

Document:-  
**A/CN.4/SR.544**

**Summary record of the 544th meeting**

Topic:  
**<multiple topics>**

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that the case requiring Mr. Žourek's presence would not be proceeded with, and accordingly Mr. Žourek would not have to attend at The Hague.

The meeting rose at 1.5 p.m.

#### 544th MEETING

Friday, 20 May 1960, at 10 a.m.

Chairman: Mr. Luis PADILLA NERVO

#### General Assembly resolution 1400 (XIV) on the codification of the principles and rules of international law relating to the right of asylum (A/CN.4/128)

[Agenda item 6]

1. The CHAIRMAN drew attention to resolution 1400 (XIV) of the General Assembly which requested the Commission to undertake, as soon as it considered it advisable, the codification of the principles and rules of international law relating to the right of asylum.

2. In that connexion, he pointed out that, during the Fourteenth Session of the General Assembly, a proposal made by the representative of Cuba during the discussion in the Sixth Committee, to the effect that the Commission should give priority to the codification of the subject (A/CN.4/128, paragraph 3), had not met with a favourable response and had been withdrawn by its sponsor. He invited comments from the members of the Commission on the question of the appropriate time for considering the subject.

3. Sir Gerald FITZMAURICE said that it was unnecessary for the Commission to take any decision in the matter beyond noting the obvious fact that it would not be able to consider the subject at the current session. It was not advisable for the Commission to bind itself to take up the subject at a specific date in the future for the Commission might at that date find itself unable to dispose of the subject.

4. The CHAIRMAN said that if there were no objection he would assume that the Commission agreed not to take up the subject at the current session, and that the question of the time when the subject would be considered would be left open.

*It was so agreed.*

#### General Assembly resolution 1453 (XIV) on the study of the juridical regime of historic waters, including historic bays (A/CN.4/126)

[Agenda item 7]

5. The CHAIRMAN drew attention to resolution 1453 (XIV) of the General Assembly, which requested the Commission to undertake, as soon

as it considered it advisable, the study of the question of the juridical regime of historic waters, including historic bays, and to make such recommendations regarding the matter as it deemed appropriate.

6. The subject of historic waters and historic bays seemed to give rise to the same problem as the topic of asylum; the Commission would hardly be able to consider it at the current session.

7. Mr. FRANÇOIS said that the topic of historic waters differed from that of asylum in that it was generally agreed that the former should be studied by the Commission. The First United Nations Conference on the Law of the Sea had adopted on 27 April 1958 its resolution VII requesting the General Assembly of the United Nations to arrange for the study of the juridical regime of historic waters, including historic bays<sup>1</sup>, and, in pursuance of that request, the General Assembly had adopted its resolution 1453 (XIV) requesting the Commission to undertake the study of the question. The Commission had therefore a duty to undertake that study.

8. Of course, it would be for the Commission to decide (possibly after its composition had been determined by the Assembly in the autumn of 1961) exactly when it would take up the topic. It was essential, however, that the Commission should have before it full documentation on the subject. Experience had shown that such documentation was necessary for studies of the kind, and also, that the compilation of that documentation took much time. Accordingly, he suggested that the General Assembly be requested to invite States to send to the Secretariat all the available documentation concerning the historic waters, including historic bays, which were subject to their jurisdiction and to indicate the regime claimed by them for such historic waters and historic bays.

9. Sir Gerald FITZMAURICE said that he could not agree to the course suggested by Mr. François. The question of the régime of historic waters and historic bays was one of law and of principle; it was not a question of fact, or of ascertaining what claims were being made by the various States. As he saw it, the Commission's task was not to pronounce on the substantive merits of a long list of claims by States to specific bays or sea areas as historic bays or historic waters. The task of the Commission was to isolate and establish the principles on the basis of which claims of that nature could be made. If those principles were subsequently adopted by the General Assembly, or by some other authoritative body, they could serve for the purpose of sustaining State claims or of settling disputes relating to historic waters and historic bays.

10. Governments were unlikely to help the Com-

<sup>1</sup> United Nations Conference on the Law of the Sea, *Official Records*, vol. II: Plenary Meetings (United Nations publication, Sales No. 58.V.4, vol. II), p. 145.

mission with the formulation of principles in the matter; they would, instead, be more inclined to put forward specific claims to certain waters and bays as historic. He therefore strongly felt that the Commission should first determine the principles in the matter and then invite government comments on those principles. If governments wished to illustrate their comments by references to particular claims they could, of course, do so at that stage.

11. Mr. LIANG, Secretary to the Commission, said that if the Commission considered it necessary to ask governments for data or material of a factual nature it had full authority to ask the Secretary-General to request such information. There would be no need to refer the matter to the General Assembly.

12. He thought, however, that the difficulties which arose in the matter were not related to the availability of factual data, but rather to the nature of the problems involved. The first of those problems was that the distinction between historic bays and historic waters was somewhat blurred. In connexion with the preparation of the First United Nations Conference on the Law of the Sea, the Secretariat had prepared a memorandum (A/CONF.13/1)<sup>2</sup> which covered quite fully the subject of historic bays. The exact connotation of the term "historic waters" was, however, controversial, and the General Assembly discussions on the subject had not elucidated the question to any great extent. Perhaps if the Commission undertook work on the subject and appointed a Special Rapporteur, it might be able to limit its scope and make a clear distinction between the terms employed. After such a preliminary study it might be possible to ask governments for data. At the present moment he thought it was unnecessary to call on governments to do so; in the absence of a detailed questionnaire, governments would find it difficult to respond and the Commission was likely to receive theses on specific claims to certain waters as historic waters. For those reasons, he was inclined to believe that it would be more advisable for the Commission to define and limit the scope of its task, and to ascertain the nature of the work, before any request was made to governments for material.

13. Mr. PAL said that when the Commission, in accordance with its statute, appointed a Special Rapporteur on the topic, a preliminary study would be made by that Rapporteur who as a result would be in a position to tell the Commission what type of information, if any, was required from States. That could only be done if the Commission was prepared to deal with the subject immediately, in which case its first step should be to appoint a special rapporteur. If the Commission, however, was not going to take up the topic immediately it was premature to con-

sider the question whether governments should be asked for any information. In fact, it would not be consistent with the Commission's normal procedure to request information from governments at such an early stage.

14. During the discussions in the Sixth Committee at the fourteenth session of the General Assembly, the representative of Saudi Arabia had suggested that governments should be requested to supply the Secretariat with all relevant information on historic waters within their territories; that representative had added: "The International Law Commission would then be asked to prepare a code in the light of the opinions expressed and the information collected."<sup>3</sup> That suggestion had not been followed by the Assembly, which had simply referred the topic to the Commission. There was no reason why the Commission, in its study of the subject, should not adhere to its normal procedure, which had been indicated by the then Chairman of the Commission, Sir Gerald Fitzmaurice, in his reply in the Sixth Committee to the suggestion made by the representative of Saudi Arabia.<sup>4</sup>

15. Mr. FRANÇOIS said that perhaps he had not made himself perfectly clear. He fully agreed that it was not the task of the Commission to decide on specific substantive claims. Nevertheless, for the purpose of determining the principles governing the question of historic waters and historic bays on the basis of existing international custom, it had to discover what bays were claimed as historic and on what grounds. It was only from the data provided by governments that the Commission could learn the rules of customary international law concerning historic waters.

16. For those reasons, he urged that the first step in the study should be to gather information and documentation. In that connexion, he agreed with the Secretary that it was not necessary for that purpose to apply to the General Assembly and that the Commission could itself ask the Secretary-General to obtain the necessary data. However, experience had shown that a period of more than five years was needed for the Commission to complete its work on any one topic, and it was therefore most desirable that the Commission should use the time until the autumn of 1961 to do some preparatory work. In that way, the Commission would be able to start the substantive work at its 1962 session and hope to complete it in the five-year term then commencing.

17. Mr. YOKOTA said that, in view of the remarks of the Secretary, he thought that the Commission should for the time being confine its study to the regime of historic bays, a subject on which an excellent memorandum had been

<sup>2</sup> *Ibid.*, vol. I: Preparatory Documents, pp. 1-38.

<sup>3</sup> See *Official Records of the General Assembly, Fourteenth Session, Sixth Committee, 644th meeting, para. 9.*

<sup>4</sup> *Ibid.*, para. 15.

prepared by the Secretariat. In that connexion he reminded the Commission that at the 1958 Conference on the Law of the Sea the Japanese delegation had proposed the insertion of a provision defining historic bays, which had been based on the Secretariat's memorandum.<sup>5</sup> When the Commission had completed its study of that subject, it could undertake the study of historical waters, more or less as had been done with the subjects of diplomatic missions and *ad hoc* diplomacy. For those reasons, he suggested that the Secretariat be asked to continue its work on the subject of historic bays. The Secretariat might submit to the Commission in a year or two a new memorandum, which would form the basis of the Commission's preliminary study of the topic.

18. Mr. AGO agreed with Mr. François that the Commission should not remain totally inactive in the matter for the next two years. It would, therefore, be desirable if the Secretariat continued its studies and provide the Commission with a more precise account of the position in regard to the regime of historic waters and historic bays.

19. He also agreed that it was the Commission's task to ascertain the rules of customary international law in the matter, but he could not agree that those rules could be inferred from State claims as such. Only a claim by a State which had received some measure of acquiescence on the part of other States could contribute to the formation of an international rule of law. In that connexion, he thought that it would not be wise to ask governments to specify their claims to historic waters and historic bays. Governments might be tempted, as a matter of prudence, to protect their position by advancing all their claims, including possibly some totally new ones, so as not to prejudice their position at a future conference. Replies of that nature would have little significance from the point of view of the work of the Commission. It was, therefore, desirable that the Secretariat should continue its work on a strictly scientific basis without requesting any data from governments.

20. Mr. VERDROSS expressed support for the suggestion of Mr. François, with the qualification put forward by Mr. Ago: there was a considerable body of legal opinion which did not believe that there existed any rules of general international law concerning the regime of historic bays and which held that each historic bay had its own regime and was governed by its own special rules. If that view was correct, it would not be possible to formulate any general principles in the matter and it would be necessary to gather information on existing historic bays. He did not, of course, think that governments should be invited to give information as that stage.

21. Mr. AMADO said that he would be grateful to any jurist who could explain to him the exact regime of historic waters and also what was the customary rule on the subject of historic bays or, as Mr. Verdross had suggested, what were the different customary rules for the various historic bays.

22. The special situation enjoyed by some States in regard to certain bays was an undoubted historic fact but no one could say whether the position of those States was sanctioned by international law. There was no lack of factual material on the subject, but an obvious lack of applicable rules. The scarcity of legal literature on the subject had in fact been commented upon by many speakers during the discussions in the Sixth Committee of the General Assembly. Among other problems, the subject of historic bays raised the difficult question of the acquisition of title by prescription in the international law of the sea.

23. For those reasons, and in view of the fact that the subject was fraught with political implications, he suggested that it should be approached with great caution. Perhaps the simplest course of action for the Commission would be to gather documentation. In that connexion, he shared the view that information should not be solicited from governments, which were likely to supply a mere enumeration of factual information that they considered it in their interest to submit.

24. Mr. LIANG, Secretary to the Commission, observed that there was still no delimitation of the subject of historic waters. He drew attention to the Secretariat's study of historic bays in the preparatory documents for the First United Nations Conference on the Law of the Sea (see paragraph 12 above), which referred to a growing tendency to describe certain areas as "historic waters". Moreover, in recent years there had even been suggestions to describe as historic waters for fishing purposes areas of sea where distant-water fishing had been established by long usage. The passage he had referred to was merely an indication of the vagueness which surrounded the subject, and accordingly, the Commission's first step might be to define the relationship between historic bays and historic waters and to delimit the extent of historic waters. In the Anglo-Norwegian Fisheries case, historic waters had been mentioned in connexion with historic bays; there seemed to be a measure of agreement on the regime of historic bays, but the concept of historic waters was still widely disputed, particularly since such waters were claimed not only as a part of the territorial sea, but also as internal waters. Consequently the Commission might start by laying down some basic principles on the matters, and the Secretariat would seek the necessary documentation.

25. Mr. SCALLE agreed with Mr. François that the Commission should not waste time, but should decide what steps should now be taken. He also agreed with Mr. Ago and Mr. Amado that it would be inadvisable to start by asking governments

<sup>5</sup> *United Nations Conference on the Law of the Sea, Official Records, vol. III: First Committee (United Nations publication, Sales No. 58.V.4, vol. III), p. 241.*

to communicate their opinions and claims, since the information received would be political, rather than legal or scientific.

26. Mr. BARTOŠ said that he had some experience of obtaining data on the question of historic waters from a number of governmental sources. The claims of States to different categories of historic waters could not be sifted by the Commission, which did not have the competence of a court in such matters. Before even deciding whether it was possible to codify the international law on the subject, much time would be needed to collect the necessary information. While he agreed with Mr. Verdross that it was hard to say that a body of international law on the subject existed, it was equally hard to say that it did not exist. He therefore endorsed the views expressed by Mr. François, Mr. Ago and Mr. Scelle; although he personally was somewhat pessimistic about the possibility of codification, the Commission should comply with the General Assembly's instructions and should not waste time. A compromise solution might be to appoint a preliminary rapporteur, who could work with the Secretariat on the subject for two years.

27. The CHAIRMAN, speaking as a member of the Commission, considered that at the present stage even the elaboration of a plan of work was a substantive decision which the Commission was not in a position to take. He agreed with the view that governments should not be asked for information, since in supplying information they would tend to fix their attitudes on the subject and would be reluctant to accept the Commission's proposals. Accordingly, the only solution seemed to be to ask the Secretariat to collect documentation on the subject, the Commission not being committed on any substantive issue.

28. Mr. HSU did not think that the Commission should be unduly influenced by the fact that its members were re-elected every five years, particularly since failure to be re-elected was only one of several contingencies in which a Special Rapporteur might no longer be available to the Commission. He thought that the Commission might appoint Special Rapporteurs forthwith for the codification of the principles and rules of international law relating to the right of asylum and for the study of the juridical regime of historic waters, including historic bays. Mr. Sandström might be asked to deal with the former subject and Mr. François with the latter. If those two members were willing to assume the responsibility, the Commission would not have to wait two years for a decision; if they refused, however, the Commission would have to postpone action on the two topics.

29. Mr. MATINE-DAFTARY pointed out that General Assembly Resolution 1453 (XIV) gave the Commission discretion to deal with the matter of historic waters as soon as it considered it advisable. The time element was the essential one; the Commission as now constituted had one

session and a half still before it, and there was nothing to prevent it from preparing the ground for the members who would be elected in 1961. The wisest course was to ask the Secretariat to carry out the preparation of the necessary research and to prepare the documentation. The good sense of the Secretariat would ensure that its research would be conducted in such a way as not to give rise to claims by governments.

30. Mr. SANDSTRÖM endorsed the view that the Secretariat should be asked to conduct the necessary research.

31. Mr. SCELLE observed that the Commission usually did not consult governments until after it had drawn up a document. Mr. Ago had rightly pointed out the disadvantages of first asking governments for information and then accommodating the Commission's articles to governmental claims.

32. Mr. AMADO agreed with Mr. Scelle and further pointed out that the Commission's terms of reference were to study the juridical regime of historic waters. There was therefore no reason to ask governments to supply information on their *de facto* situations in advance.

33. Mr. ERIM observed that there were four ways of solving the problem. The first was to do nothing until the Commission had been reconstituted in the autumn of 1961. The second course was to leave the Secretariat to prepare the preliminary documentation and to draft a plan of work on the basis of those data. The third suggestion had been to send a questionnaire to governments forthwith, inviting them to give their views and describe their legislation on the subject. Finally, Mr. Hsu had suggested the immediate appointment of two Special Rapporteurs, to study the topic of the right of asylum and that of historic waters, respectively.

34. He did not think that there was any decisive argument in support of the first course, since the Commission must comply with the General Assembly resolution, and it still had the remainder of the current session and the 1961 session before it. With regard to the second proposal, he said that, although the Secretariat should of course prepare documentation, the Commission should not content itself with delegating that research work but should take some action itself. The third suggestion seemed to him premature and he therefore supported Mr. Hsu's view that the Special Rapporteur should be appointed forthwith.

35. The CHAIRMAN observed that the Commission was concerned only with the question of the study of the juridical regime of historical waters (item 7 of the agenda).

36. Mr. FRANÇOIS admitted that it might be dangerous to apply to governments for information, since the consequence might be that they would take up rigid attitudes. Nevertheless, he could not agree with Mr. Scelle and Mr. Amado that the Commission should never begin work on a

particular topic with a request to governments for information. There was nothing strange or dangerous in asking governments for particulars of national legislation; that had been the course adopted in the case of the study of the regime of the territorial sea and the high seas. The question of the juridical regime of historic waters was an important one, since the claims of certain States would affect the whole work of conferences on the law of the sea. Until the Commission decided upon the validity of those claims, the success of any such conferences would be jeopardized, and the Commission must therefore not allow the question to remain outstanding too long.

37. Finally, he could not agree with Mr. Hsu and Mr. Erim that it was practicable to appoint a Special Rapporteur one year before the membership of the Commission was renewed.

38. Mr. EDMONDS said that the Commission normally appointed a Special Rapporteur to study a particular subject and to submit to the Commission proposals based on what the Rapporteur had found to be the generally accepted practice of States or the principles he could recommend for the progressive development of international law. The difficulty in the case of historic waters was that there seemed to be no established rules of international law — although possibly it was not wholly correct to say there were no such rules. If it was correct, the Secretariat or a special rapporteur might surely draw that conclusion and discover what principles should be recommended for the progressive development of international law. To inquire of governments what they believed to be their historic waters would invite them to commit themselves and would also commit the Commission to principles drawn from what governments had determined on the basis of widely differing principles and under widely differing conditions.

39. The Commission was not necessarily bound to act immediately, since General Assembly resolution 1453 (XIV) had requested the Commission "as soon as it considers it advisable, to undertake the study of the question". There might be several reasons why the Commission at that time considered it inadvisable to undertake the study, such as the fact that it still had many uncompleted subjects on its agenda, that the Commission was due to be reconstituted shortly or that the subject of historic waters was not of such vital importance as some others with which it had been entrusted. The Commission might draw attention to those reasons for not undertaking an immediate study and state that it would begin the study of historic waters as soon as the time was ripe. If the Commission was bound to take some action immediately, it should be a preliminary study by a special rapporteur or by the Secretariat, to be submitted in the form of a report to the Commission.

40. Mr. SCALLE regretted that he could not agree with Mr. François. The Secretariat normally furnished preliminary material and, in particular,

a compilation of existing laws and regulations on the particular subject. To ask governments how they interpreted their laws and regulations would be a work of supererogation. He must therefore maintain that the Secretariat should do the preliminary work before a special rapporteur was appointed and before the Commission itself dealt with the subject. To consult governments at the outset would be to commit the error of arousing political and polemical debate instead of remaining within the scientific and juridical limits within which the Commission should conduct its work.

41. Mr. AMADO remarked that Mr. François had gone too far in resuscitating the Conference on the Law of the Sea. The question of the juridical regime of historic waters, and especially historic bays, had never been particularly relevant to the Conference's work and had certainly not been a factor either in the success of the first conference, or in the lack of it at the second. The juridical regime of historic waters had been dragged in by the heels at the last moment; it was a purely marginal question. When the Commission had been preparing its reports on the regime of the high seas and the regime of the territorial sea,<sup>6</sup> the Special Rapporteur had been able to base his study on abundant literature and other material. The literature on historic waters was scanty. On the other hand, the Commission was bound by General Assembly resolution 1453 (XIV), requesting it to undertake the study of the question "as soon as it considers it advisable". The Commission might quite well consider it advisable to undertake the study, but should observe the maxim *festina lente*; the question was by no means urgent. Thus the first step should be to ask the Secretariat to compile the requisite documentation. The Commission would then examine that documentation and could truly say that it was "undertaking" the study. Some lack of enthusiasm was excusable, since the matter was not one of the utmost urgency, although, of course, the Commission was not by any means bound to undertake only the most urgent studies. It was, however, safe to say that jurists were not at present very much preoccupied with the question of historic waters. The first step should therefore be left to the Secretariat.

42. Mr. Liang, Secretary to the Commission, said that the Secretariat would of course be very willing to make a preliminary survey of the juridical regime of historic bays. It had, however, already pointed out in paragraph 8 of the memorandum prepared for the First United Nations Conference on the Law of the Sea that the expression "historic bays" was of general scope. Historic rights were claimed not only in respect of bays, but also in respect of maritime areas which did not constitute bays, such as the

<sup>6</sup> *Yearbook of the International Law Commission*, 1956, vol. II (United Nations publication, Sales No. 1956.V.3, vol. II), pp. 1-103.

waters of archipelagos and the water area lying between an archipelago and the neighbouring mainland; historic rights were also claimed in respect of straits, estuaries and other similar bodies of water. There was a growing tendency to describe those areas as "historic waters", not as "historic bays".

43. The term "historic waters" itself was admittedly controversial. Besides the concepts alluded to in the memorandum, Sir Gerald Fitzmaurice had pointed out in a comment on the Fisheries case between the United Kingdom and Norway that the International Court of Justice had recognized yet another basis of historic title, "a right to certain waters, deriving not from a historic claim to a given area of sea, as such, but from a historic system of delimiting territorial waters in general, which, even if it were otherwise contrary to international law, the State concerned could be said to have acquired a right to employ by long-continued usage and action in that sense, acquiesced in, or anyhow not objected to, by other States".<sup>7</sup> The vagueness of the term had been the reason for the Secretariat's hesitation when it had first been called upon to express a view on the possibility of gathering material on historic waters. The juridical regime of historic waters and bays was, in fact, a marginal subject in comparison to such other subjects as diplomatic intercourse and immunities.

44. The CHAIRMAN said that it was his understanding that the majority of the members agreed that some action be undertaken forthwith, provided that it went no further than a request to the Secretariat to follow up the work begun along the lines set out in paragraph 8 of the memorandum to which the Secretary had referred. The Commission would, therefore, request the Secretariat to continue its work and would then consider undertaking a substantive study of the subject.

*It was so agreed.*

**Co-operation with other bodies  
(A/CN.4/124) [continued]\***

[Agenda item 8]

45. The CHAIRMAN asked the Commission to resume its consideration of item 8 of the agenda.

46. Mr. LIANG, Secretary to the Commission, drew attention to his report (A/CN.4/124) on the proceedings of the Fourth Meeting of the Inter-American Council of Jurists, which had been held at Santiago, Chile, from 24 August to 9 September 1959.

47. Within the framework of the collaboration established between the International Law Com-

mission and the Inter-American Council of Jurists he had attended the Third Meeting of the Council at Mexico City in 1956 and had submitted a report on its work to the Commission. In 1956, too, Mr. Manuel Canyes, Deputy Director of the Department of Legal Affairs of the Pan American Union, had attended the Commission's eighth session as an observer. At the invitation of the Government of Chile and of the Secretary of the Organization of American States, the Secretary-General of the United Nations, complying with the request made by the Commission in 1956 and again in 1958, had authorized the Secretary of the International Law Commission to attend the Fourth Meeting as an observer. He (Mr. Liang) had been present during the entire Fourth Meeting and wished to record his appreciation of the hospitality with which he had been received and of the courtesies extended to him during his stay at Santiago.

48. He had made a statement at the Fourth Meeting which was summarized in chapter III of his report (A/CN.4/124). The main body of that report was concerned with the matters discussed at the Fourth Meeting which were on the Commission's agenda — *viz.*, reservations to multilateral treaties and the principles of international law governing state responsibility. The Council's discussion of each of those items, following an account of the past treatment of the topic in the Organization of American States, had been reproduced as fully as possible.

49. With regard to reservations to multilateral treaties, the Council recommended by a resolution (paragraph 94) to the Eleventh Inter-American Conference a series of rules with respect to the procedure to be followed by the Pan American Union as depositary. The resolution also laid down the traditional "Panamerican rule" with respect to the juridical effects of the ratification of or accession to treaties subject to reservations and affirmed that the making and acceptance of reservations were acts inherent in national sovereignty.

50. With regard to the principles of international law governing the responsibility of the State, the Council confined itself to adopting a procedural resolution (*ibid.*, paragraph 140) requesting the Inter-American Juridical Committee to proceed with the study of the contribution of the American continent in that respect. It should, however, be added that the Council had made a point of listing the bases on which the Committee was to continue its tasks.

51. The Council had not been able to devote all the time it had intended to those topics. Its original programme had been altered by the inclusion of new topics, some of them urgent. Accordingly, for a correct understanding of its scope, its work should be looked at as a whole.

52. It could be stated that the Fourth Meeting of the Council had performed a considerable amount of important work. Among the twenty-one resolutions adopted containing substantive or procedural decisions, the most striking, for

<sup>7</sup> *United Nations Conference on the Law of the Sea, Official Records*, vol. I: Preparatory Documents (United Nations publication, Sales No. 58.V.4, vol. I), p. 31, footnote 184.

\* Resumed from the 532nd meeting.

their juridical value in the codification of international law, was a draft supplementary protocol to the Convention on Territorial Asylum of 1954, a draft convention on extradition, and, above all, a complete draft convention on human rights, consisting of eighty-eight articles, that was being sent to the Council of the Organization of American States for submission to the Eleventh Inter-American Conference (*ibid.*, paragraphs 23 and 24).

53. The Inter-American Council of Jurists was also discussed the question of collaboration with the International Law Commission and had affirmed the necessity of continuing such collaboration (*ibid.*, paragraph 159).

54. The attendance at meetings of the Commission of Mr. Gómez Robledo, a member of the Inter-American Juridical Committee, some days previously had been a welcome token of such continuous collaboration in the interests of the codification and progressive development of international law.

55. Sir Gerald FITZMAURICE thanked the Secretary for his informative report. He did not wish to comment on its substance but he thought the Inter-American Council of Jurists was to be congratulated on some very interesting work.

56. The CHAIRMAN said that the Commission would certainly welcome the reaffirmation of the Council's desire for continued collaboration and would have studied the report, and especially the draft resolutions, with the greatest interest. He proposed that the Commission should take note with satisfaction of the Secretary's report on the proceedings of the Fourth Meeting of the Inter-American Council of Jurists (A/CN.4/124).

*It was so agreed.*

The meeting rose at 12.30 p.m.

## 545th MEETING

Monday, 23 May 1960, at 3 p.m.

Chairman : Mr. Luis PADILLA NERVO

### Welcome to new member

1. The CHAIRMAN, on behalf of the Commission, welcomed Mr. Mustafa Kamil Yasseen, who had been elected to fill a casual vacancy.

2. Mr. YASSEEN thanked the Chairman for his welcome. He said that the cause of peace was best served by respect for international and municipal law, but the law must be well grounded. To collaborate in making international law, as the International Law Commission was doing, was a discreet but effective contribution to the cause of peace. He appreciated the honour conferred on him by his election to membership of the Commission, but appreciated no less the

difficulties and complexities of the task. He hoped to merit the Commission's confidence.

3. Mr. MATINE-DAFTARY said that he was glad to associate himself with the Chairman in welcoming Mr. Yasseen, particularly as Mr. Yasseen came from a country neighbouring on Iran.

### Expression of sympathy on the occasion of the natural disaster in Chile

4. Mr. MATINE-DAFTARY said that he wished to express, especially to all the Latin American members of the Commission, his sympathy with them on the occasion of the recent natural disaster in Chile.

5. The CHAIRMAN expressed his appreciation on behalf of the Latin American members of the Commission for that expression of sympathy.

### Consular intercourse and immunities (A/CN.4/131, A/CN.4/L.86) [continued]

[Agenda item 2]

#### PROVISIONAL DRAFT ARTICLES (A/CN.4/L.86) (continued)

#### ARTICLE 25 (*Inviolability of consular premises*) (continued) \*

6. Mr. BARTOŠ observed that some of his remarks at the 530th meeting (paragraph 7) had been recorded in an unduly condensed form, which might give rise to misinterpretation. At that meeting, he had advocated the principle that inviolability should be accorded to consular premises only if no activities other than consular activities were carried on on such premises, and the Commission had decided to include a clause to that effect in the draft articles. In that connexion he had cited on the one hand the practice followed by the USSR and other countries which in some instances carried on activities of a non-consular nature — such as the operations of the headquarters of a trade mission — in premises which were normally those of a consulate, and on the other hand the similar practice followed by Western countries, which installed information offices, travel agencies, libraries, reading rooms, permanent displays, etc. in their consulates. He had not intended in any way to criticize the use of those premises for such purposes, especially since it had not been due to any fault of the USSR but, in the case of his country, had in most instances been caused by the lack of available separate accommodation. All that he had asked was that the rule of inviolability should not apply to premises so used. The USSR had, in fact, asked for separate premises for its trade mission in Yugoslavia. He had certainly not meant to imply that the USSR's practices were in any way

\* Resumed from the 530th meeting.