United Nations
GENERAL ASSEMBLY
THIRTEENTH SESSION
Official Records

SIXTH COMMITTEE **590th** MEETING

Friday, 28 November 1958, at 10.50 a.m.

NEW YORK

CONTENTS

Chairman: Mr. Jorge CASTAÑEDA (Mexico).

AGENDA ITEM 59

Question of convening a second United Nations conference on the law of the sea (A/3831, A/C.6/L.435, A/C.6/L.438, A/C.6/L.440, A/C.6/L.441) (continued)

GENERAL DEBATE (continued)

1. Mr. SITNIKOV (Byelorussian Soviet Socialist Republic) said that his delegation, like many others, was in principle favourably disposed to the idea of a new conference, because universal agreement on the breadth of the territorial sea was obviously desirable. It also agreed with the view, however, that a premature conference would be unjustified and might not only impede a proper solution but also damage the results of the first Conference. Nor could he agree with the United States representative who had said (588th meeting) that the postponement of the second conference might delay the application of the Geneva Conventions. Until a new rule was devised, the breadth for the territorial sea would continue to be governed by existing international law, which left its determination to the Governments concerned.

2. It would be unrealistic to suppose that the unsettled questions could be solved not by agreement between States but by crude pressure. Yet the statements of the representatives of the United Kingdom, the United States and certain other countries, who had insisted on a conference in the immediate future, showed that such pressure was being applied. And it was that threat to impose a solution, rather than a postponement of the second conference, that might damage the results attained at Geneva.

3. Only six months had elapsed since the end of the Geneva Conference, at which the question of the territorial sea had been thoroughly discussed. Nothing new had happened in the meantime to suggest that an early second conference might succeed where the last one had failed. The discussions in the Sixth Committee had convincingly demonstrated that no changes had supervened in the positions of States to foreshadow early agreement. Despite that, however, a group of States was trying to force a decision to call a new conference in the very near future. That group was largely composed of countries which supported the three-mile limit, and had clearly shown that their aim was merely to exert pressure in order to compel the countries which held other views to give way. It was apparently immaterial that the countries supporting the three-mile limit were fewer in number than those that had established territorial limits exceeding three miles. The supporters of the three-mile limit contended that it represented the only recognized rule of international law, and that any breadth in excess thereof was arbitrary, unilateral and totally alien to the law of nations. The reasons why a claim to a three-mile territorial sea was lawful while any claim exceeding that limit was immediately a transgression had never been made clear. Perhaps the countries with three-mile limits were in some sort of privileged position in international law, or international law gave them some special rights. But that phenomenon was certainly not recorded in any international instrument. There were thus clearly no grounds for the contention that the unilateral delimitation of a territorial sea three miles broad was valid while the unilateral delimitation of a wider belt was inadmissible.

4. The inconsistency and lack of logic apparent in the arguments of the supporters of the three-mile rule showed that their sole aim was to have a conference called at the earliest moment, in order that they might impose on other States a formula already rejected at Geneva. They tried to conceal that design by alleging that the existing position was one of chaos and anarchy. But as long as States respected the sovereignty and territorial inviolability of other States and were determined to seek a peaceful settlement to all disputes, there was no danger of any serious conflict. Complications arose only when those principles of the law of nations were disregarded and States interfered in the internal affairs of others. Iceland's experience could serve as an example, for the essential difficulties in that case had been caused by the use of units of the Royal Navy against Icelandic coastguard vessels, in flagrant violation of all rules of international law. Such acts constituted an open intrusion by the United Kingdom into Icelandic affairs, and the United Kingdom Government would be well advised to discontinue them. The United Kingdom representative had not been very encouraging when, in reply to the criticisms of other delegations, he had stated (584th meeting, para. 23) that his Government would maintain its earlier position and continue to pursue the same policy as before. That statement had seemed to imply that ships of the Royal Navy would continue to invade foreign waters—whether Iceland's or some other country's—in the same manner as before. The United Kingdom representative should perhaps bear in mind that the United Nations had the necessary means at its disposal to call violators of Charter provisions to account.

5. Unlike the advocates of the three-mile rule, States which had established wider limits did not insist that their own standards should be universal. For example, the USSR had established a twelve-mile limit, but it had never suggested that the United Kingdom or France could not apply their three-mile off their own shores.

Accordingly, since it was clear that certain States were only interested in imposing their own views, any premature conference was bound to end in failure. Nor could a second conference properly be called until there was at least some outline of a concrete proposal on the basis of which a compromise might be sought. Yet the United States representative had gone so far as to contend that the submission of any concrete formula to the Sixth Committee would amount to prejudging the question. The truth of the matter was, of course, that certain States intended to press for a proposal which had been rejected at Geneva.

6. The United States representative had suggested that there was broad agreement on the course advocated in the joint draft resolution (A/C.6/L.435). But the statements of many delegations, and the fact that seven States had submitted amendments to that draft resolution, seemed to show that the agreement was not as broad as he had suggested. The delegations of all the small countries should have no illusions regarding the value of a second conference called prematurely, without preliminary preparation and attempts to reach an agreed decision. Whatever might be the formal result of the vote on the joint draft resolution, there was obviously no broad agreement, and it was unacceptable to many countries of Asia, Africa, Latin America and Europe.

7. As a conference called in 1959 would be foredoomed, it could make no contribution to the progressive development of international law. Before any conference was called there had to be some guarantee that it would not be used by certain powerful maritime countries as an opportunity to impose their will on other States, and that it would witness a common effort to arrive at a generally acceptable solution consistent with the principles of the Charter.

8. For those reasons, the Byelorussian delegation would support the seven-Power amendments (A/C.6/L.440) to the joint draft resolution. Those amendments provided an opportunity for the sponsors of the joint draft resolution to show by deeds that they were striving for international co-operation and for an equitable solution of the question of the breadth of territorial waters. Many States opposed a conference in August 1959, and acceptance of the seven-Power amendment by the sponsors of the joint draft resolution would thus facilitate a unanimous decision. The question could then be considered at the General Assembly's fourteenth session, when the Assembly would even be free to decide that it should take up the substance of the question itself. If the fourteenth session were to take such a decision, the matter could be considered in full only a few weeks after the date envisaged by the sponsors of the draft resolution. Consequently, those who genuinely wished to reach a generally acceptable decision at a conference could not seriously object to the question being considered by the General Assembly at its fourteenth session.

9. The efforts of those who, for their own ends, sought to prevent a unanimous decision could never yield anything permanent. Not only would a hastily-called conference inevitably fail, but many of the smaller countries on whom pressure was to be exerted might even decide not to attend. The "conference" would then become merely a special session of the North Atlantic Treaty Organization, the South-East Asia Treaty Organization and a few other blocs, and the value of its work would be judged accordingly.

10. Mr. PERDOMO (Honduras), explaining the reasons which had led his delegation to co-sponsor the joint draft resolution, said that the Conference held in Geneva early in 1958 had achieved constructive results in approving the four Conventions. The Conference had not solved, however, some questions which were a source of dispute and misunderstanding between States, and which should be settled at the earliest opportunity if harmonious co-operation between all countries was to be assured. The Conference had also approved a number of resolutions, among them the resolution concerning a possible second United Nations conference on the law of the sea.[1/] In its operative part, that resolution requested the General Assembly to study the "advisability" of convening such a second international conference to consider the question left unsettled at Geneva.

11. On the basis of that resolution and of Article 1 of the Charter, which stated that it was one of the purposes of the United Nations to maintain international peace and security and to bring about by peaceful means, and in conformity with the principles of justice and international law, the adjustment or settlement of international disputes or situations which might lead to a breach of peace, his delegation had joined in sponsoring the draft resolution. That text explicitly proposed the calling of a second conference, which would consider anew the question of the breadth of the territorial sea and of fishery limits. In international life, as in private relations, nothing was more useful than a free discussion designed to prevent or settle conflicts, and such a discussion could take place best at an international conference. That was the belief which had prompted the sponsors of the joint draft resolution to propose a second conference in July or August 1959.

12. The arguments in favour of holding a second conference without delay had already been fully stated. One of the strongest arguments, in his opinion, was the need to finish the work begun at Geneva and thus to allow the Conventions already adopted to enter into effect. Until the results of Geneva had been completed and the breadth of the territorial sea and of the exclusive fishery zone established, the work would be incomplete and the possible sources of conflict between States would subsist.

13. One representative had rightly stated that the reasons for calling a second conference could be found in the records of the first Conference, and that there was no need to look for new elements. There was no force in the argument that the conference should not be called until the ground had been prepared by bilateral diplomatic negotiations, for any deferment of a decision would leave the date of the conference uncertain. The questions left unsolved were of interest to all maritime countries, and there was no reason to suppose that a postponement to the fourteenth session would result in the creation of the conditions which the sponsors of the seven-Power amendments regarded as prerequisite to any conference. One representative had rightly recalled the failure of The Hague Conference of 1930, despite its careful juridical and diplomatic preparation. That seemed to show that preparation was not the only factor which determined the outcome of a conference.

1/ United Nations Conference on the Law of the Sea, Official Records, Volume II: Plenary Meetings (United Nations publication, Sales No.: 58.V.4, Vol.II), annexes, document A/CONF.13/L.56, resolution VIII.

14. In his view, a decision on the breadth of the territorial sea was of the greatest importance to small States; in the absence of agreement, the great Powers would merely continue to apply the three-mile rule, which—although it had never been a rule of law—had long reflected an international custom. Law was the only defence of the weak and a juridical standard was imperative.

15. International contacts were always fruitful, and no effort should be spared to reach constructive results. Nor was there any justification for pessimism. The two important conferences currently in progress at Geneva, on the methods of guarding against surprise attack and on the cessation of nuclear tests, had begun in an atmosphere of doubt and suspicion, with the opposing views of the participating countries well known, yet it was quite possible that an agreement might be reached.

16. Soon after the end of the Geneva Conference, the Minister of Foreign Affairs of Mexico had rightly said that one of the Conference's most constructive achievements had been to establish the fact that the old notion of three miles being the limit of the territorial sea had been generally abandoned and repudiated. There was thus every reason to suppose that it would be possible to obtain the necessary majority, if not unanimous agreement, on a new standard, for the suppression of a rule without its replacement by another would only cause greater confusion than had existed before. The views of the Mexican Government had also been clearly stated by Mr. Castañeda, now Chairman of the Committee, at the Third Meeting of the Inter-American Council of Jurists. He had then concluded that the three-mile rule could not be regarded as a rule of international law binding on the American States; that it had to be recognized that every State was free to fix the breadth of its territorial sea within reasonable limits, taking into account the configuration of its coasts and other geographical and geological factors, its legitimate security requirements and, above all, its economic needs; and that it was consequently difficult to establish a uniform rule applicable to the entire world. The eminent Mexican jurist had thus come to a conclusion similar to that advocated at Geneva by the Soviet Union.[2/]

17. The Mexican Government's point of view had been maintained in its declaration of 15 July 1958, which reaffirmed the binding character of the existing provisions of Mexican legislation fixing the breadth of the Mexican territorial sea at nine miles and stated that, in consequence thereof and in conformity with the principle embodied in article 14, paragraph 5, of the Convention on the Territorial Sea and the Contiguous Zone,[3/] the Mexican Government would not consider innocent the passage within nine miles of the Mexican coast of foreign fishing vessels which did not comply with the laws and regulations published by the competent authorities.

18. Tracing the history of international law on the breadth of the territorial sea, he recalled the medieval hundred-mile rule of Bartolo da Sassoferrato, the sixteenth century seven-league limit, and the gradual evolution of the three-mile rule finally formulated by Galiani in 1782. That rule, however, had never been universal, Spain, for one, having established a six-mile limit in 1760; and even Great Britain had declared in 1878 that its jurisdiction over its territorial waters extended up to the distance which might be considered necessary for the security of Her Britannic Majesty's dominions.

19. In the twentieth century, the three-mile rule had proved itself inapplicable in wartime and insufficient for the protection and conservation of the natural resources of the sea. It had thus become merely a source of controversy and a new rule was urgently required.

20. In conclusion, he expressed the hope that many of those present would meet again at Geneva in 1959, determined to solve the remaining difficulties.

21. Mr. ZAINAL ABIDIN (Federation of Malaya) said that, judging by its results, the Geneva Conference had been one of the most remarkable conferences ever held. It had made a step in the direction of the progressive establishment of rules governing the behaviour of States in their relations towards each other, to which his delegation attached the greatest importance.

22. The failure of the Geneva Conference to settle the questions of the breadth of the territorial sea and fishery limits should be regarded as a reason for a further attempt to reach a settlement, and not as grounds for doubting the desirability of calling a second conference.

23. His delegation felt also that any undue delay in the matter would result in more harm than good; it regretted that the failure to settle certain questions at Geneva had led to the recent North Sea incident. That incident could probably have been avoided if, with a little more time, the Geneva Conference had been able to settle the issues involved.

24. His delegation was opposed to the idea expressed by some representatives to await new developments before calling a second conference. The matter must be discussed before a serious situation occurred. It was better to discuss and fail, and recommence discussions, than to prolong the tensions.

25. The Malayan delegation could not support the suggestion that the unsettled questions should be reconsidered in the Sixth Committee at the fourteenth session of the General Assembly. A detailed and useful discussion of those topics could only be held among plenipotentiaries appointed for the sole purpose of striving for an agreement. The Sixth Committee was not suited for the purpose, particularly in view of the time factor.

26. His delegation desired that a conference should be called because three-quarters of the boundaries of its country was bordered by the sea and a large proportion of the population depended on the sea for a living. Accordingly, his delegation had joined in sponsoring the joint draft resolution (A/C.6/L.435) and hoped that the second conference would be held in July or August 1959.

2/ Ibid., Volume III: First Committee (United Nations publication, Sales No.: 58.V.4, Vol.III), annexes, document A/CONF.13/C.1/L.80.

3/ Ibid., Volume II: Plenary Meetings (United Nations publication, Sales No.: 58.V.4, Vol.II), annexes, document A/CONF.13/L.52.

27. With regard to the place of the conference, his delegation had an open mind and would accept the majority decision, although for practical reasons it preferred New York.

28. Mr. POWER (Ireland) said that his country, as a small island in the North Atlantic with an expanding fishing industry, was deeply concerned that a speedy and satisfactory solution should be found to the main questions left unsettled at the Geneva Conference. The failure of that Conference to reach agreement on the breadth of the territorial sea and exclusive fishery limits could be attributed in no small measure to the range and complexity of the topics which the Conference was called upon to codify in the comparatively short space of eight or nine weeks. He agreed with the Australian representative that lack of time had been largely responsible for the failure of the Geneva Conference to reach agreement on the two outstanding questions.

29. His delegation was not able to support the seven-Power amendments (A/C.6/L.440). The sponsors of those amendments had stated that, in order to ensure reasonable probabilities of success, it was necessary to undertake considerable preparatory work. His delegation could not agree with that view: the preparatory work had already been done at Geneva. Four important Conventions had been concluded, which he was glad to say his Government had signed; following the adoption of those Conventions, the issues of immediate universal concern which remained unsettled had been isolated and reduced to two. The areas of existing agreement and disagreement between States on those two issues had been clearly defined in the Geneva discussions. What was now needed was not further preparation but negotiation, carried out in a spirit of compromise and with a firm determination to reach a fair and just solution based on the recognition of the legitimate claims of the coastal State and the interests of the international community as a whole.

30. His delegation objected to the seven-Power amendments because they would have the effect of postponing consideration of the unsettled questions until the fourteenth session of the General Assembly at the very earliest, but the Committee could not ignore the need to arrive without delay at a reasonable agreement on those questions. Conflicting views—strongly and sincerely held—on what existing international law permitted not only could lead to serious conflicts between States but unfortunately had done so already.

31. His delegation also doubted whether the General Assembly, with its varied responsiblities and preoccupations, would prove a suitable forum for an attempt to reach a solution of the two delicate outstanding questions. The Mexican representative had explained (589th meeting, para. 46) that under the terms of the seven-Power amendments it would be open to the Assembly, at its fourteenth session, to adopt any other procedure it deemed fit. He had mentioned two possible procedures: the appointment of a good offices committee and the calling of a diplomatic conference perhaps shortly after the close of the fourteenth session. Both those procedures had the grave defect that they postponed any attempt to negotiate a settlement until 1960 at the earliest.

32. His country favoured an early conference and would have preferred it to take place in February or March 1959. In the light, however, of the views expressed by a large number of delegations, his delegation would support the joint draft resolution (A/C.6/L.435) which called for the holding of a conference in July or August 1959. He hoped also that it would be possible to hold a conference well in advance of the opening of the fourteenth session, so that representatives who might have to attend both would have time to return home at the conclusion of the conference and prepare for the fourteenth session.

33. With regard to the site of the conference, his delegation favoured Geneva on the whole, but was prepared to agree to New York if the majority preferred the latter city.

34. Mr. EL-ERIAN (United Arab Republic) said that the general debate had shown not only the importance which all the delegations attached to holding a second conference on the law of the sea but also the differences of approach to the work to be done. It had thus underlined the need for working out a carefully studied procedure which would help to bring about an appropriate and realistic solution of the questions left unsettled by the Geneva Conference.

35. The question whether a second conference was advisable led to the question of the need of a conference and also whether other devices might prove more practicable.

36. The resolution of the Geneva Conference concerning a second conference had been adopted after considering several proposals. The delegations of Australia, Canada, Ceylon and Ghana had proposed that the Conference adjourn and be reconvened "at the earliest practicable date after the conclusion of the thirteenth session of the General Assembly".[4/] The delegation of Peru had proposed that the General Assembly be requested to call another conference "on the expiry of a period of not less than five years from the signing of the Final Act embodying the results" of the Geneva Conference.[5/] Both proposals had proved unacceptable; the interval envisaged between the first and second conferences was considered too short in one case and too long in the other. The Conference had therefore favoured a middle course of action, suggested by the delegation of Cuba,[6/] for the General Assembly to consider the advisability of calling a second conference at an appropriate time. The resolution adopted by the Geneva Conference therefore meant that further efforts to reach agreement would be made in the near but not immediate future, in other words at an appropriate time, and not automatically but after careful study and adequate preparation. The resolution of the Conference made a special mention of a second international conference, but that did not exclude the choice of other means, should the General Assembly conclude after due consideration that a conference was not necessarily the best means for reaching an agreement.

37. In considering whether Governments should be given time for further study and preparation before it was decided to call a conference, the General Assembly had to examine why the Geneva Conference had succeeded in codifying and developing almost the whole branch of the international law of the sea but had failed

4/ Ibid., document A/CONF.13/L.49.

5/ Ibid., document A/CONF.13/L.10, annex.

6/ Ibid., document A/CONF.13/L.25, annex.

to reach agreement on the question of the breadth of the territorial sea; what lessons were to be drawn from the records of the Conference on that point; what was the place of the question of the breadth of the territorial sea in the whole system of the law of the sea; what was the customary rule of international law on that question; to what extent it was important to reach an agreed definition of that rule, and on what premises should the search for an agreement be based.

38. In the opinion of his delegation, Governments needed further time for study. Since the end of the Geneva Conference, Governments had been mainly preoccupied with the four Conventions adopted at that Conference and had not yet had time to consider the two questions left unsettled. So far, only about one-half of the Governments represented at the Geneva Conference had signed the Conventions; the others had not yet concluded the study even of the actual results achieved at Geneva.

39. It was no doubt desirable to reach agreement on the question of the breadth of the territorial sea, but the importance of that question should not be overestimated. The International Law Commission itself had pointed out that it had been a mistake after The Hague Codification of 1930 to allow the disagreement over the breadth of the territorial sea to dissuade Governments from any attempt at concluding a convention on the points on which agreement had been reached, and had expressed the hope that that mistake would not be repeated (A/3159, para. 30). The Geneva Conference had rightly avoided the repetition of that mistake, and had codified the law of the sea although no agreement had been reached on the breadth of the territorial sea. His view regarding the relative importance of the question of the breadth of the territorial sea was also borne out by the decision taken early in the Geneva Conference to postpone consideration of the draft articles dealing with the breadth of the territorial sea, so as not to block agreement on other points.[7]

40. Some speakers had referred to the anarchy which, in their opinion, would prevail if no agreed solution was reached. That suggestion was tantamount to describing as anarchy the practice of States, which constituted a source of international customary law. International law differed fundamentally from municipal law in that States were not only the subjects of international law but they were also the lawmakers. The so-called three-mile rule, which was rejected by two-thirds of the States, could not be described as a rule of international law since it was not in accord with State practice.

41. The experience of the Geneva Conference had shown that it had been successful in settling all those questions in connexion with which the interests of the coastal State had been given recognition. When those interests had been put forward in the discussions of the International Law Commission, it had been suggested by some members that any recognition of them would constitute a violation of existing law, but the Commission had, after deliberation, arrived at a different conclusion.

42. The failure of the Geneva Conference to settle the question of the breadth of the territorial sea had been in a large measure due to its failure to give equal recognition to the economic interests and security requirements of the coastal State which made it necessary to extend the breadth of the territorial sea beyond three miles. The Icelandic representative had spoken (583rd meeting) of his country's economic interests, which merited full support. The International Law Commission had, in article 3 of its draft (A/3159, para. 33), submitted to the Conference the elements of a fair solution of the question, but, unfortunately, a group of States had insisted that the three-mile rule was still international law and that any agreement by them to a wider territorial sea would constitute a concession on their part. That one-sided view of a rule which had never been universally accepted by States, had never been embodied in a multilateral convention, and had been described by Professor Gidel in his standard work on the law of the sea as the "fallen idol" of the 1930 Conference,[8] could not have been conducive to an agreement.

43. He had been disappointed to see indications of a similarly one-sided interpretation of the Convention on the Territorial Sea and the Contiguous Zone with regard to the right of innocent passage in a scholarly article by Mr. Max Sörensen. The distinguished Danish jurist had said:

> "... the Convention as it now stands contains no special provision relating to the innocent passage of warships, but only the general rules applicable to all ships. The actual text of the Convention would therefore warrant the conclusion that warships have the same rights in this respect as other ships".[9]

The author went on to say, however:

> "... but the proceedings of the Conference leave no room for doubt that this was not the intention of the majority of delegations".[10]

In reality, the position was of course that the rules applicable to merchant ships could not be applied to warships because the presence of the latter in the territorial sea of a State could be a source of international friction. The proceedings of the Geneva Conference made it clear that, in accordance with the State practice, warships did not have the same right of innocent passage as merchant ships.

44. In conclusion, his delegation favoured in principle the holding of a conference, provided that it was preceded by adequate preparation, and looked forward to further efforts to reach agreement on the questions left unsettled at Geneva. Accordingly, his delegation supported the seven-Power amendments (A/C.6/L. 440), which gave Governments the opportunity to study the questions and called on the General Assembly to decide on the adequate procedure for settling the outstanding questions.

45. Mr. HOUARD (Belgium) said that although Belgium was not a great maritime Power it was traditionally a strong defender of the principle of the freedom of the high seas, and of the consequent need,

7/ Ibid., Volume III: First Committee (United Nations publication, Sales No.: 58.V.4, Vol.III), 23rd meeting.

8/ Gilbert Gidel, Le droit international public de la mer, vol. III, La mer territoriale et la zone contiguë (Paris, Librairie du Recueil Sirey, 1934), p. 152.

9/ Max Sörensen, Law of the Sea (International Conciliation No.520, November 1958; New York, Carnegie Endowment for International Peace), p. 235.

10/ Ibid.

recognized by international practice, of a strict limitation of the rights of coastal States to encroach upon the freedom of the high seas. The freedom of the high seas was of benefit to the international community as a whole, and was based on economic realities, one of the main pillars of present-day law. At the Geneva Conference, Belgium, in a spirit of compromise, had voted for the United States proposal[11] on the understanding that those States that favoured a wider territorial sea would be willing to make a similar gesture of conciliation, and the Belgian representative had stated that if a compromise solution was not arrived at the Belgian Government would consider that the three-mile rule remained intact.[12]

46. The Geneva Conference had almost succeeded in codifying the whole of the law of the sea. The Committee's debates showed that Belgium was not alone in believing that the time had come for that Conference's work to be completed. If vigorous efforts were not made to remedy the present situation, it was likely to become even more chaotic. Some speakers had defended the idea of the creation of international law by unilateral decisions, but international law had gone too far beyond the feudal stage for such a system to work. The proper way to establish recognized rules that would put an end to arbitrary action was to hold a carefully prepared diplomatic conference as early as possible. Recent events had shown how dangerous the situation was, and should induce the Committee to take speedy action on a question which the Committee could not postpone until the following year. Belgium would accordingly vote for the joint draft resolution (A/C.6/L.435), and hoped that a second conference would be held in Geneva in the summer of 1959.

47. Mr. SRESHTHAPUTRA (Thailand) said that one of the aims of the Charter of the United Nations was to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law could be maintained. One such condition was the encouragement of the progessive development of international law and its codification.

48. Bearing that aim in mind and having fully realized the importance of the subject of the law of the sea and the need for rules of law in that respect, the delegation of Thailand to the Geneva Conference had played its part in a spirit of conciliation, compromise and co-operation.

49. Despite the fact that the law of the sea was a delicate subject—for there were divergent views and wide differences of national interests—with the monumental basic work of the International Law Commission, the good preparatory work of the Secretariat and the spirit of co-operation of the eighty-six participating States, the Geneva Conference had been able to adopt four Conventions. In addition, the Conference had adopted an Optional Protocol of Signature concerning the Compulsory Settlement of Disputes.[13]

50. When a settlement could not be reached at the Conference on two vital questions, namely, the breadth of the territorial sea and the contiguous fishing zone, the delegation of Thailand, which subscribed to the view of the International Law Commission that "the various sections of the law of the sea hold together, and are so closely interdependent" (A/3159, para. 29), supported the resolution requesting the General Assembly to study at its thirteenth session the advisability of convening a second international conference for further consideration of the questions left unsettled by the Geneva Conference.

51. One of the ultimate objectives in framing rules of international law was the effectiveness of the rules. Such an objective could only be achieved by the general acceptance of the rules by States.

52. Although a considerable number of States, including his country, had signed one or more of the four Conventions, the absence of general accepted rules governing the breadth of the territorial sea and the contiguous fishing zone might jeopardize those Conventions, since certain signatory States might not be prepared to ratify and certain non-signatory States might not be able to accede to those Conventions unless and until the two outstanding questions had been resolved.

53. Moreover, actual disputes pertaining to those two questions had arisen since the Geneva Conference. The Thai delegation therefore believed that it was not only advisable, but an urgent necessity that a second conference should be convened as soon as practicable. Some time should be allowed for interested Governments to negotiate, but there should be no long delay in convening the conference lest further unilateral declarations of the breadth of the territorial sea and the contiguous fishing zone should complicate the situation. Agreement on the breadth of the territorial sea and, in particular, of the fishing limits would certainly promote and improve neighbourly relations among nations.

54. Under those circumstances, the Thai delegation had co-sponsored the draft resolution (A/C.6/L.435).

55. In the light of the considerable success achieved by the first conference, he considered that Geneva would be a suitable place to hold the second conference.

56. In view of the urgent necessity that a second conference should be convened as soon as practicable, and the need to examine the technical, biological, economic and political aspects of the problem, and since all States members of the specialized agencies that had taken part in the Geneva Conference should also be invited to participate in the proposed second conference, his delegation could not support the proposal in the seven-Power amendments (A/C.6/L.440) to include the two outstanding questions in the agenda of the fourteenth session of the General Assembly.

57. Mr. RUSIN (Ukrainian Soviet Socialist Republic) said that his delegation believed that it would be desirable to hold a second conference on the two outstanding questions at the proper time. Opinion in the Committee, however, was divided on the questions when and how that conference should take place. One group considered that the conference should be held either in February or March, or else in July or August 1959, whereas the other group considered that before any

11/ United Nations Conference on the Law of the Sea, Official Records, Volume III: First Committee (United Nations publication, Sales No.: 58.V.4, Vol.III), annexes, document A/CONF.13/C.1/L.159/Rev.2.

12/ Ibid., Volume III: First Committee (United Nations publication, Sales No.: 58.V.4, Vol.III), 59th meeting, para. 22.

13/ Ibid., Volume II: Plenary Meetings (United Nations publication, Sales No.: 58.V.4, Vol.II), annexes, document A/CONF.13/L.57.

date was set for the conference there should be a thorough preparation so that it would have some chance of succeeding. If a second conference were held and failed to reach agreement, it would not only leave a painful impression on public opinion, but would undoubtedly exacerbate the existing disputes over the breadth of the territorial sea and the contiguous fishing zone. It was clear that a second conference could not succeed without preliminary consultations to explore all the possibilities. It would be necessary also to examine all legal, technical, biological, political and economic matters relating to the law on the breadth of the territorial sea. It was twenty-eight years since the first attempt at The Hague to reach an international agreement. The question was still unsettled in spite of the recent Geneva Conference, and it was thus hardly likely that agreement could be reached in the course of a few months.

58. The representative of the United States had suggested (588th meeting, para. 28) that if more time had been available, agreement might have been reached at the Geneva Conference. He himself believed the main cause of the failure at Geneva had been that certain States had made no real effort to reach agreement, but had merely attempted to impose their own views on the majority. It had been suggested that the proposal to call a conference in the summer of 1959 represented a compromise, since a number of countries had wished the conference to be held in February or March. In fact the second proposal was totally unrealistic, since there would be an interval of only some six weeks between the end of the General Assembly session and the beginning of February, and in that short time it would be impossible to analyse and draw conclusions from the debate in the Sixth Committee, make the necessary administrative preparations for the conference and arrange consultations between Governments. The proposal to convene a second conference early in 1959 could not have been maintained for practical reasons, hence to propose holding it in July or August represented no real concession.

59. It would be possible to make the necessary administrative preparations for a conference in July or August, but the course of events and the debate in the Sixth Committee clearly showed that a conference at such an early date had no real chance of success. The great maritime Powers were pressing for an early conference because they hoped to be able to impose their decisions on others, in spite of the lack of support for their views at the Geneva Conference. The Western Powers were hoping for more support at a second conference, but it was useless for them to think that by the arithmetic of votes they could settle a difficult and complicated question in defiance of the rights and interests of smaller countries. The representative of Turkey had suggested (587th meeting, para. 41) that the proposal made by Canada at the Geneva Conference[14] would be a more promising basis for a second conference than the proposals by the Soviet Union[15] or the Indian-Mexican proposal.[16] That showed what was the real meaning given to the word "compromise" by the supporters of the joint draft resolution. A conference held on the basis of such motives was doomed to failure. The breadth of the territorial sea was a vital matter affecting the economic interests and security of many States, since in accordance with recognized principles of international law the territorial sea was part of the territory of a State and subject to that State's sovereignty. The results of the conference at The Hague in 1930 and the recent Conference in Geneva showed what ill-success attended the efforts of certain States to impose their will on other countries in a matter of such importance.

60. The situation had been accurately described by the representatives of Ecuador, Mexico, the Soviet Union and other countries. Two opposing views of the territorial sea were held: one by the greater maritime Powers which had large navies and fishing fleets and preferred a narrower territorial sea so that they could send their ships close to the coasts of other countries and exploit the resources of those territorial waters; the other by the group of countries which desired a broader territorial sea in order to defend their interests against arbitrary action by the greater maritime Powers. The three-mile limit was not generally recognized; a number of States had territorial seas that were four, six, ten or twelve miles in width, and as the representative of Mexico had pointed out (589th meeting, para. 42), more than two-thirds of the coastal States of the world had established limits in excess of three miles for their territorial seas. There was therefore no justification for asserting that extension of the territorial sea beyond the three-mile limit was illegal or constituted a threat to the rights of others. The chaotic situation referred to by the representative of Belgium had not been brought about by States that were defending their lawful interests by establishing appropriate limits to their territorial seas, and thus protecting themselves from the greater maritime Powers which imagined they could show the mailed fist in the territorial seas of other countries. The British action in Icelandic waters was merely one link in the chain of illegal acts by the major maritime Powers. Apparently the representative of Belgium considered it normal for States to use armed force in settling their disputes, in defiance of the Charter. Many representatives had expressed their concern over Iceland's situation; he agreed with the representative of Peru, who had said (586th meeting, para. 17) that exploitation could no longer be disguised by the use of the term "historic rights". The colonial Powers must realize that they could no longer exploit the resources of smaller countries as they had in the past.

61. His delegation could not support the joint draft resolution, and would vote for the seven-Power amendments (A/C.6/L.440), for reasons which had been clearly explained by the representative of Mexico (589th meeting). It was to be hoped that all countries that sincerely desired a peaceful settlement of the question would support the amendments, and so make possible a new step in the same spirit of international co-operation that had led to a number of important decisions at the Geneva Conference.

The meeting rose at 1 p.m.

14/ Ibid., Volume III: First Committee (United Nations publication, Sales No.: 58.V.4, Vol.III), annexes, document A/CONF.13/C.1/L.77/Rev.3.

15/ Ibid., document A/CONF.13/C.1/L.80.

16/ Ibid., document A/CONF.13/C.1/L.79.

Litho. in U.N. 77601-March 1959-2,050