

UNITED NATIONS

GENERAL UN LIBRARY

ASSEMBLY

OCT 26 1955
UN/SA COLLEC



Distr.
LIMITED

A/CONF.10/SR.22
29 September 1955

ORIGINAL: ENGLISH

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

SUMMARY RECORD OF THE TWENTY-SECOND MEETING
held on 9 May 1955 at 11 a.m.

CONTENTS

Report of the General Committee on the consensus
of the Conference on Item 12(b) and (c) of the
Agenda (A/CONF.10/L.36, L.37 and L.39)

CHAIRMAN: Mr. SUNNANAA (Norway), replaced later by
Mr. ANDERSON (Australia), Vice-Chairman

55-21798

(9 p.)

REPORT OF THE GENERAL COMMITTEE ON THE CONSENSUS OF THE CONFERENCE ON ITEMS 12(b) AND (c) OF THE AGENDA (A/CONF.10/L.36, L.37 AND L.39)

The CHAIRMAN pointed out that the heading of Section I should read "PROBLEM OF THE COASTAL STATES - EXTENT OF INTEREST AND RESPONSIBILITY".

As the Spanish translation of the General Committee's report had only just been circulated and the delegations concerned had not had time to consider the report, it was agreed to suspend the meeting until 4 p.m.

The meeting was suspended at 11.15 a.m. and resumed at 4.p.m.

The Chairman of the Conference being indisposed and the Deputy Chairman absent from Rome for the current session of the International Law Commission, the Chair was taken, in accordance with Rule 7 of the Rules of Procedure, by Mr. Anderson (Australia), Vice-Chairman of the Conference.

The ACTING CHAIRMAN called for comments on document A/CONF.10/L.36.

Mr. ARIAS-SCHREIBER (Peru) moved that the Conference reject document A/CONF.10/L.36 as being outside its competence. He requested that in accordance with the Rules of Procedure priority should be given to the previous question of competence.

The document contained numerous references to legal questions and many of its paragraphs affected vital principles of international law. At its twenty-first meeting the Conference had adopted a resolution refusing to consider the Cuban-Mexican proposal (A/CONF.10/GC.1/Rev.1) on the grounds that any reference to the rights of the coastal State in the matter of conservation regulations implied an incursion into the field of international law. That decision of the Conference had been adopted against the vote of twenty delegations, including that of Peru. His delegation felt that in view of that vote, the Conference could not consider a document which expressed an opinion on the applicability of existing treaty measures to conservation problems. Such an examination would undoubtedly imply recommendations of a legal nature.

For example, paragraph 5 of the document suggested that fishery conservation measures provided for by treaties drawn up between non-coastal States constituted a valid general system to which a coastal State would merely be invited to accede. Paragraph 6 was tantamount to an injunction to the States to take part in conventions, while paragraph 7 went even further and defined in detail the rights and duties of member countries and the authority of Commissions.

Again, paragraph 13 classified disagreements arising in bodies set up to co-ordinate and direct conservation measures under three general headings, the first of which read "(a) concerning questions of a legal or juridical nature", and paragraph 14 laid down that such problems could be handled "in the

first instance through diplomatic channels and then if necessary by recourse to existing international juridical procedures".

Should the Conference adopt the General Committee's report, those and other conclusions contained in it would appear as the consensus of the Conference on matters which were definitely of a legal nature.

The Conference, therefore, must necessarily recognize that it had no competence to deal with a document containing such legal recommendations, which moreover implied that the conservation measures to be adopted were those agreed upon in existing conventions by the important fishing States.

Mr. DIAZ DE ESPADA (Spain) said that the Spanish delegation was in full agreement with and would support the General Committee's report (A/CONF.10/L.36). Indeed, it would have liked to go further and suggest a more definite system of arbitration.

Mr. ECHEVERRI-HERRERA (Colombia) thought that paragraph 2 of the report suggested that the special interest of the coastal State was regarded by the General Committee as being a matter that was still in doubt. The position, however, was, firstly, that in connexion with items 9 and 10 of the agenda the Conference had voted in favour of a resolution acknowledging the interest of the coastal State, and, secondly, that in connexion with item 12 it had declared itself incompetent to examine a resolution with regard to the special interest of that State. Clearly, therefore, the special interest of the coastal State was not a controversial matter where items 9 and 10 were concerned, whereas the conference's refusal to examine that interest in connexion with item 12 showed that the question had not been decided one way or the other.

In conclusion, he supported the Peruvian representative's view that the Conference should disclaim its competence to deal with the report, the terminology of which was ambiguous and confused, on the ground that many of its paragraphs were not merely descriptive but contained by implication a series of suggestions and proposals of a legal character.

Mr. HERRINGTON (United States of America) held that, while under its terms of reference as laid down in the General Assembly Resolution 900(IX), the Conference was precluded from dealing with the problems relating to the "related questions", viz: the high seas, territorial waters, contiguous zones, the continental shelf and the superjacent waters, it was not precluded from discussing procedures for attaining international co-operation in the field of conservation.

In reply to a question by Mr. ARIAS-SCHREIBER (Peru), he said that the reference in the last part of paragraph 18 of the General Committee's report to recommendations to abstain from fishing was merely an analysis of existing conventions and did not constitute a recommendation for the future.

Mr. ARIAS-SCHREIBER (Peru) pointed out that in the Spanish version paragraph 18 employed the future tense.

Mr. ECHEVERRI-HERRERA (Colombia) supported the Peruvian representative's observation concerning the Spanish text of paragraph 18 which definitely suggested a recommendation for future action.

Mr. DIAZ DE ESPADA (Spain) said that paragraph 18 should be regarded as a quotation; in the Spanish language a quotation could be in the future tense.

The ACTING CHAIRMAN announced that a new document which was then being circulated to representatives, (A/CONF.10/L.37), contained the General Committee's general conclusions and recommendations on items 12 and 13 of the agenda. Document A/CONF.10/L.36 only contained factual material and dealt with conservation problems and existing procedures for dealing with them.

Mr. ARIAS-SCHREIBER (Peru) considered that the statement made in the second sentence of paragraph 10 of document A/CONF.10/L.36 implied that conservation management was a matter for those States engaged in "substantial" exploitation. By adopting a report containing that statement, the Conference would be virtually suggesting to the International Law Commission that the coastal State should be relegated to a secondary role and that the great fishing nations should exclusively regulate conservation. He could not see how a passage such as that could be described as a statement of existing fact.

Mr. HERRINGTON (United States of America) pointed out that the passage in question simply stated that experience had shown the participation of States engaged in substantial exploitation to be necessary. That did not by any means exclude other States from participation.

Mr. CHOPRA (India) thought that the Conference was fully competent to discuss coastal waters or the high seas and therefore that document A/CONF.10/L.36 lay well within its terms of reference. Mr. ECHEVERRI-HERRERA (Colombia) suggested that report A/CONF.10/L.36 should be voted paragraph by paragraph, in order to avoid possible misunderstandings which might arise if a vote were to be taken on the competence of the Conference with regard to the document as a whole.

Mr. ARIAS-SCHREIBER (Peru) regretted that he could not fall in with the Colombian representative's request. The document constituted an inseparable whole, since every paragraph in it was based on the assumption that high seas fisheries were to be regulated by the important fishing States and not by the coastal States.

In reply to an observation by Mr. ALLOY (France), the ACTING CHAIRMAN invited the Conference to vote on the previous question, raised by the Peruvian notion, whether the Conference was competent to discuss document A/CONF.10/L.36.

Upon a vote being taken by roll-call on the Peruvian motion, the delegations voted as follows:

For: Brazil, Chile, Cuba, Ecuador, Korea, Paraguay, Peru, Uruguay

Against: Australia, Canada, China, Denmark, Egypt, France, German Federal Republic, Iceland, India, Israel, Italy, Japan, Monaco, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States of America

Abstentions: Argentina, Colombia, Guatemala, Honduras, Indonesia, Nicaragua, Panama, Yugoslavia.

The motion was accordingly defeated by 24 votes to 8, with 8 abstentions.

Mr. ANDERSEN (Iceland) explained that his delegation had voted against that Peruvian motion because it regarded document A/CONF.10/L.36 as embodying a factual description.

The ACTING CHAIRMAN invited the Conference to resume consideration of the substance of document A/CONF.10/L.36.

Mr. LIU (China) said that as the seas of China, especially part of Taiwan Strait, had already shown signs of overfishing, conservation of the bottom fishes, such as breams, croakers, lizard fishes, etc., in that area was necessary. The Chinese delegation proposed that that point be taken into consideration in paragraphs 25 and 29 of document A/CONF.10/L.36.

Mr. FUJINAGA (Japan) said that, although his country was fully prepared to exchange scientific information with the Chinese Government, he could not agree that signs of overfishing were apparent in the areas mentioned by the Chinese representative.

The ACTING CHAIRMAN pointed out that the report did not pretend to give a complete list of the fisheries requiring conservation programmes. Only those fisheries in respect of which the nations concerned were agreed upon the need for conservation measures were to be included. Accordingly, the Chinese representative's proposal could not be accepted.

Mr. OZERE (Canada) said that paragraphs 19-21 should be deleted as they were not in accordance with fact. The case mentioned in paragraph 19 was properly covered by paragraphs 16, 17 and 18.

Mr. BRAJKOVIC (Yugoslavia) said that in view of the continued overfishing found in parts of the Mediterranean he was unable to understand the omission of any reference to that point in the document before the Conference.

There was scientific, statistical evidence of the facts which his delegation would be glad to supply, but, to obviate a discussion beyond the scope of the present meeting, he would confine himself to mentioning a recommendation made by the General Fisheries Council for the Mediterranean at its 1952 session that member States should take such action as would allow the sea-bed of the continental shelf to rest and, to that end, should prohibit trawling during the months when the fry was growing up, and the same Council's resolution of October 1954 which showed that intensive trawling had long been practised in the Mediterranean and called for speedy and energetic remedies. To include in the text under discussions reference to trawling by certain fisheries in that sea would only be to register the relevant facts.

Mr. D'ANCONA (Italy) states that for the reason given by the Acting Chairman in connexion with the similar proposal just made by the Chinese representative he was unable to accept the Yugoslav representative's proposal.

The ACTING CHAIRMAN proposed that the General Committee's report (A/CONF.10/L.36) be considered paragraph by paragraph.

Paragraph 1

No comments.

Paragraph 2

Mr. ECHEVERRI-HERRERA (Colombia) proposed that in the fourth line, after the word "proposal", the following words be inserted: "which had already been approved by the plenary assembly in connexion with item 9 of the agenda."

That proposal was seconded by Rear-Admiral LLOSA (Peru), Mr. VILLA (Argentina) and Mr. PONCE Y CARBO (Ecuador).

Mr. DIAZ DE ESPADA (Spain) concurring.

Mr. RAMALHO (Portugal) considered that addition unnecessary. If it were approved, however, the details of the vote should be mentioned.

In reply to Mr. FUJINAGA (Japan), the EXECUTIVE SECRETARY said that the summary records, which contained a full account of representatives' views of the proposal, would form part of the final documentation of the Conference.

The Colombian proposal, as amended by the Portuguese representative, was adopted.

At the suggestion of Mr. HERRINGTON (United States of America), it was agreed further that the terms of the proposal to which the Colombian proposal referred should be quoted in paragraph 2.

Paragraph 3

Adopted.

Paragraph 4

Rear-Admiral LLOSA (Peru) proposed to introduce after paragraph 4 a new paragraph reading:

"In the Plenary Meeting of 7 May a proposal establishing the situation of the coastal State was presented by the delegations of Cuba and Mexico. On that occasion the Conference declared itself incompetent, by 21 votes to 20 with 3 abstentions, to deal with this proposal on the ground that it covered problems of international law and thus came under the motion as to incompetence put forward by the Norwegian delegation".

Mr. OZERE (Canada) suggested that it would be better to refer to the summary record on the vote in question.

Rear-Admiral LLOSA (Peru) would prefer a statement in the report on the lines he had proposed. There could be no objection to mentioning something which had actually happened. The question was probably the most important of all those discussed by the Conference.

The representatives of MEXICO, INDIA, INDONESIA, CHILE and BRAZIL supported the Peruvian proposal.

Mr. HERRINGTON (United States of America) had no objection to the proposal, but considered that, if any reference were made to the voting on the Norwegian motion, that motion should also be reproduced in full in the report.

Mr. ROLLEFSEN (Norway) supported that suggestion, but added that the report should also include the Cuban-Mexican text.

Rear-Admiral LLOSA (Peru) accepted that suggestion, but remarked that his summary of the proposal was contained in six lines. The Cuban-Mexican document was too long to be included in the report.

Mr. HERRINGTON (United States of America) submitted the following amended version of the additional paragraph proposed by the Peruvian delegation:

"In the Plenary Meeting of 7 May a proposal establishing the situation of the coastal State was presented by the delegations of Cuba and Mexico. The Conference on this occasion declared itself incompetent by a vote of 21 for and 20 against, with 3 abstentions, to deal with this proposal. This vote was taken on the following motion by Norway that the Cuban-Mexican proposal (Document A/CONF.10/GC.1/Rev.1) was outside the scope of the Conference".

Rear-Admiral LLOSA (Peru), while seeing no need for any amendment of his text, was prepared in a spirit of conciliation to accept Mr. Herrington's modified version.

Mr. PONCE Y CARBO (Ecuador) fully supported the amended proposal and suggested that for the sake of clarity the word "establishing" should be replaced by "concerning".

The paragraph proposed by the Peruvian delegation, as amended by the United States and Ecuadorian representatives, was adopted.

Mr. ARIAS-SCHREIBER (Peru) explained that had a formal vote been taken on document A/CONF.10/L.36 he would have abstained from voting because in some respects the report went beyond the Conference's terms of reference. In any case, his delegation reserved its position with regard to the primacy of Peruvian national law on the living resources of the sea and to the international agreements to which Peru had acceded.

Paragraphs 5-18

Adopted with a few textual amendments.

Paragraphs 19, 20 and 21

Mr. OZERE (Canada) considered that paragraph 19 was not only redundant, being already covered in paragraphs 16, 17 and 18, but failed to bring out certain distinctions which had been drawn in the discussions. It might therefore be deleted.

Mr. CHOPRA (India) and Mr. TSURUOKA (Japan) agreed with the Canadian representative's observation, Mr. Tsuruoka adding that no opinion of a legal character expressed at the Conference could be regarded as binding on the countries affected by it.

The ACTING CHAIRMAN suggested that time might be saved if any delegations having proposals bearing on paragraph 19 would discuss them with Drafting Sub-Committee III.

That suggestion was adopted.

Paragraphs 22, 23, 24, 25, 26 and 27

Adopted.

Paragraph 28

Mr. BRAJKOVIC (Yugoslavia) said that, in accordance with the agreement reached earlier in a spirit of conciliation with the Italian delegation, he was prepared to accept the deletion of the specific reference to the Mediterranean.

Mr. D'ANCONA (Italy) expressed his delegation's appreciation of the Yugoslav representative's gesture.

In response to a suggestion by the ACTING CHAIRMAN, Mr. CIEGLEWICZ (Poland) agreed to the omission of the reference to the Baltic.

Paragraph 28, with the deletion of the bracketed phrase: "(as, for example, in some parts of the Mediterranean and the Baltic)" was adopted.

Paragraph 29

Adopted.

Mr. ANDERSEN (Iceland) felt that the draft statement submitted by his delegation for inclusion in the report on items 12 and 13 (A/CONF.10/L.39), required no comment. He would welcome guidance from the Chair as to whether it should be inserted in document A/CONF.10/L.36 or in the conclusions of the Conference.

After some discussion in which Mr. ECHEVERRI-HERRERA (Colombia), Mr. PONCE Y CARBO (Ecuador) and Mr. OZERE (Canada) took part, the Icelandic draft statement was adopted, the decision as to the most appropriate place for its insertion being left to the discretion of the Secretariat.

Mr. PONCE Y CARBO (Ecuador) stated that his delegation had approved the General Committee's Report (A/CONF.10/L.36) on the express understanding that it was an exclusively descriptive document, and that, in accordance with the assurance given by the Chairman of Drafting Sub-Committee III and by the Chairman of the Conference, it stated the different views put forward in the Conference without making any kind of recommendations. His delegation's approval of the report was also subject to the reservation that it did not conflict with any of the relevant constitutional and legal dispositions of Ecuador or affect the inalienable rights of the coastal State and its maritime resources.

The meeting rose at 7.40 p.m.