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Summary record of the 942nd meeting

Topic:
Other topics

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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE TWENTIETH SESSION

Held at Geneva from 27 May to 2 August 1968

942nd MEETING

Monday, 27 May 1968, at 3.15 p.m.

Chairman: Sir Humphrey WALDOCK
later: Mr. José María RUDA

Present: Mr. Ago, Mr. Amado, Mr. Bartoš, Mr. Castrén, Mr. El-Erian, Mr. Ignacio-Pinto, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Reuter, Mr. Ushakov, Mr. Ustor, Mr. Yasseen.

Opening of the Session

1. The CHAIRMAN declared open the twentieth session of the International Law Commission.

2. Mr. MOVCHAN (Secretary to the Commission) said that letters had been received from Mr. Albónico, Mr. Rosenne, Mr. Tammes and Mr. Tsuruoka explaining their absence from the opening meeting: Mr. Albónico and Mr. Rosenne expected to arrive at Geneva by 29 May and Mr. Tammes by 9 June 1968; Mr. Tsuruoka would attend as soon as possible.

3. The CHAIRMAN said that, as the Commission's representative, he had attended the debates of the Sixth Committee of the General Assembly at its twenty-second session and had introduced the Commission's report on the work of its nineteenth session¹ containing the draft articles on special missions. He had stressed the significance of the Commission's decision to make the representative character of a special mission its distinguishing feature for the purposes of the draft. His impression from the discussion had been that, had the commentaries on the draft articles been fuller, the task of governments would have been easier. The General Assembly had decided to place on the agenda for its next session an item entitled "Draft Convention on Special Missions", with the intention that the Sixth Committee should examine the draft articles and that the General Assembly should in due course adopt a convention on Special Missions. The Assembly had wisely decided that Mr. Bartoš, the Special Rapporteur on special missions, should attend the proceedings as Expert Consultant.

4. At the express wish of the Sixth Committee, he had made some observations on the draft articles on the law

of treaties, by way of general introduction to the Committee's debate on that topic. He would not enter into the details of that debate, since it had been largely overtaken by the proceedings of the Vienna Conference on the Law of Treaties. He could say, however, that on some points on which hard positions had been taken in the Sixth Committee by certain groups of States, the positions had not been quite so hard at the Vienna Conference.

5. The Sixth Committee and the General Assembly had approved the International Law Commission's proposals regarding its future programme of work and had welcomed its decision to undertake a general examination of its programme and methods of work at the present session.

6. Turning to the question of co-operation with other bodies, he expressed his appreciation of the able manner in which Mr. Yasseen had represented the Commission at the last session of the Asian-African Legal Consultative Committee. He himself had hoped to attend the last meeting of the European Committee on Legal Co-operation, but had been prevented from doing so by his other duties at Strasbourg. The Commission had before it an exchange of letters between himself and the Director of Legal Affairs of the Council of Europe (A/CN.4/L.126) relating to that meeting and to co-operation between the two bodies.

7. Referring to the first session of the Vienna Conference on the Law of Treaties, he said that Mr. Ago, who had been elected President of the Conference, would have a most important role to play at the second session. Another member of the Commission, Mr. Elias, had performed the arduous duties of Chairman of the Committee of the Whole with great competence and success: the fact that the Conference had covered almost the whole ground of the draft articles on the law of treaties during its first session had been largely due to his leadership. Mr. Yasseen had been elected Chairman of the Drafting Committee, which he himself had attended regularly as the Expert Consultant; it was true to say that if the work on the law of treaties was brought to a successful conclusion, it would be due in considerable measure to the masterly handling of the Drafting Committee's work by Mr. Yasseen.

8. After a slow start, the Vienna Conference had made remarkable progress. There remained some difficulties to be overcome and efforts would be made in the interval between the two sessions to deal with the outstanding difficult questions. It could already be said, however, that the International Law Commission's draft had

¹ *Official Records of the General Assembly, Twenty-second Session, Supplement No. 9.*

provided a very satisfactory basis for the work of the Conference.

9. He wished to draw the Commission's attention to a matter which had arisen out of the discussion of article 3 (International agreements not within the scope of the present articles)² at the Vienna Conference. That article provided that the draft did not relate to international agreements concluded between States and international organizations or between such organizations. Considerable interest had, however, been shown in the codification of the law governing such agreements. The subject had been discussed at some length, both in the Committee of the Whole and in the Drafting Committee, and besides a minor amendment to draft article 3, the discussion had resulted in a draft resolution recommending the General Assembly to refer the study of the treaties in question to the International Law Commission. Although that draft resolution would not be finally adopted until 1969, he thought the Commission should take note of it.

The meeting was suspended at 3.30 p.m. and resumed at 4 p.m.

Election of Officers

10. The CHAIRMAN called for nominations for the office of Chairman.

11. Mr. YASSEEN proposed Mr. Amado, the much loved and respected senior member of the Commission, of the Sixth Committee of the General Assembly and of the Vienna Conference on the Law of Treaties.

12. Mr. AMADO said he was deeply moved by that kind proposal, but felt that he should decline the honour and propose a younger man from his own Latin America, which was heir to the Mediterranean cultural and legal tradition. He proposed Mr. Ruda of Argentina, whose merits as an international lawyer and diplomat had earned him a high standing in the United Nations and elsewhere.

13. The CHAIRMAN said that all members would share his regret that Mr. Amado had felt unable to accept the nomination; he paid a special tribute to Mr. Amado's contribution to the Commission's work on the law of treaties.

14. Mr. IGNACIO-PINTO seconded the nomination of Mr. Ruda.

15. Mr. EL-ERIAN supported the nomination.

Mr. Ruda was unanimously elected Chairman and took the Chair.

16. The CHAIRMAN thanked the Commission for his election and his proposer and seconders for their kind words; he took the honour thus done him as a tribute to Latin America, a region greatly attached to peace, progress and the rule of law. He expressed his appreciation of the generous gesture made by Mr. Amado, who had earned the admiration and affection of all Latin American jurists.

17. He paid a tribute to his predecessor, Sir Humphrey Waldock, whose outstanding leadership at the nineteenth

session had enabled the Commission to complete its work on special missions successfully and whose work on the law of treaties had earned him an eminent position among international lawyers.

18. As the Commission began its twentieth session, it was appropriate to look back for a moment: the four Conventions on the Law of the Sea of 1958, the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963 and the draft articles on the law of treaties and on special missions represented a truly remarkable achievement, and compared favourably with the work done on the codification of international law before the International Law Commission had been set up. The Commission still had several important topics before it, and in guiding its work on them he would endeavour to follow the tradition established by his predecessors in the office of Chairman.

19. He called for nominations for the office of First Vice-Chairman.

20. Mr. REUTER proposed Mr. Castrén, whose extensive and thorough work as a scholar and whose valuable contribution to the Commission's work were well known to all.

21. Mr. AMADO seconded the nomination.

22. Mr. EL-ERIAN supported the nomination.

Mr. Castrén was unanimously elected First Vice-Chairman.

23. Mr. CASTRÉN thanked the members for his election.

24. The CHAIRMAN called for nominations for the office of Second Vice-Chairman.

25. Mr. BARTOŠ proposed Mr. Ushakov, whose great merits as a scholar made him particularly well qualified for the office.

26. Sir Humphrey WALDOCK seconded the nomination.

27. Mr. REUTER supported the nomination.

Mr. Ushakov was unanimously elected Second Vice-Chairman.

28. Mr. USHAKOV thanked the Commission for the honour done him.

29. The CHAIRMAN called for nominations for the office of Rapporteur.

30. Mr. YASSEEN proposed Mr. Tabibi, who had made such a valuable contribution to the work of the United Nations in legal and other matters.

31. Mr. NAGENDRA SINGH seconded the nomination.

Mr. Tabibi was unanimously elected Rapporteur.

² See *Yearbook of the International Law Commission 1966*, vol. II, p. 190.