

UNITED NATIONS

GENERAL

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OCT 26 1955

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A/CONF.10/SR.20  
29 September 1955  
ORIGINAL: ENGLISH

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INTERNATIONAL TECHNICAL CONFERENCE ON THE CONSERVATION  
OF THE LIVING RESOURCES OF THE SEA

SUMMARY RECORD OF THE TWENTIETH MEETING  
held on 6 May 1955 at 4 p.m.

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CHAIRMAN: Mr. SUNNANAA (Norway)

1. DURATION OF THE CONFERENCE

The EXECUTIVE SECRETARY announced that authorization had been received from the United Nations in New York for the Conference to extend the session, if necessary, by the two days, Monday and Tuesday, 9 and 10 May.

2. REPORTS OF THE GENERAL COMMITTEE ON THE CONSENSUS OF THE CONFERENCE ON ITEMS 10 AND 11 OF THE AGENDA (A/CONF.10/L.29 and 30)

Mr. HAVINGA (Netherlands), Rapporteur of Drafting Sub-Committee II, summarized the work of his Sub-Committee. He thanked all members of the Sub-Committee for their valuable co-operation, and, in particular, Dr. Schaefer for the assistance he had given the Sub-Committee. Account had been taken in the Sub-Committee's drafts of the papers specially contributed by Mexico and Cuba and by Japan.

Mr. D'ANCONA (Italy) drew attention to a few textual points in the French version of reports A/CONF.10/L.29 and 30 which might with advantage be made to correspond more closely to the English text.

The report (A/CONF.10/L.29) was adopted with the textual amendments to the French version proposed by Mr. D'Ancona.

The CHAIRMAN invited comments on the General Committee's report on the consensus of the Conference on item 11 of the agenda (A/CONF.10/L.30).

Mr. WALL (United Kingdom) understood that the report offered a purely descriptive list of the specific and general measures that might be applied in a conservation programme. The term "limitation of fishing gear" used in paragraph 1, a), ii) was not quite precise and his delegation took it that the Committee had intended those words to be given a widely comprehensive interpretation.

Mr. BILINSKI (Poland) felt that paragraph 1, a), ii) of the report was not sufficiently clear and he proposed to add, after the words: "ancillary equipment", the words "for example, by determining the size of meshes, hooks, etc.".

With regard to paragraph 1,a),i), he was unable to agree with the substance of the text proposed by the General Committee. The variety of measures in existence, as enumerated in sub-paragraphs b), c) and d), made it unnecessary to have recourse to such a drastic measure of conservation as the fixing of the maximum annual catch. It was a method seldom used in practice, and the few conventions which did refer to it gave it very low priority as compared with other conservation measures. The fixing of the maximum annual catch could also have an adverse effect on countries which had hitherto not engaged in fishing or had done so only to a limited extent. That would be contrary to the general interests of mankind, and the Polish delegation therefore proposed that paragraph 1, a), i) be deleted.

Mr. PEDROSA (Spain) remarked that paragraph 1,a),ii) might have serious economic consequences in application. He therefore proposed the addition of a clause to the effect that such measures should only be adopted when proved by experience to be absolutely necessary.

Mr. HAVINGA (Netherlands), Rapporteur of Drafting Sub-Committee II, agreed with Mr. Wall that the expression "limitation of fishing gear" should be interpreted widely; that had been the intention of Sub-Committee II.

He appreciated the reasons for the Polish representative's proposed amplification of the General Committee's text, but pointed out that the Committee had tried to confine itself to enunciating principles at the scientific level, though it was fully aware of the difficulty of applying some of them. With regard to the matter mentioned in paragraph 1,a),i) regulation of the amount of catch, the cases of halibut and salmon in the North Pacific provided examples of practical experience. The Committee believed that the formula before the Conference was the best that could be found to take account of the many problems involved and of the arguments advanced. He hoped therefore that the Polish delegation would feel able to accept it.

To the Spanish representative he had, in principle, to give the same answer as to the Polish, namely, that Drafting Sub-Committee II could not see how to improve on the formula without incorporating details which would transform the whole body of its report.

Mr. CIEGLEWICZ (Poland) regretted that he could not accept in full Mr. Havinga's defence of the General Committee's text since it did not give due consideration to spawning grounds and seasons, the amount of recruitment of stocks that might be possible, or the innovating efforts of man such as transplantation and acclimatization. Furthermore, the limitation of total catch would be difficult to achieve in an area of mixed fishing, such as, for instance, trawl fisheries, and it would be hard on countries whose fisheries were at a low or underdeveloped level. He failed to see how countries urgently needing fish for immediate human consumption could agree to limitation of the total annual catch.

Mr. HERRINGTON (United States of America) felt that there must be some misunderstanding since the opening part of paragraph 1 made it clear that the measures listed were only those which might be applied in a conservation programme. There was no suggestion that any of these measures must necessarily be applied. He did not see how sub-paragraph 1) a), i) could be deleted because the measure to which it referred was the basis of several important fishery conventions.

Mr. KASK (Canada) agreed with the United States representative.

Mrs. RATUSZNIAK (Poland) proposed formally that the draft report on item 11 of the agenda be referred back to Drafting Sub-Committee II for consideration of the Polish proposal.

Mr. WALL (United Kingdom) emphasized that the report was purely descriptive and did not contain recommendations. Furthermore, sub-paragraph 1) a), i) described one of the specific types of measure which might be used, as opposed to general types of measure. That was clear from the introductory part of the paragraph which also contained the phrase: "depending on the nature of the resource and the way in which it is harvested". He felt therefore that the points made by the Polish representative were fully covered by the text as it stood.

The CHAIRMAN explained that the questions raised in the plenary meeting had already been fully discussed by the Sub-Committee and the General Committee. There would therefore be little purpose in referring the matter back to the Sub-Committee. In his opinion, the introductory part of paragraph 1 covered any special problems which were likely to arise in practice and he therefore appealed to the Polish delegation to withdraw its proposal.

Mrs. RATUSZNIAK (Poland) regretted that her delegation could not agree to paragraph 1, a), i) as submitted, particularly as it had been placed at the head of the conservation measures listed in the draft report.

The CHAIRMAN called for a vote on the Polish proposal that report A/CONF.10/L.30 be referred back to Sub-Committee II.

The proposal was rejected.

Mr. CIEGLEWICZ (Poland) said that, if sub-paragraph 1) a), i) could not be deleted, it should at least appear at the end of the list rather than at the very beginning. That would show that it was a measure which might be of use in exceptional circumstances.

Mr. CHOPRA (India) did not think there was any need to change the order since it was quite clear from paragraph 2 that the document did not suggest that any of the measures listed would necessarily have to be applied in every case.

The CHAIRMAN added that no suggestion of an order of importance was intended in the order in which the various measures had been listed.

Mr. CIEGLEWICZ (Poland) said that, in view of the explanations given, he could withdraw his proposal.

The General Committee's report on item 11 of the agenda (A/CONF.10/L.30) was approved with the textual amendments to the French version proposed by Mr. D'Ancona.

3. INTERNATIONAL CONSERVATION PROBLEMS FOR THE RESOLUTION OF WHICH EXISTING TYPES OF INTERNATIONAL MEASURES AND PROCEDURES ARE NOT ADEQUATE AND POSSIBLE MEANS OF RESOLVING THEM (item 13 of the agenda).

The CHAIRMAN said that the draft report on item 12 of the agenda was not yet ready and, while he realised that it would be easier to discuss item 13 after item 12, he asked if any delegations were prepared to make statements or proposals in connexion with item 13.

Mr. ALLOY (France) said that he understood that the report on item 12 was to be purely descriptive and that it would not contain any recommendations for conservation programmes in cases where there were no existing conventions. In those circumstances, he felt it would be possible to suggest a few chapter headings for consideration under item 13.

1. The establishment of conservation programmes between coastal States and other States exploiting the same resource;
2. The settlement of any difficulties which might arise between the States concerned with regard to the objectives, methods of application, advisability, nature and scope of conservation programmes;
3. The problem of abstention when it could not be solved by conventions and the possibility of the gradual elimination of various States jointly exploiting resources where the stock was declining.

His delegation felt that the Conference should consider the idea of setting up a higher authority composed exclusively of scientists and technicians, to settle any differences of a scientific and technical nature which might arise between the States concerned with conservation.

Mr. LUND (Norway) stressed the fact that the present system of international regulation on conservation was a regional system; from a technical point of view, that seemed the best way to handle the question in the future. The desire expressed by all delegations at the Conference to co-operate in conservation measures offered very good prospects that it would prove possible to obtain the co-operation of all nations fishing in a given area in connexion with conservation measures therein.

He went on to quote the final sentence of paragraph 100 of the report of the International Law Commission covering the work of its fifth session (A/2456), in which emphasis was laid on the "imperfect" legal obligation resting on all States to discourage any action likely to lead to depletion of a natural resource in their area.

With regard to the International Law Commission's proposal for an international body with regulatory powers, it would be very difficult to create such a body with sufficient scientific ability and the necessary authority to solve problems of regulation throughout the whole world. If the interested nations could not agree on the necessity for conservation measures and the nature of such measures, it appeared technically almost impossible for an international independent body to take a decision on such matters.

In 1928, replying to a question put by the League of Nations as to whether, under what conditions, in respect of what species and in what regions an international protection of the fauna of the sea might be established, the International Council for the Exploration of the Sea had stated, inter alia, that the problem was not one which lent itself to treatment by means of an international convention of general application and that fishery problems were so localized as to be of interest only to those nations whose fishermen had access to the localities and fisheries concerned and, if and when the necessity for regulation of any of the local fisheries did arise, it would be a matter for agreement between the nations interested and between them alone.

An international body might, however, play a useful part as a disseminator of information and might assist and guide the nations concerned in their efforts for collaboration.

The parties to a convention could, of course, always agree by inserting a clause in the convention to leave decisions on conservation questions to an international, neutral, mediation or arbitration body.



With regard to the principle of abstention, there was no need for any confirmation by international law as to the right of nations to agree upon abstention and conclude a convention providing for such a measure. If, however, the principle was to be understood as meaning that States not parties to such a convention should abstain, then the principle was one of a legal character and outside the scope of the present Conference.

The same remark applied to the special interests of the coastal State in cases where that interest had been taken care of by a special convention, but that special interest did not confer any rights as against States not parties to the convention. Any further special rights of coastal States were a legal matter outside the scope of the present Conference.

The Norwegian representative also felt that the problems of enforcement was a matter for treatment through regional conventions and that for the time being it was not one to be solved by new principles of international law.

Mr. ANDERSON (Iceland) stressed that the Conference was not competent to express its opinion on the extent of the territorial sea or that of the jurisdiction of the coastal State over fisheries. He recalled that in the North-West Atlantic Fisheries Convention it was stated, "Nothing in this convention shall be deemed to affect adversely (prejudice) the view of any of the Contracting Governments as to the extent of territorial waters or the jurisdiction of a coastal State over fisheries. An identical provision was to be found in the North Pacific Fisheries Convention, and it was clear from the resolution convening the present Conference that a similar view should be expressed by the Conference.

If the Conference should simply refer to international regulation of the living resources of the high seas, the International Law Commission might take that as an indication that the area in question was the entire body of water beyond the territorial sea. That would be highly misleading since the question of coastal jurisdiction over fisheries was not necessarily identical with the question of the territorial sea, the latter being concerned with numerous other aspects of sovereignty. If the territorial sea was very limited by reason of those other aspects, it might be possible to recognize an additional contiguous zone for fisheries conservation. Hence to refer only to "territorial sea" and "international regulation" might be misleading.

He therefore proposed that the following paragraph be inserted in the appropriate part of the report of the Conference:

"It was the consensus of the Conference that it was not competent to express any opinion as to the appropriate extent of the territorial sea or the extent of the jurisdiction of the coastal State over fisheries".

Mrs. RATUSZNIK (Poland) said that the Polish delegation objected on principle to the Conference's discussing problems of international law, and in particular the draft articles covering the basic aspects of the international regulation of fisheries adopted by the International Law Commission at its fifth session (A/2456).

As, however, despite the terms of General Assembly Resolution 798 (VIII), discussion of that point had been allowed, the Polish delegation was constrained to state its view on the problems involved.

It believed that international practice over a long period of years had proved that agreements - which might be multilateral agreements - between the States concerned offered a satisfactory and effective method of fisheries regulation. It was a method that took into account the specific conditions of the various fishing regions. Efforts therefore should be made to conclude new conventions, covering all States concerned in sea fishing and the conservation of the resources of the sea in all areas.

The International Law Commission should have confined itself to establishing certain general principles connected with high seas fisheries as practised by the various States. Those principles must, of course, be fully in accord with the principles universally recognized and adopted in international law, viz. - respect for the sovereignty of States and the freedom of the sea. In the three articles of its draft on high seas fishery, the Commission had gone too far and departed from the principles mentioned. The proposal in the Commission's draft for a supranational "international authority" with powers of compulsory arbitration at the request of one of the contracting parties was obviously at variance with the principle of State sovereignty, and the only possible method of settling inter-State disputes in conformity with that principle was that laid down in article 33 of the Charter of the United Nations.

States could and should establish by mutual agreement high-seas fishery regulations which, while ensuring respect for the principle of the freedom of the seas, would prevent the destruction of the riches of the sea. Experience had shown that such agreements were appropriate and effective and that valuable



work could be done by advisory scientific institutions like the International Council for the Exploration of the Sea. Those were the only means whereby the problem of conserving the living resources of the sea could be solved in a manner both practicable and acceptable by States.

Mr. GARCIA-AMADOR (Cuba), Deputy Chairman, regretted that some delegations had embarked upon detailed analyses of articles of the International Law Commission, and hoped the proposals submitted to the Conference would not include any specific reference to those articles. The Conference could prepare, but could not perform, the Law Commission's work.

Speaking further on the work of the Conference, he stressed the fact that items 12 and 13 of the agenda, both of which dealt with measures and procedures, were closely linked and could not be taken separately.

The French representative's recommendation for the creation of a higher scientific and technical authority on matters of conservation, and the recommendation in paragraph 3 of the Cuban-Mexican document (A/CONF.10/GC.1) that the principle of international co-operation should form the basis for the formulation and application of conservation programmes, could both be discussed in connexion with item 13.

It was also important to discuss what recommendations the Conference could make to the International Law Commission on the question of the conservation measures to be taken until such time as an appropriate international principle or body had been established. There was nothing under existing conditions to stop a coastal State from taking any measures it might deem fit. The recommendations contained in paragraph 5 of the Cuban-Mexican document were intended to draw the attention of the Commission to the position of coastal States where no international agreements existed. In suggesting certain limitations to the conservation methods applied by coastal States (that they should only be applied where imperative for scientific and technical reasons and that they should not be discriminatory in character), those recommendations attempted to face up to reality and to achieve a balance between the two main existing tendencies of conservation, i.e. conservation by international agreement or by direct action on the part of coastal States.

The CHAIRMAN proposed that the Conference should authorize the General Committee to prepare a draft report on item 13 of the agenda.

It was so agreed.

The meeting rose at 6.15 p.m.