

Document:-
A/CN.4/SR.136

Summary record of the 136th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
1952 , vol. I

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

136th MEETING

Thursday, 5 June 1952, at 11.30 a.m.

CONTENTS

	Page
Filling of casual vacancies in the Commission (continued)	3
Addition to the agenda for the fourth session: Review of the Statute of the Commission	3
Summary records of the Commission	4

Chairman: Mr. Ricardo J. ALFARO.

Present:

Members: Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Faris Bey el-KHOURI, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. J. M. YEPES.

Secretariat: Mr. Ivan S. KERNO (Assistant Secretary-General in charge of the Legal Department), Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

Filling of casual vacancies in the Commission
(continued)

1. Mr. HUDSON proposed that in view of Mr. Brierly's resignation, the Commission should declare the existence of a casual vacancy and proceed to fill it, in accordance with article 11 of its Statute.

2. Mr. el-KHOURI seconded Mr. Hudson's proposal.

3. Mr. YEPES proposed that the Chairman should address a letter to Mr. Brierly, expressing the Commission's regret at the resignation of one who, as Chairman during 1951 and special rapporteur on the law of treaties, had made signal contributions to the work of the Commission.

The proposals of Mr. Hudson and Mr. Yepes were adopted.

4. The CHAIRMAN called for nominations for a successor to Mr. Brierly.

5. Mr. HUDSON proposed the election of Mr. H. Lauterpacht.

6. Mr. YEPES seconded that proposal.

Mr. Lauterpacht was unanimously elected a member of the Commission to fill the casual vacancy arising out of the resignation of Mr. Brierly.

7. Mr. HUDSON proposed that the Commission should also declare that a casual vacancy existed as a result of Mr. Koretsky's resignation.

8. Mr. el-KHOURI seconded Mr. Hudson's proposal.

Mr. Hudson's proposal was adopted.

9. The CHAIRMAN called for nominations for a successor to Mr. Koretsky.

10. Mr. el-KHOURI proposed the election of Mr. F. I. Kozhevnikov.

Mr. Kozhevnikov was unanimously elected a member of the Commission to fill the casual vacancy arising out of the resignation of Mr. Koretsky.

11. Mr. HUDSON thought that all members of the Commission present regretted the fact that one member had so far been unable to attend any of the Commission's sessions. He accordingly proposed that the Chairman communicate with Mr. Zourek, asking him whether he would be able to attend the present session, and requesting a prompt reply.

Mr. Hudson's proposal was adopted.

Addition to the agenda for the fourth session: Review of the Statute of the Commission

12. Mr. HUDSON proposed that the question of the review of the Statute of the Commission be placed on the agenda for the present session.

13. Mr. KERNO (Assistant Secretary-General) recalled that the question raised by Mr. Hudson had been dealt with by the Commission at its third session.¹ The Commission had decided to submit a certain "fundamental recommendation" in pursuance of General Assembly resolution 484 (V), and had refrained from making detailed suggestions concerning desirable amendments until it was apprised of the General Assembly's attitude towards that recommendation. In resolution 600 (VI), the General Assembly had decided "for the time being not to take any action in respect of the revision of the said Statute until it has acquired further experience of the functioning of the Commission". It was for the Commission to decide whether to study the question further.

14. Mr. HUDSON pointed out that in view of resolution 600 (VI) of the General Assembly it could be concluded either that resolution 484 (V) was no longer operative, or that the Commission was still required to submit recommendations concerning revisions of the Statute other than that for full-time membership, which had already been disposed of for the time being by resolution 600 (VI). In his view, the second interpretation was the correct one, particularly in view of the fact that it would appear to be opportune for the Commission to submit recommendations to the next session of the General Assembly so that, if adopted, they could come into effect in time for the election of new members of the Commission in 1953. The question of review of the Statute of the Commission should therefore be placed on the agenda for the present session, although its consideration should be deferred until the arrival of Mr. Córdoba, special rapporteur for the question.

¹ See summary records of the 83rd, 96th, 97th, 112th and 134th meetings in *Yearbook of the International Law Commission, 1951*, vol. I.

15. Mr. LIANG (Secretary to the Commission) said that Mr. Córdova had informed him that since the Commission's recommendation on the question of full-time membership had been settled for the time being by General Assembly resolution 600 (VI), he had not deemed it necessary to draw up a written report.

16. Mr. HSU supported Mr. Hudson's proposal. In his view, resolution 484 (V) was still operative.

17. Mr. SCELLE pointed out that the General Assembly had for the time being rejected the proposal that the Commission should be put on a full-time basis, but that it had not considered the question of ensuring some continuity of the Commission's work between one session and another. There was therefore no reason why the Commission could not consider that latter question further if it adopted Mr. Hudson's proposal, which he supported.

18. Mr. KERNO (Assistant Secretary-General) said that his interpretation of General Assembly resolution 600 (VI) was the same as that of Mr. Hudson.

19. Mr. el-KHOURI also supported Mr. Hudson's proposal.

It was agreed that the question of the review of the Statute of the Commission should be placed on the agenda for the present session.

Summary records of the Commission ²

20. Mr. HUDSON said that he had had the unfortunate experience of having some extemporaneous remarks made by him in the course of the Commission's discussions quoted as though they were an *ex cathedra* pronouncement. If members of the Commission were to be held to every word they said, they would naturally have to weigh their remarks far more carefully in advance, and the liveliness of the Commission's debates would suffer. He understood that the Commission on Narcotic Drugs recorded only its decisions, and he suggested that the International Law Commission adopt the same practice, although prepared statements made by special rapporteurs might also be included in the records if the rapporteurs so requested.

21. Mr. SCELLE did not agree that the Commission's records should be limited to decisions. If the discussions which led up to those decisions were not recorded, there would be no indication of the reasons for which they had been taken. Many others shared his view, and it had even been suggested that the Commission's records should be printed. He agreed with Mr. Hudson that the summary records could at times appear to place undue emphasis on remarks thrown out at random in the course of a discussion. The Secretariat should therefore not be content with reproducing what was said, but should attempt the more difficult task of summarizing it. The summary records might, therefore, perhaps be

made somewhat briefer, so that members would have time to check the provisional records thoroughly.

22. Mr. LIANG (Secretary to the Commission) said that the summary records had been warmly praised not only by members of the Commission, but also by outside sources. The late Miss Scheltema had devoted her full time to making them as accurate and complete as possible. The task was so time-consuming that, for a period during the third session, she had had to be assisted by another member of the Legal Department. Obviously, the length of the summary records would depend on the subject-matter with which they dealt. Procedural questions could be treated very briefly, but in the case of discussions on substance — the question of the continental shelf, for example — the records had to be relatively full if they were to be of value to scholars of international law. Moreover, if the Commission were to win widespread support for its work, it must bring it to the attention of a wider public than the legal profession alone, and a bare record of decisions would scarcely suffice for that purpose.

23. As Mr. Scelle had said, it was more difficult to summarize than to reproduce, and the Commission's Secretariat, the staff of which had already been reduced from eight to four, could not devote any more time to the summary records than it had done in the past. He wondered, therefore, whether the Commission could not agree that in future the summary records should, in general, be somewhat briefer than in the past, but that it should recognize that, for certain discussions, relatively full records would be necessary.

After some discussion, *Mr. Liang's suggestion was adopted.*

The meeting rose at 12.50 p.m.

137th MEETING

Friday, 6 June 1952, at 9.45 a.m.

CONTENTS

	Page
Arbitral procedure (item 2 of the agenda) (A/CN.4/18, A/CN.4/46)	
General debate	5
Article 1	7

Chairman : Mr. Ricardo J. ALFARO.

Present :

Members : Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Faris Bey el-KHOURI, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. J. M. YEPES.

Secretariat : Mr. Ivan S. KERNO (Assistant Secretary-General in charge of the Legal Department), Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

² See summary record of the 135th meeting, paras. 13—17.