to do so because of discrepancies in translation. The Committee therefore still had to deal with draft amendments A/CONF.13/C.5/L.17, L.18, L.20, L.21 and L.23.

4. Mr. BACCHETTI (Italy) proposed that part I of the Swiss proposal, which most members apparently approved, be put to the vote first.

5. Mr. GUEVARA ARZE (Bolivia) said that his delegation could not support the Italian proposal. The Swiss proposal formed an indivisible whole and sought to solve one and the same problem. It should be put to the vote in its entirety, for the Committee would find itself in an awkward situation if part I was adopted and part II was then rejected.

6. Mr. O'SULLIVAN (Ireland) supported the Italian proposal and did not share the misgivings of the Bolivian representative.

7. Mr. TABIBI (Afghanistan) thought that not even part I of the Swiss proposal could be voted on until the fate of the various amendments to part II was known.

8. Mr. BHUTTO (Pakistan) thought that with certain reservations the Swiss proposal came closest to the desired solution. The Committee might give the sponsors

of the various amendments and the Swiss delegation time to endeavour to merge their several texts in a consolidated text. The Pakistani delegation would be willing to serve on a group appointed for that purpose.

9. Mr. BREUER (Federal Republic of Germany) said that his delegation had left no stone unturned in its efforts to formulate a single amendment. It was still hoping to do so and to facilitate the preparation of a joint text, would be willing to withdraw its own amendment (A/CONF.13/C.5/L.17). The only change which he would like to see in the Swiss proposal would be the replacement in part II, paragraph 1 (English text) of the word "shall" by "should" or "may", which seemed a more accurate translation of the French word "peuvent".

10. Mr. GUEVARA ARZE (Bolivia) said that his delegation was also willing to withdraw its amendment (A/CONF.13/C.5/L.23) if the sponsors of the other amendments would do likewise. The translation problem raised by the representative of the Federal Republic of Germany did not affect Bolivia, since the Spanish text of the Swiss proposal contained the word "tendrán", which was quite satisfactory.

11. Mr. ASANTE (Ghana) said that, after an informal exchange of views with the representative of the Holy See, his delegation considered that the Swiss proposal omitted only two important provisions of the nineteen-power proposal (A/CONF.13/C.5/L.6).

12. He therefore formally moved the amendment of the Swiss proposal by adding: (1) *in fine*, the text of section IX of the nineteen-power proposal; and (2) at the end of paragraph 1 of part II, after the words "through their territory", the text of paragraph 2 of section V of the nineteen-power proposal.

13. With those additions, the Swiss proposal would be likely to find a wide measure of support. If any of the sponsors of the nineteen-power proposal wished to see any other of its provisions retained, they should ask the Committee to add them to the Swiss proposal.

14. Father DE RIEDMATTEN (Holy See) said that his delegation had reached the same conclusions as the delegation of Ghana about the provisions of the nineteen-power proposal which had not been taken up in the Swiss proposal. The delegation of the Holy See would vote against the additions proposed by the representative of Ghana but considered, nevertheless, that the latter's suggestion would save the Committee a lengthy procedural discussion and enable a vote to be taken very soon.

15. Mr. BOURBONNIERE (Canada) said that he fully understood the misgivings of the Bolivian representative with regard to the Italian proposal. However, a decision on articles 15, 27 and 28 was urgent because the other committees were going ahead with their work in that connexion and they should, therefore, be notified in good time—for instance, by a communication from the Chairman of the Fifth Committee—of the decisions taken by it. The other committees had resorted to the method of provisional votes in similar cases. The Fifth Committee might like to follow their example, converting the provisional vote into a final vote if the translation difficulties could be cleared up.

16. Mrs. DE HARTINGH (France) feared that the tabling of additional amendments might further complicate the Committee's work. Although it would be difficult to divide the Swiss proposal, the French delegation would agree to a provisional vote on part I. All things considered, it would be prepared to withdraw its own amendment (A/CONF.13/C.3/L.18) in favour of the unamended text of the Swiss proposal (A/CONF.13/C.5/L.15).
17. Mr. SHAHA (Nepal) said he would agree to a provisional vote on the Swiss proposal in its entirety.
18. Mr. GUEVARA ARZE (Bolivia) shared the view of the Canadian representative that the Chairman might address a communication to the other committees which were to consider articles 15, 27 and 28.
19. He was still opposed to the Swiss proposal being put to the vote part by part, even provisionally. If that procedure were followed, the Committee might conceivably adopt part I and then not have time enough to adopt part II.
20. Mr. TILLEKERATNE (Ceylon) agreed with the representatives of Afghanistan and Bolivia that the two parts of the Swiss proposal could not be separated. Moreover, the Working Party itself had recommended that the questions covered by the Swiss proposal (A/CONF.13/C.5/L.15) should be dealt with in a convention.
21. Mr. O'SULLIVAN (Ireland) said that he had supported the Italian proposal simply and solely in order to facilitate the Committee's work and that, as it appeared from the debate that that proposal might have the opposite effect, he withdrew his support.
22. Mr. SCHEFFER (Netherlands) pointed out that translation difficulties alone had prevented the submission of a joint amendment to the Swiss proposal. It appeared, however, that those difficulties could be surmounted, and his delegation was therefore prepared to withdraw its amendment in favour of the joint text. He too thought it would be better to postpone further discussion until a joint amendment had been submitted.
23. Mr. ASANTE (Ghana) pointed out that his oral amendment provided for the incorporation in the Swiss proposal of a number of important points contained in the nineteen-power proposal (A/CONF.13/C.5/L.6). If the sponsors of the latter proposal feared that the Ghana amendment might further complicate the Committee's work, however, he was prepared to withdraw it.
24. Mr. BHUTTO (Pakistan) considered that, if the Swiss proposal and the amendments thereto were put to the vote and adopted, they would replace both the nineteen-power proposal (A/CONF.13/C.5/L.6) and the three-power proposal (A/CONF.13/C.5/L.7).
25. It would therefore be helpful if the Swiss delegation joined the sponsors of the amendments to the Swiss proposal in a further effort to formulate a consolidated text. Accordingly, he repeated his suggestion that the discussion be deferred to enable the sponsors of the various proposals to seek a basis for agreement. If those consultations were fruitless, his delegation would in its turn submit an amendment to the Swiss proposal.
26. Mr. SHAHA (Nepal) said that he might be able to accept the Swiss proposal, but pointed out that it was more limited in scope than the nineteen-power proposal. For that reason, he did not share the opinion of the representative of Pakistan that the Swiss proposal would replace that submitted by the nineteen powers.
27. The CHAIRMAN confirmed that the nineteen-power proposal (A/CONF.13/C.5/L.6) was still before the Committee.
28. Mr. JOHNSON (United Kingdom) reminded the Committee that in response to the appeal made to the sponsors of the nineteen-power proposal and those of the three-power proposal, the latter had withdrawn their proposal (A/CONF.13/C.5/L.7). If the sponsors of the nineteen-power amendment found the Swiss proposal too limited, they too could withdraw their proposal (A/CONF.13/C.5/L.6) and replace it by amendments to the only text which would then be before the Committee — the Swiss proposal (A/CONF.13/C.5/L.15).
29. Accordingly, he endorsed the suggestion of the representative of Pakistan that the discussion be deferred to enable the sponsors of all the amendments to the Swiss proposal to find a basis for agreement; even if those consultations did not result in the formulation of a consolidated text, at least the number of amendments might be reduced to two or three.
30. Mr. MÜLLER (Switzerland) paid tribute to the representative of Ghana for the spirit of compromise he had shown in submitting an oral amendment, which was doubtless designed to enlist the support of the sponsors of the nineteen-power proposal and also of the supporters of the Swiss proposal.
31. It should be noted, however, that the provisions which the representative of Ghana had proposed to incorporate in the Swiss proposal were in fact already implicit in that proposal. The "free transit" referred to in part II of the Swiss proposal implied, of course, exemption from customs duty and other special charges and taxes referred to in section IV of the nineteen-power proposal. Similarly, the equal treatment provided for in part II of the Swiss proposal met the preoccupations underlying section IX of the nineteen-power proposal.
32. Mr. SHAHA (Nepal) pointed out that the sponsors of the nineteen-power proposal had not withdrawn it, because the Swiss proposal was more limited in scope. Moreover, the Working Party itself had recommended that certain provisions of the nineteen-power proposal should be incorporated in a resolution and the United Kingdom representative had supported that view. In any case, it could not be maintained that the sponsors of the nineteen-power proposal had not shown a conciliatory spirit, since they had agreed that certain sections of their proposal should be incorporated in the Swiss proposal.
33. Mr. GUEVARA ARZE (Bolivia) said that he would withdraw his delegation's support for the nineteen-power proposal only if he was certain that the Swiss proposal would be adopted.
34. It was obvious that certain points of the nineteen-power and the three-power proposals were not embodied in the Swiss proposal, but it should be borne in mind

that the latter proposal was designed to group together the questions which should be covered by a convention; the other questions could be dealt with in another instrument—either a resolution or a declaration; his delegation reserved its position on that point.

The meeting rose at 12.30 p.m.

TWENTY-THIRD MEETING

Wednesday, 16 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.15, L.24 to L.26) (continued)

1. The CHAIRMAN invited the Committee to consider the amendments to the Swiss proposal (A/CONF.13/C.5/L.15) in the following order: the Ghana amendment (A/CONF.13/C.5/L.24); the Pakistan amendment (A/CONF.13/C.5/L.25); and the five-power amendment (A/CONF.13/C.5/L.26).
2. Mr. BHUTTO (Pakistan) said it was his country's ardent desire that a fair agreement be reached and a common denominator found for the views of all States, whether land-locked States or transit or coastal States. The Conference would have been a failure if such a common denominator were found only for a single group of States. Pakistan wished to maintain cordial relation with its neighbours. He had, therefore, been deeply grieved to hear doubts cast at times on its motives. Those doubts seemed to be based on Pakistan's attitude towards the principle of sovereignty. Pakistan could not agree to the relinquishment of sovereignty by States. The rights, facilities and privileges sought by land-locked States must be the subject of agreement with coastal States and States of transit.
3. His country's amendment (A/CONF.13/C.5/L.25), which was the product of mature reflection, took account both of the facts and of the need to protect the sovereignty of coastal States and provide safeguards. Pakistan acknowledged that the freedom of the seas belonged to land-locked States, on the understanding that, in order to enjoy it, those States must agree with the neighbouring coastal States. It was prepared to grant land-locked States free transit through its territory on the basis of bilateral and multilateral agreements. It was also prepared to accord their ships treatment equal to that accorded to the ships of any other State. Obviously, however, such treatment might, in certain cases, not be the same as that which Pakistan accorded to its own ships.
4. By way of conclusion, he would assure the Conference that his country desired to co-operate and entertain friendly relations with all land-locked countries, whether its neighbours or not.
5. At the CHAIRMAN's invitation, Mr. KING (United States of America) introduced the five-power amendment (A/CONF.13/C.5/L.26) to the Swiss proposal. He was pleased to be able to announce that five countries which had submitted amendments to the Swiss proposal had agreed on a single text. Practically the whole of the Bolivian amendment (A/CONF.13/C.5/L.23) had been incorporated in the text. The sponsors of the joint amendment in question considered that no agreement on any other basis would stand a chance of being approved by the majority of the delegations at the Conference.
6. Mr. SHAHA (Nepal) said he also considered that the joint text was the only one on which agreement could be reached. The delegation of Nepal approved of it in all essentials, but proposed that the word "may" in the second line of paragraph 1 be replaced by the word "shall".
7. Mr. KING (United States of America) regretted that the amendment just proposed by the representative of Nepal could not be accepted by the United States delegation. His delegation had suggested using the word "should" instead of "may" but the suggestion had not been accepted by the other co-sponsors of the joint amendment.
8. Mrs. de HARTINGH (France) proposed deleting from the fourth line of the French text of the joint amendment the words "à ce dernier", as superfluous.
It was so agreed.
9. Mr. ASANTE (Ghana) said that the purpose of his amendment (A/CONF.13/C.5/L.24) was to bring the nineteen-power proposal (A/CONF.13/C.5/L.6) and the Swiss proposal more closely into line. After discussing the matter with several representatives, he had, however, reached the conclusion that his amendment might render agreement more difficult. His delegation accordingly wished to withdraw it, on the understanding that any decisions taken on the Swiss proposal and the outstanding amendments to that proposal would not prejudice the Committee's decisions on the nineteen-power proposal and the report of the Working Party (A/CONF.13/C.5/L.16).
10. Mr. TABIBI (Afghanistan) announced that the Afghan delegation would vote for the five-power amendment, provided that the Nepalese amendment to it were adopted. He had listened with much interest to the explanations of his amendment given by the Pakistani representative, and noted them with deep appreciation, but he must state that his delegation, like those of the other land-locked countries represented at the Conference, had from the very beginning of the discussions adopted a most understanding attitude. He must emphasize that the proposals of the land-locked countries were directed against no State, and that a successful conference would benefit the coastal States just as much as the land-locked States. In his opinion, section VII of the nineteen-power proposal (A/CONF.13/C.5/L.6) explicitly recognized the fact that the coastal State or State of transit maintained "full sovereignty over its territory". The fears expressed by the Pakistani representative were therefore without foundation.
11. His country, by the policy it followed, had always given evidence of its determination to preserve bonds of friendship with its neighbours and to co-operate with them. In the case of some of them, Afghanistan's efforts had not always been crowned with success, but he hoped

that henceforth those countries would agree to conclude bilateral agreements with Afghanistan.

12. The Afghan delegation would vote against the amendment submitted by Pakistan. His delegation considered that it had already given sufficient evidence of its desire for an understanding by agreeing not to press for a discussion of the nineteen-power proposal, and also by accepting any suggestion which might enable the Swiss proposal to be adopted.

13. Mr. ELAYAFI (United Arab Republic) said that he would vote for the Swiss proposal with the five-power and the Nepalese amendments, provided that the other points made in the nineteen-power proposal could be presented in the form of a declaration.

14. Mr. BHUTTO (Pakistan) announced that, after hearing the statements by the representatives of Afghanistan and the United Arab Republic, he wished to withdraw his country's amendment (A/CONF.13/C.5/L.25). He approved of the five-power amendment. He could not accept the amendment by Nepal replacing the word "may" by the word "shall", since the latter verb had imperative force. Pakistani courts ruled in some cases that the word "may" had the meaning of "shall". By accepting the word "may", the Pakistani delegation had gone more than half way towards a compromise since, like the Pakistani proposal, the United States amendment (A/CONF.13/C.5/L.20) had originally contained the word "should".

15. He expressed his country's gratitude to Switzerland, which had provided the basis for a settlement of the matter by leaving each State free to decide what was good for it. The Committee should adopt the Swiss proposal.

16. Mr. BACCHETTI (Italy) said he thought that the more flexible form of a resolution would have been better suited to the subject-matter of the Swiss proposal. While approving the Swiss delegation's motives, the Italian delegation had, on the previous day, reserved its position. Seeing that the Swiss proposal and the five-power amendment satisfied the land-locked States, the Italian delegation was prepared, in a supreme effort to achieve a compromise, to vote for the five-power amendment, but on condition that not a word of it was changed.

17. Mr. BENSIS (Greece) noted with satisfaction that after carrying out a very difficult task, the Committee had reached a solution acceptable to all. The Greek delegation was ready to vote in favour of the amendment, but could go no further than that. It hoped that all delegations would make an effort to vote in favour.

18. Father DE RIEDMATTEN (Holy See) said he would vote unhesitatingly for the five-power amendment, which was the result of such laudable efforts, and he hoped that it would obtain as big a majority as possible.

19. Mr. ASANTE (Ghana) said it was his opinion that the Committee should proceed to a vote in order to bring its work to a happy conclusion. However, in order that its validity might not be challenged, he hoped the Chairman would give a ruling as to whether the rules of procedure permitted a vote on a proposal circulated during a meeting. He himself thought it was

possible. He would also like to know whether adoption of the Swiss proposal would make it unnecessary to consider the other proposals before the Committee.

20. Mr. BOURBONNIERE (Canada) said the Canadian delegation had backed the Swiss proposal ever since it was submitted, and would have liked to see it adopted without amendment. However, in view of the opinions expressed, the Canadian delegation would vote for the five-power amendment.

21. He made a formal proposal that in order not to delay the Committee's work rule 29 of the rules of procedure should not be applied.

22. M. BHUTTO (Pakistan) supported the Canadian representative's proposal.

23. The CHAIRMAN pointed out for the benefit of the representative of Ghana that the Committee had two proposals before it; the nineteen-power proposal (A/CONF.13/C.5/L.6) and the Swiss proposal with the five-power amendment and the Nepalese amendment. The rules of procedure provided that those proposals should be put to the vote in the order in which they had been submitted.

24. Rule 29 made it impossible to proceed to the vote at once, and it was impossible not to apply a rule of procedure duly adopted by the Conference. However, the consensus of opinion in favour of the Swiss proposal and the five-power amendment gave grounds for hoping that the matter could be settled the following day.

25. Mr. DONOSO SILVA (Chile) said his delegation would vote for the Swiss proposal and the five-power amendment. He noted that the symbol of the five-power amendment was marked "Original: English/French/Spanish", and to give that document its final form, it should be referred to the Drafting Committee.

26. Mr. GUEVARA ARZE (Bolivia) and Mr. MARTINEZ MONTERO (Uruguay) said they concurred with the Chilean representative's suggestion.

27. Mr. KING (United States of America) said he thought that the Committee was entirely master of its own procedure. Since the second sentence of rule 29 began with the words "as a general rule", it could very well decide to vote on the five-power amendment at the present meeting. Furthermore, after voting on that amendment and on the Swiss proposal, it could decide under rule 41 not to consider the nineteen-power proposal (A/CONF.13/C.5/L.6).

28. The CHAIRMAN said that the words "as a general rule" appeared in rule 29 because the third sentence of that rule permitted exceptions.

29. If the debate was concluded, the Committee could proceed to take a vote straightaway at the beginning of the next meeting.

30. Mr. JOHNSON (United Kingdom) said he thought the interpretation of rule 29 given by the Chairman was incorrect. That rule authorized the Chairman on his own initiative to put to the vote motions as to procedure, but the Committee could decide that a vote should be taken even if a matter of substance was involved.

31. Mr. BOURBONNIERE (Canada) said that if the Chairman maintained his ruling on rule 29, he would be obliged to appeal against it.

32. Mr. USTOR (Hungary) said that to adopt the Canadian proposal would be to contravene rule 29; he did not think that after two months of discussion the Committee could decide on a proposal embodying the essential of its work when it had only been submitted half an hour before.

33. If no other representative wished to speak, he would propose that the meeting be adjourned until the following day.

The motion for adjournment was rejected by 29 votes to 16, with 9 abstentions.

34. The CHAIRMAN maintained that he could not allow the five-power amendment to be put to the vote.

35. Mr. BACCHETTI (Italy) considered that it was for the Committee to decide whether or not it would vote on the five-power proposal at the present meeting.

36. Mr. TABIBI (Afghanistan) and Mr. BHUTTO (Pakistan) thought that under rule 22 of the rules of procedure the Chairman must put the Canadian appeal to the vote.

37. Mr. WILLFORT (Austria) said that he interpreted rule 29 in the same way as the United Kingdom representative. The previous week, he himself had submitted an amendment which, with the Committee's approval, the Chairman had put to the vote the very same day.

38. Mr. USTOR (Hungary) said that for him rule 29 did not bear the meaning attributed to it by the United Kingdom representative. . . .

39. Mr. BHUTTO (Pakistan), intervening on a point of order, declared that, under the terms of rule 22, the appeal should be put to the vote immediately.

40. The CHAIRMAN begged the Pakistani representative not to interrupt the speaker.

41. Mr. USTOR (Hungary) considered that the third sentence of rule 29 should be interpreted strictly, and that the Chairman had no right to put the five-power amendment to the vote at the present meeting.

42. Mr. GERONIN (Byelorussian Soviet Socialist Republic) pointed out that he had only just received the text of the five-power amendment, and was therefore not in a position to vote immediately. He asked that the vote be deferred until the following day.

43. The CHAIRMAN stated that the object of rule 29 was to allow representatives to consult the heads of their delegations or their governments.

44. Mr. ASANTE (Ghana) moved that the meeting be adjourned.

The motion was rejected by 31 votes to 12, with 11 abstentions.

45. Mr. BUU-KINH (Republic of Viet-Nam) claimed that, while rule 29 constituted a safeguard for delegations, the latter were entitled to dispense with it. The words "as a general rule" made it clear that the

text did not necessarily have to be applied in every case. The Committee could give its own ruling on that matter of procedure.

46. Mr. BHUTTO (Pakistan) thought that the Committee had reached a deadlock as a result of the Chairman's interpretation of rule 29. When the Chairman's ruling had been challenged, the appeal had not been immediately put to the vote, as stipulated by rule 22. When he (Mr. Bhutto) had intervened on a point of order, he had been asked not to interrupt the speaker. But that was not the first time that a speaker had been interrupted by a representative rising to a point of order, and a point of order always enjoyed priority. The turn subsequently taken by the debate had shown that his intervention was correct. The Chairman, who was supposed to keep order and protect everyone's rights, had prevented him from putting a motion which he was fully entitled to present.

47. The CHAIRMAN replied that a point of order could not be used as a means of ensuring priority for a proposal.

48. Replying to a question by Mr. JOHNSON (United Kingdom), the Chairman said that he had given his opinion, and that it was now up to the Committee to decide.

49. Mr. BOURBONNIERE (Canada) made a formal emphatic request for the application of rule 22.

50. Mr. ASANTE (Ghana) suggested that the Committee should in any case vote on the Swiss proposal.

51. Mr. SAVELIEV (Union of Soviet Socialist Republics) expressed surprise that a problem that had occupied the Committee for two months, and which affected millions of human beings, should be treated so lightly. The wisest course would be to defer the vote until the next meeting.

52. The CHAIRMAN asked the Committee to vote on his interpretation of rule 29.

The Chairman's ruling was overruled by 34 votes to 10, with 7 abstentions.

53. Mr. PECHOTA (Czechoslovakia) asked whether the decision taken meant that the debate on the Swiss proposal and the five-power amendment was now terminated; should that be the case, the Committee must first take a decision on the Working Party's report and the joint proposal of Iceland and Indonesia (A/CONF. 13/C.5/L.22).

54. The CHAIRMAN replied in the affirmative.

55. Mr. ASANTE (Ghana) appealed to all representatives to help the Committee to reach a lasting solution in a matter which affected millions of human beings, as the Soviet Union representative had rightly stressed. He could see no reason for not putting the Swiss proposal to the vote, provided that any decision taken on it did not affect the consideration of other proposals. Thereafter, the Committee should turn to the other proposals and put them into the appropriate form.

56. Mr. KING (United States of America) supported the proposal by the representative of Ghana.

57. Mr. TABIBI (Afghanistan), Mr. BHUTTO (Pakistan) and Mr. WILLFORT (Austria) requested that a vote be taken, first on the Nepalese oral amendment, then on the five-power amendment (A/CONF.13/C.5/L.26), and finally on the Swiss proposal (A/CONF.13/C.5/L.15).

The Nepalese amendment, to replace the word "may" in the second line of paragraph 1 of the five-power amendment by the word "shall", was rejected by 28 votes to 19, with 8 abstentions.

58. Mr. TABIBI (Afghanistan), supported by Mr. BHUTTO (Pakistan) and Mr. SHAHA (Nepal) proposed, in a spirit of compromise, that the word "may" in the second line of paragraph 1 the five-power amendment be replaced by the word "should".

The proposed amendment was adopted by 31 votes to 2, with 19 abstentions.

The five-power amendment (A/CONF.13/C.5/L.26), as just amended, was then adopted by 37 votes to none, with 15 abstentions.

59. Mr. PECHOTA (Czechoslovakia) requested that the vote on the Swiss proposal as amended be taken by roll-call.

A vote was taken by roll-call.

Venezuela, having been drawn by lot by the Chairman, was called upon to vote first.

In favour : Republic of Viet-Nam. Yugoslavia, Afghanistan. Argentina. Australia, Austria. Bolivia. Brazil, Canada. Ceylon. Chile. China, Colombia, Czechoslovakia, Denmark, Ecuador, France, Federal Republic of Germany, Ghana, Greece, Holy See, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Republic of Korea, Laos, Liberia, Mexico, Nepal, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Romania, Saudi Arabia, Spain, Switzerland, Thailand, Tunisia, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining : Venezuela, Albania, Bulgaria, Byelorussian Soviet Socialist Republic, Iran, Turkey.

The Swiss proposal (A/CONF.13/C.5/L.15), as amended, was adopted by 51 votes to none, with 6 abstentions.

The meeting rose at 6.45 p.m.

TWENTY-FOURTH MEETING

Thursday, 17 April 1958, at 10.30 a.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the proposals submitted to the Committee (A/CONF.13/C.5/L.15, L.24 to L.26) (conclusion)

1. Mr. JOHNSON (United Kingdom) explained the votes cast by his delegation at the previous meeting. The United Kingdom delegation had been one of the few that voted against the Afghan delegation's amendment

for replacing the word "may" by "should" in the five-power proposal (A/CONF.13/C.5/L.26). His delegation considered that for the sake of uniformity as between the texts in the various languages it was preferable to retain the word "may", which was the nearest equivalent of the word "peuvent" used in the French text. However, in the expectation that the discrepancy between the two texts could be eliminated at a later stage, the United Kingdom delegation had not hesitated to vote for the five-power amendment as a whole.

2. His delegation had been happy to note that the amendment in question contained an express mention of "existing international conventions", a reference more particularly to the Barcelona Convention of 1921 and the Geneva Convention of 1923.

Consideration of the Working Party's report (A/CONF.13/C.5/L.16, L.19) (continued)

3. The CHAIRMAN observed that the suggestions submitted by the Working Party in its report (A/CONF.13/C.5/L.16) were in conformity with the terms of reference given by the Committee. With the votes taken at the previous meeting, the Committee had agreed on the provisions to be included in a convention. It now remained for the Committee to decide whether other types of instrument would also be necessary.

4. Mr. BOURBONNIERE (Canada) suggested an amendment to the Ghana proposal (A/CONF.13/C.5/L.19), whereby the final words would read: "that the recommendations of the Fifth Committee to the Conference should be in the form of a convention".

5. Mr. ASANTE (Ghana) considered it essential to make it possible for the various sponsors of the nineteen-power proposal (A/CONF.13/C.5/L.6) to request the insertion of certain provisions of that proposal in resolutions or declarations. The amendment just proposed by the Canadian representative might appear to prevent the delegations concerned from expressing their point of view. The delegation of Ghana would therefore feel obliged to oppose it.

6. On the other hand, his delegation put forward a simple suggestion which, if deemed appropriate, it would turn into a formal proposal; the suggestion was to replace the words: "and accepts their finding that" in the proposal which it had submitted (A/CONF.13/C.5/L.19) by the words: "and notes that, in accordance with their finding".

7. Mr. DONOSO SILVA (Chile) thought that the suggestion made by the representative of Ghana might be adopted. The Chilean delegation considered it illogical to accept the Working Party's report, which had been superseded by the decision recently taken by the Committee.

8. Mr. KING (United States of America) suggested replacing the Ghana proposal by the following wording: "The Fifth Committee thanks the Working Party for a report that has greatly facilitated its task." That wording would leave the Committee free to act subsequently as it thought fit.

9. Mr. EL YAFI (United Arab Republic) thought that

the Working Party might be asked to prepare a draft resolution embodying the elements of the nineteen-power proposal (A/CONF.13/C.5/L.6).

10. Mr. SHAHA (Nepal) proposed that the Canadian amendment to the Ghana proposal (A/CONF.13/C.5/L.19) be rounded off by adding the words "without prejudice to the consideration of the nineteen-power proposal" after the words "the form of a convention".

11. Mr. ASANTE (Ghana) accepted that amendment to his delegation's proposal.

12. Mr. KING (United States of America) withdrew his suggestion in favour of the Nepalese proposal.

13. Mr. BOURBONNIERE (Canada) and Mr. PECHOTA (Czechoslovakia) likewise supported the Nepalese proposal.

14. Mr. USTOR (Hungary), supported by Mr. BOURBONNIERE (Canada), suggested adding the words "with deep appreciation" after the words "takes note", in the first line of the Ghana proposal (A/CONF.13/C.5/L.19).

15. The CHAIRMAN put to the vote the Ghana proposal, which, as modified by the various amendments above, would read as follows:

"The Fifth Committee takes note with deep appreciation of the report of the Working Party to the Fifth Committee (contained in document A/CONF.13/C.5/L.16) and accepts their finding that the recommendations of the Fifth Committee to the Conference should be in the form of a convention, without prejudice to the consideration of the nineteen-power proposal."

The proposal of Ghana (A/CONF.13/C.5/L.19), thus amended, was adopted by 41 votes to none, with 8 abstentions.

16. Mr. BACCHETTI (Italy) stated that his delegation had abstained from voting since it considered that most of the points in the nineteen-power proposal (A/CONF.13/C.5/L.6) had been embodied in the Swiss proposal (A/CONF.13/C.5/L.15), as amended and adopted at the previous meeting. In point of fact, only section IX of the nineteen-power proposal had not been so incorporated.

17. He also noted a contradiction between the Working Party's recommendation that most of the points contained in the nineteen-power proposal should be embodied in a declaration, and the Committee's decision at the previous meeting that those questions, as incorporated in the text adopted, should be dealt with in the Convention.

Further work of the Committee

18. The CHAIRMAN pointed out that it remained for the Committee to come to a decision on the nineteen-power proposal (A/CONF.13/C.5/L.6), and finally to adopt its report.

19. Mr. SHAHA (Nepal) said he did not think the Conference had the time left to make a thorough study of the nineteen-power proposal. That proposal would

therefore have to be consigned to the conference records.

20. Mr. MÜLLER (Switzerland) said he too considered that the substance of the nineteen-power proposal was for the most part embodied in the text which the Committee had adopted at its previous meeting. It was only the points of detail which had been omitted, and they were certainly not worth incorporating in a declaration. Perhaps in order to avoid duplication, the Committee might adopt a resolution to the effect that except for the second sentence of section I of the nineteen-power proposal, the text of that proposal should serve as a guide to States which had not yet concluded bilateral agreements among themselves.

21. Mr. TABIBI (Afghanistan) emphasized that in a spirit of compromise his delegation had voted for the Swiss proposal as amended, but it still believed that the nineteen-power proposal was preferable, in both form and substance, particularly because it was more in harmony with the basic principles of international law. Whereas international law was in a state of constant evolution and various United Nations bodies sometimes kept certain proposals on their agenda for years without proceeding to discuss them, the nineteen-power proposal could be left in abeyance until some day in the future when it might be examined afresh by a future conference. That was doubtless the idea behind the Nepalese suggestion. In the same spirit, he could give his support to the Swiss suggestion.

22. Mr. MASCARENHAS (Brazil) and Mr. BEN SALEM (Tunisia) said that they too supported the Swiss suggestion.

23. Mr. DONOSO SILVA (Chile) paid tribute to the spirit of compromise shown by the Swiss delegation but thought that, in view of the reservations made or objections raised by many delegations, it would be dangerous to give the nineteen-power proposal the status of a reference document, even though the text adopted by the Committee at its previous meeting included the bulk of the points in that proposal. In any event, the Chilean delegation had already proposed that the second sentence of section I of the nineteen-power proposal should be deleted, and had noted that the text which had emerged from the Preparatory Conference was clearer and more concise than the nineteen-power proposal.

24. Mr. BACCHETTI (Italy) said that the text which the Commission had adopted at its previous meeting represented a compromise and it would be out of the question to resume discussion of another text which, although it contained some elements of compromise, had none the less a very different scope. The Italian delegation could not subscribe to some of the principles set forth in the nineteen-power proposal and, if that proposal were debated anew, it would be obliged to repeat the reasons for its opposition.

25. Mr. BOURBONNIERE (Canada) pointed out that, whilst approving some of the principles set forth in the nineteen-power proposal, his delegation too could not subscribe to some parts of it. It could not, therefore, agree that a text which, like others, was only a conference working paper, should serve as a guide to future

international negotiations. He was therefore opposed to the Swiss suggestion.

26. Mr. JOHNSON (United Kingdom) said that in similar circumstances, and particularly when the Swiss proposal (A/CONF.13/C.5/L.15) was being discussed, the Committee had seen fit to have the terms of the texts explained to it even before it began to consider their substance. In the case in point, therefore, it would be appropriate for the proponents of the last two suggestions to explain the meaning of the novel concepts whereby the nineteen-power proposal would be "left in abeyance" or would serve "as a guide" for future international negotiations.

27. The nineteen-power proposal had, of course, made a useful contribution to the discussions, just as the three-power proposal (A/CONF.13/C.5/L.7) had done. Thanks to the suggestions contained in the various texts the Swiss proposal had finally obtained the almost unanimous approval of the Committee. Moreover, the ideas put forward by the sponsors of the nineteen-power proposal would not be lost since, like the other proposals laid before the Conference, that proposal would be included in the conference records and mentioned in the Fifth Committee's report.

28. Mr. SHAHA (Nepal) said that the object of his suggestion was precisely to enable the nineteen-power proposal to be included in the records of the Conference, which could accord appropriate recognition of the fact that the proposal had contributed to the success of its work.

29. Mr. SCHEFFER (Netherlands) said that he too wished to pay tribute to the understanding attitude shown by the Swiss delegation. Nevertheless, the members of the Committee could not, in all conscience, adopt a text in whatever form unless they were prepared to take the responsibility for it. If, therefore, the nineteen-power proposal was to be the subject of a resolution, a broad discussion ought to be held on it first, in the course of which a number of amendments would undoubtedly be submitted. The Committee might, in any case, save itself the trouble of such a lengthy new discussion, since the text of the nineteen-power proposal would likewise figure in the conference records.

30. Mr. BOURBONNIERE (Canada) suggested that the rapporteur be requested to state in his report that the Committee had found the nineteen-state proposal very helpful, and was grateful to its sponsors.

31. Mr. MÜLLER (Switzerland) said that, in view of the remarks made by the Netherlands and United Kingdom representatives, he would be satisfied if the text of the nineteen-power proposal were included in the Committee's report.

32. Mr. BACCHETTI (Italy) agreed with the Swiss representative, on the understanding that the text of the other proposals which had been before the Committee were also included in the Committee's final report.

33. Mr. TABIBI (Afghanistan), speaking as rapporteur, said that he would see that all the proposals and opinions put forward in the Committee were mentioned in the report. In response to the Canadian representative's

suggestion, he would also state that the Committee had found the nineteen-power proposal a helpful one.

34. Father DE RIEDMATTEN (Holy See) proposed that the Committee adopt the following resolution: "The Fifth Committee, having concluded its discussion of all the documents submitted to it, considers that it has completed its work with voting on the Swiss proposal (A/CONF.13/C.5/L.15), and invites the rapporteur to acknowledge, in his report, the contribution made to the success of its discussions by the nineteen-power proposal (A/CONF.13/C.5/L.6), the three-power proposal (A/CONF.13/C.5/L.7), the Swiss proposal (A/CONF.13/C.5/L.15), and the amendments thereto."

35. Mr. DONOSO SILVA (Chile) supported the proposal of the representative of the Holy See.

The proposal was adopted by 45 votes to one, with 6 abstentions.

36. In reply to a question from Mr. BOURBONNIERE (Canada), the CHAIRMAN said that the Committee's decisions would be passed to the Drafting Committee of the Conference for appropriate action.

37. Mr. TABIBI (Afghanistan) suggested that a separate chapter of the Convention be devoted to the Fifth Committee's decisions on free access of land-locked countries to the sea. The Chairman might perhaps discuss the matter with the members of the Committee who were also members of the Drafting Committee of the Conference, to enable the Fifth Committee to debate the matter, if necessary, at its next meeting.

38. Mr. KING (United States of America) thought that the matter was one for the Drafting Committee of the Conference.

The meeting rose at 12.30 p.m.

TWENTY-FIFTH MEETING

Friday, 18 April 1958, at 8.15 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Consideration of the Fifth Committee's draft report (A/CONF.13/C.5/L.27)

1. Mr. TABIBI (Afghanistan), Rapporteur, introduced the Committee's draft report (A/CONF.13/C.5/L.27), explaining that he had been at pains to strike a fair balance between the views of the coastal States and those of the land-locked States.

2. The CHAIRMAN invited the Committee to consider the draft report paragraph by paragraph.

Paragraph 1

3. Mr. SHAHA (Nepal) wondered whether it should not be stated that, in the opinion of some delegations, the Conference was empowered to codify international law on the question of free access to the sea.

4. Mr. TABIBI (Afghanistan), speaking as rapporteur,

thought it would be preferable simply to quote the General Assembly's recommendation.

It was so agreed.

Paragraph 1 was adopted.

Paragraphs 2-6

Paragraphs 2-6 were adopted without comment.

Paragraph 7

5. Mr. BACCHETTI (Italy) proposed adding the five-power amendment (A/CONF.13/C.5/L.26) to the list given in the paragraph.

It was so agreed.

Paragraph 7, thus amended, was adopted.

Paragraph 8

Paragraph 8 was adopted without comment.

Paragraph 9

6. Father DE RIEDMATTEN (Holy See) proposed adding at the beginning of the last sentence the words "on the proposal of Sweden".

It was so agreed.

7. Mr. SHAHA (Nepal) proposed inserting in the same sentence the words "or forms" between the words "the form" and the words "in which the results".

8. The CHAIRMAN suggested reproducing in the sentence the words of the Swedish proposal, as given in the report of the Working Party (A/CONF.13/C.5/L.16).

It was so agreed.

Paragraph 9, thus amended, was adopted.

Paragraph 10

Paragraph 10 was adopted without comment.

Paragraph 11

9. Mr. BACCHETTI (Italy) proposed adding the following sentence at the end of the paragraph: "Some members of the Working Party did not share the majority view with regard to the division of matters into those to be embodied respectively in a convention, a declaration and a resolution."

10. Mr. LÜCKING (Federal Republic of Germany), Mr. SRESHTHAPUTRA (Thailand) and Mr. BOURBONNIERE (Canada) supported the proposal.

11. After further discussion in which Mr. PECHOTA (Czechoslovakia), Mr. BEN SALEM (Tunisia), Mr. EL YAFI (United Arab Republic), Mr. BOURBONNIERE (Canada) and the rapporteur took part, Mr. JOHNSON (United Kingdom) proposed amending the beginning of paragraph 11 to read: "In its report, in regard to which reservations have been entered by some delegations, the Working Party recommended..."

12. Mr. TABIBI (Afghanistan), speaking as rapporteur, and Mr. BACCHETTI (Italy) accepted the amendment.

The United Kingdom amendment was adopted.

Paragraph 11, thus amended, was adopted.

Paragraphs 12 and 13

Paragraphs 12 and 13 were adopted without comment.

Paragraph 14

13. After a discussion in which Mr. WAITE (New Zealand), Mr. ASANTE (Ghana), Mr. PECHOTA (Czechoslovakia), Mr. DONOSO SILVA (Chile), Mr. BOURBONNIERE (Canada), Father DE RIEDMATTEN (Holy See), Mr. BHUTTO (Pakistan) and the rapporteur participated, Mr. JOHNSON (United Kingdom) proposed replacing the last two sentences in the paragraph by the following: "During the discussion, the three-power proposal (A/CONF.13/C.5/L.7) was withdrawn."

14. Mr. PECHOTA (Czechoslovakia) said that he would prefer the second sentence in paragraph 14 to be left unchanged.

15. Mr. JOHNSON (United Kingdom) pointed out that all the proposals not withdrawn had remained before the Committee.

16. Mr. ASANTE (Ghana) supported the United Kingdom proposal.

The United Kingdom proposal was adopted.

Paragraph 14, thus amended, was adopted.

Paragraphs 15 and 16

17. Mr. DONOSO SILVA (Chile) said that it would be more logical to reverse the order of paragraphs 15 and 16 and to add at the end of the new paragraph 15 the end of the existing paragraph 16 from the words: "The joint amendment (A/CONF.13/C.5/L.26) proposed the replacement of..." For stylistic reasons, the words "The joint amendment (A/CONF.13/C.5/L.26)" might perhaps have to be replaced by the word "It".

It was so agreed.

18. Father DE RIEDMATTEN (Holy See) suggested that the following sentence should be added at the end of the new paragraph 16: "The amendments by Ghana (A/CONF.13/C.5/L.24) and Pakistan (A/CONF.13/C.5/L.25) were withdrawn."

It was so agreed.

Paragraphs 15 and 16, thus amended, were adopted.

Paragraph 17

Paragraph 17 was adopted without comment.

Paragraphs 18 to 23

19. After a lengthy discussion on the desirability of translating into Spanish the words "shall", "may" and "should" referred to in amendments to the English text of the five-power amendment (A/CONF.13/C.5/L.26) and taking into account that to translate them out of context, notably in paragraphs 18 and 20, might raise matters of substance. Mr. GUEVARA ARZE (Bolivia), supported by Mr. DONOSO SILVA (Chile) and by Mr. KING (United States of America), pointed out that the problem could be overcome simply by using the English words in the French and Spanish texts of para-

graphs 18 and 20, as no difficulty had been caused by the translation of those words in the provisions finally adopted.

20. Mr. VELILLA (Paraguay) said that the amendment had been made only in the English text and not in the Spanish text.

21. The CHAIRMAN proposed that the English words "shall" "may" and "should" appear in the French and Spanish text of paragraphs 18 and 20 and that it be left to the Drafting Committee to ensure that the final text of the provisions in question was accurately translated.

It was so agreed.

Paragraphs 18 to 23, thus amended, were adopted.

Paragraph 24

22. Mr. BOURBONNIERE (Canada) proposed that paragraph 24 be deleted.

23. Mr. LÜCKING (Federal Republic of Germany) supported the proposal. Although the first twenty-three paragraphs of the draft report accurately recorded the course of the Committee's discussions as a whole, paragraph 24 was in fact merely a brief summary of the twenty-fourth meeting.

24. Mr. BENSIS (Greece) agreed with the remarks made by the representative of the Federal Republic of Germany.

25. Mr. PECHOTA (Czechoslovakia) said he could not agree to the proposal made by Canada; paragraph 24, as drafted, was of importance, since it drew attention to the discussions occasioned by the general principles enunciated in the nineteen-power proposal (A/CONF.13/C.5/L.6), at which quite a number of delegations had stated they regarded those principles as constituting part of international law.

26. Mr. MÜLLER (Switzerland) said he had no objection to the deletion of paragraph 24. But, if it were retained, the last sentence would need to be amended since the Swiss proposal had in fact been withdrawn in favour of the proposal by the Netherlands and the United Kingdom, and not in the interest of speeding up the work of the Conference.

27. Mr. TABITI (Afghanistan), speaking as rapporteur, said he had drafted paragraph 24 in those terms because of the observations made by the Canadian, Netherlands and United Kingdom representatives at the twenty-fourth meeting.

28. Mr. BACCHETTI (Italy) supported the representatives of Canada and the Federal Republic of Germany: it had been agreed at the 24th meeting that the report would refer not only to the 19-power proposal (A/CONF.13/C.5/L.6) but also to the three-power proposal (A/CONF.13/C.5/L.7) and to the other proposals and amendments submitted to the Committee.

29. Mr. BOURBONNIERE (Canada) endorsed the Italian representative's remarks.

30. Mr. BEN SALEM (Tunisia) agreed with the Swiss representative that the last sentence of paragraph 24

would need to be amended, but felt that the whole paragraph should not be deleted, since in that case there would be a gap in the account of the discussions. There should preferably be a reference to the three-power proposal (A/CONF.13/C.5/L.7).

31. Mr. SHAHA (Nepal) also felt that the last sentence should be changed. Replying to the representative of the Federal Republic of Germany, he pointed out that the three-power proposal (A/CONF.13/C.5/L.7) was referred to in the recommendations of the Committee contained in paragraph 26.

32. Mr. MÜLLER (Switzerland) said the Swiss delegation had never stated that the nineteen-power proposal contained the fundamental principles of international law on the matter. He would therefore propose that the penultimate sentence of paragraph 24, beginning with the words "The sponsors of the nineteen-power proposal maintained", should also be deleted.

39. Mr. SHAHA (Nepal) expressed surprise at the attitude of the Swiss delegation, which had subscribed to the opinion put forward by the Preliminary Conference that the principles in question were general principles forming part of existing international law.

34. Mr. BHUTTO (Pakistan) also felt that paragraph 24 should be deleted in order to avoid giving more prominence to some proposals than to others.

35. Mr. JOHNSON (United Kingdom) proposed that, in order to give a faithful reflection of the discussions, the following changes be made in paragraph 24: In the second sentence, the words "at this juncture" to be deleted; at the end of the second sentence, the words "the usefulness of the nineteen-power proposals during the work of the Committee" to be replaced by the words "the usefulness of all the proposals and amendments submitted to the Committee"; the last two sentences, starting with the words "The sponsors of the nineteen-power proposal", to be deleted.

36. Mr. SHAHA (Nepal), Mr. MASCARENHAS (Brazil), Mr. ASANTE (Ghana) and Mr. KING (United States of America) supported the United Kingdom proposal.

37. Mr. PECHOTA (Czechoslovakia) said every delegation was entitled to request that its point of view should be recorded in the report. The penultimate sentence of paragraph 24 should not be deleted, since it expressed the views of certain delegations.

38. The CHAIRMAN put the United Kingdom proposal to the vote point by point.

In the second sentence, it was decided to delete the words "at this juncture".

At the end of the second sentence, it was decided to replace the words "the usefulness of the nineteen-power proposals during the work of the Committee" by the words "the usefulness of all the proposals and amendments submitted to the Committee".

By 28 votes to 5, with 12 abstentions, it was decided to delete the penultimate sentence.

By 28 votes to 1, with 14 abstentions, it was decided to delete the last sentence.

Paragraph 24, thus amended, was adopted.

39. Father DE RIEDMATTEN (Holy See) considered that in view of the above decisions it would be advisable to amend the heading of section X of the report to read:

“Completion of the work of the Fifth Committee”.
It was so agreed.

40. Mr. SHAHA (Nepal) said he had abstained from voting on the deletion of the last two sentences of paragraph 24 because it was clear from paragraph 4 that all the States that had participated in the Preliminary Conference considered that the general principles enunciated in the memorandum of the Conference formed part of existing international law.

41. Mr. BEN SALEM (Tunisia) stated that, in his delegation's opinion, the nineteen-power proposal (A/CONF.13/C.5/L.6) laid down valid principles of international law which could serve as a guide to countries when signing bilateral agreements.

42. Mr. PECHOTA (Czechoslovakia) said that his delegation shared the view expressed by the Tunisian delegation and considered the principles laid down in the nineteen-power proposal to be existing rules of international law; in his opinion, the third sentence of paragraph 24, giving the views of the land-locked States, should have appeared in the Committee's report in order to give the true picture of proceedings in the Committee.

43. Mr. BHUTTO (Pakistan) stated that the Pakistani delegation did not regard the principles enunciated in the nineteen-power proposal (A/CONF.13/C.5/L.6) as constituting general principles of international law, and that it had accordingly voted for the amended Swiss proposal, which represented a compromise. In view of the statements of principle made by a number of delegations, the Pakistani delegation reserved the right to explain its attitude in a plenary meeting of the Conference.

The Committee took note of these statements.

Paragraph 25

Paragraph 25 was adopted.

Paragraph 26

44. In reply to a remark by Mr. MÜLLER (Switzerland), the CHAIRMAN proposed that the introductory paragraphs of parts I and II of the Committee's recommendations be amended to read:

“ I

“Draft the articles to be adopted by the Conference on the basis of the International Law Commis-

sion's text, articles 15, 27 and 28, to read as follows (the proposed additions are underlined) . . .”

“ II

“Insert the following new article at an appropriate place in one of the conventions to be adopted by the Conference . . .”

It was so agreed.

By 44 votes to none, with one abstention, the draft report (A/CONF.13/C.5/L.27) as a whole was adopted.

45. Mr. MASCARENHAS (Brazil) expressed his satisfaction at the fact that, despite the differences of opinion which initially divided the delegations, the Committee had succeeded, thanks to the spirit of compromise shown, in arriving at concrete results, striking a balance between the interests of coastal States and those of non-coastal States. He expressed his deep gratitude to the Chairman, who had guided the Committee's work to a successful conclusion. He thanked the Swiss delegation for having so greatly contributed to that result by submitting its compromise proposal.

46. Mr. SAVELIEV (Union of Soviet Socialist Republics), Mr. BEN SALEM (Tunisia), Mr. NAVA CARRILLO (Venezuela), Mr. BHUTTO (Pakistan) and Mr. SALAMANCA (Bolivia) also expressed their keen satisfaction and thanked the Chairman, the other officers and the secretariat.

47. Mr. MÜLLER (Switzerland) considered that the happy outcome of the Committee's work was due above all to the good sense, wisdom and moderation shown by all delegations.

48. He wished to pay tribute to the understanding attitude shown by the coastal States towards the memorandum of the Preliminary Conference, and associated himself with the expressions of gratitude deservedly extended to the officers of the Committee, who had discharged a delicate task with absolute impartiality.

Completion of the work of the Fifth Committee

49. The CHAIRMAN was glad that the Fifth Committee — which, unlike the other committees, had had no basic text to work on at the outset — should have been among the first to complete its work.

50. On behalf of the officers, he thanked the delegations for their kind words and expressed his own gratitude to the secretariat for its ready co-operation at all times.

51. The CHAIRMAN declared the proceedings of the Fifth Committee closed.

The meeting rose at 12.30 a.m.