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

SUMMARY RECORD OF THE NINETEENTH MEETING  
held on 5 May 1955 at 4.00 p.m.

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CHAIRMAN: Mr. SUNNANAA (Norway)

55-21789

(12 p.)

1. REPORT OF THE CREDENTIALS COMMITTEE (A/CONF.10/L.27)

Mr. CASTAÑEDA (Mexico), Chairman of the Credentials Committee, introducing the Credentials Committee's report (A/CONF.10/L.27), drew attention to the fact, mentioned in paragraph 6, that some representatives' credentials had been addressed to FAO instead of to the United Nations. The error had not been considered important enough to invalidate them, but it was thought desirable to place it on record for the information of the government authorities concerned. With reference to paragraph 5, he stated that the Polish delegation had reserved its position with regard to the representation of China, although, as it had not submitted a formal objection to China's credentials, its reservation had not given rise to a decision by the Committee.

The report of the Credentials Committee was adopted.

Mr. BABAIAN (Union of Soviet Socialist Republics) explained that the Soviet Union delegation had voted for the adoption of the report of the Credentials Committee subject to the following reservations. Firstly, the Soviet Union delegation's vote did not mean that it recognized the credentials of the Kuomintang representative. His delegation reiterated its view that China could only be represented at the Conference by a representative appointed by the Central Government of the Peoples' Republic of China. Secondly, the Soviet Union vote did not mean that his delegation recognized the credentials of the West German and South Korean delegations as empowering them to represent the whole of Germany or the whole of Korea.

Mr. WEI (China) pointed out that the representation of China had been definitely settled by the plenary Conference by a majority vote of 34 to 4, with 1 abstention (see A/CONF.10/SR.2). He hoped that the Polish and the USSR reservations would therefore be ruled out of order. Otherwise he wished his own remarks to go on record.

Mrs. RATUSZNIAK (Poland) said that although the Credentials Committee had found the credentials of the Kuomintang representative in order, the Polish delegation was still of the opinion that he could not be accepted as the lawful representative of the Chinese people; nor could the representatives of Western Germany and South Korea be regarded as representatives of the whole of Germany or the whole of Korea.

Mr. CHOPRA (India) recalled that his Government did not recognize Formosa as the legal Government of China.

Mr. HAN (Republic of Korea) had hoped that the limited time at the Conference's disposal would be used for the consideration of the important human problems before it. He rejected the Soviet delegation's reference to Korea and hoped that its remarks and those of the Polish delegation would be ruled out of order and not recorded. Otherwise, he would request that his own remarks should go on record.

Mr. BRAJKOVIC (Yugoslavia) reserved his delegation's position with regard to the Kuomintang representation.

Mr. HERRINGTON (United States of America) hoped the Conference would record that such reservations served no useful purpose. His delegation fully accepted the Credentials Committee's report.

Mr. WALL (United Kingdom) concurred in the United States representative's attitude and approved the report.

2. REPORTS OF THE GENERAL COMMITTEE ON THE CONSENSUS OF THE CONFERENCE ON ITEMS 9, 10 AND 11 OF THE AGENDA (A/CONF.10/L.28 and Add.1/Rev.1, L.29 and L.30, A/CONF.10/GC.1)

Mr. KASK (Canada) presenting the General Committee's report on the consensus of the Conference on item 9 of the agenda (A/CONF.10/L.28) said that Drafting Sub-Committee I had worked under rigid terms of reference. It could discuss only the "objectives of conservation", not the possible means of achieving them, such as international co-operation, the rights or specific interests of fishing countries or coastal States and so forth, which, if deserving consideration, should be dealt with elsewhere. The text before the Conference was the result of a serious effort to take into account the many views that had been put forward; it also embodied the relevant rich material contained in the background papers and the discussions on them.

Mr. GARCIA-AMADOR (Cuba), Deputy Chairman, expressed his delegation's agreement with paragraphs 1 and 2 of the report on item 9. Paragraph 1 embodied the principles contained in the first paragraph of the working paper submitted by the Cuban and Mexican delegations (A/CONF.10/GC.1) as a basis for discussion to the three Drafting Sub-Committees. Paragraph 3, however, though unobjectionable in that it formulated the scientific and technical aims of conservation, omitted its social and economic aim. For whom was the maximum sustainable yield to be obtained? As he had repeatedly stated, the social and economic aspects of conservation were fundamental and were indeed the only aspects of interest to the International Law Commission which the Conference had been convened to assist. The Mexican and Cuban working paper mentioned those aims in general terms at the beginning of paragraph 2 ("in a form useful to mankind") and more explicitly in the second part of that paragraph. From that text the International Law Commission would conclude, firstly that conservation aimed at obtaining a yield that would prove useful to humanity, and, secondly that that general principle could be qualified. The Commission could then evaluate the respective needs of humanity in general, and of the coastal States in particular.

Paragraph 2 of the working paper having been rejected by a small majority in the General Committee on the previous day, an amendment to the General Committee's report on Item 9 had since been submitted by the delegations of Cuba, Mexico and Peru (A/CONF.10/L.28/Add.1/Rev.1). He suggested that in order to make it consistent with the text of the report the following words should be inserted at the end of the first sentence in paragraph 3, i.e. before the amendment: "in a form useful to mankind".

Mr. CASTAÑEDA (Mexico), referring to the amendment contained in document A/CONF.10/L.28/Add.1/Rev.1, said that his delegation had originally proposed the addition at the end of paragraph 3 of the whole second half of paragraph 2 of the Cuban-Mexican working paper. That proposal, having been rejected by the General Committee with a very small majority, had now been re-submitted to the plenary Conference, but with the suppression of the second sentence. Far from being outside the terms of reference of the Conference, the amendment fulfilled the Conference's principal aim, which was to deal with problems created by the different positions of the States engaged in fisheries.

It was the fishing Powers (the United Kingdom, Netherlands, United States, etc.) who had first thought of the present Conference, and they had originally proposed that it should have an extensive scope. He himself, as Mexican representative, had spoken for the Latin countries at the General Assembly, when they had proposed that the scope of the Conference should be restricted, and he could therefore claim to know their intentions in doing so.

Many social aspects of conservation had been dealt with by the Conference, but it was only when the question of coastal countries came up that the Conference was found incompetent to treat them. He fully agreed with the three criteria proposed by Mr. Herrington in the General Committee for reaching a decision on that question and would examine the proposed amendment in the light of all three. The answer to the first of Mr. Herrington's questions, "Did the amendment deal with problems of international conservation?", was that the problems of coastal States could not be dealt with by regional agreements or by unilateral measures. The answer to the second, "Did problems of coastal States prejudice the related problems awaiting consideration by the General Assembly?", was that those problems were not in any way related to the problems before the General Assembly which were concerned with territorial waters, the continental shelf, and the high seas.



The reply to the third question, "Were such problems of a scientific and technical, or of a legal character?", was that the amendment did not propose to establish the rights of coastal States, but merely to request that their special position should be taken into account. All the subjects under item 12 of the agenda had legal implications, as their headings showed. Indeed it was impossible to elude the legal implications of any decision taken by the Conference which was bound to refer to past legislation.

Finally, the principle of abstention, referred to in earlier discussions, dealt with the distribution of power between various categories of State and was certainly a legal question. He hoped that the proposal, which the General Committee had considered should be examined under item 12 rather than under item 9 would not be deferred indefinitely, and he recommended it to the sympathetic consideration of the Conference.

Mr. ROLLIFSEN (Norway) said that, apart from the question of the Conference's terms of reference, it seemed not only unnecessary but also inadequate to mention the interests of any special group of States in connexion with item 9 of the agenda. The purpose of the three paragraphs in document A/CONF.10/L.28 was to serve as a preamble to the Conference's report and to explain what was meant by the conservation of the living resources of the sea. They were intended to explain when conservation measures were necessary, the basic means by which conservation could be effected and its immediate and ultimate purpose. They should therefore contain only general ideas on which there was general agreement. If the interests of a certain group of States were introduced, the theme would no longer be purely biological and he felt it would be wrong to introduce non-biological issues into the report on item 9. The fisheries scientist, whatever country he belonged to, should be concerned only with finding out the cause for a decline in fisheries and pointing to the right remedy. If governments found it necessary to take account of social or economic issues, that had nothing to do with fisheries biology. In his view, the three paragraphs in document A/CONF.10/L.28 should serve as guiding rules for future fisheries scientists and the Conference should not make their task more difficult by adding principles which were not purely scientific. He therefore supported the text as it stood without any amendment.

Mr. ARIAS-SCHREIBER (Peru) said that he would not repeat the arguments already advanced by the representatives of Cuba and Mexico. Adoption of the amendment would not mean creating in favour of the amendment a monopoly for the coastal States or granting them any basic rights; it would merely recognize their special interests in maintaining the productivity of the resources of the high seas near to their coasts. Moreover, the amendment did not introduce a legal issue and was perfectly within the Conference's terms of reference, since it only stated that the special interests of coastal States should be taken into account and was in fact just an expansion of what was already stated in paragraph 2 of document A/CONF.10/L.28. He therefore urged delegations to support the amendment.

The CHAIRMAN said that he had eleven more speakers on his list and proposed accordingly that statements should be limited to five minutes.

It was so agreed.

Mr. HERRINGTON (United States of America) could agree with much of what the Cuban and Mexican representatives had said. However, since his attempt to reconcile the opposing views in the General Committee had failed, his delegation would have to return to its original view that it was inappropriate to introduce social and economic concepts into the definition of the objectives of fishery conservation. The reasons for that attitude had already been clearly given by the Norwegian representative. Accordingly, he would have to vote against the amendment, although that did not mean that his delegation believed the coastal States to have no special interests.

Mr. CHOPRA (India) warmly supported the amendment (A/CONF.10/L.28/Add.1/Rev.1). He would have preferred the idea contained in the amendment to be inserted, in connexion with items 12 and 13 of the agenda, but since the question of competence had arisen, he would support the amendment as it stood because he believed it to be well within the Conference's terms of reference.

Mr. TSURUOKA (Japan) associated himself with the statements made by the representatives of Norway and the United States, and regretted that he could not support the amendment. If the special interests of one group of States were mentioned the inference might be discriminatory against other States. Furthermore the amendment raised issues which had not been sufficiently debated for inclusion in the Conference's report.

Mr. HERNANDEZ (Chile) fully supported the amendment and emphasized that its inclusion was of vital importance to the coastal States, since they would always be the most concerned in maintaining the productivity of the resources of the high seas near to their coasts.

Mr. WALL (United Kingdom) endorsed the Norwegian representative's views. In his opinion, all States engaged in a fishery had an equal interest in the scientific objectives referred to in item 9 of the agenda. To attempt to distinguish between the special interests of one type of State, with the inference that others had a lesser interest, would be to introduce extraneous factors of an economic and social character, which had no place in a scientific item, although they might have their proper place elsewhere in the agenda. Moreover, it was important to be clear about the meaning of the amendment. A conservation programme might regulate the kind of fishing gear to be used or the maximum catch that could be made and he wondered where the special interest of a particular kind of State would come into such questions. He asked whether the amendment was meant to imply that the coastal State should be given greater freedom in the use of fishing gear than other States, or that it was to have a larger share in the division of the permitted catch. It would be helpful if the sponsors of the amendment could explain exactly what effect it would have on a conservation programme.

Mr. LUND (Norway) said that, according to the records of the United Nations, the sponsors of the Conference had intended that it should consider whether the principles proposed by the International Law Commission were technically adequate and administratively practicable. But the sponsors' draft had been amended on the basis of a joint proposal by Chile, Columbia, Costa Rica, Salvador, Ecuador, Mexico, Peru and Uruguay, to which the Sixth Committee of the 1954 General Assembly appeared to refer when stating: "Other nations, while in favour of a technical conference, stated, however, that the principle of the unity of the general regime of the sea should be respected and maintained. They also pointed out that it would be dangerous for this conference to consider the principles concerning fisheries proposed by the International Law Commission".

The amendment adopted at the request of those Latin American States introduced into the final text of the preamble of Resolution 900 (IX) the reference to the fact that the International Law Commission had not yet concluded its study of related questions, as well as the two new paragraphs of the preamble recalling Resolution 798 (VIII) of 7 December 1953, and stating that technical studies on conservation were closely linked to the solution of the "related problems".

From those facts it would appear that the main point of Resolution 900 (IX) was, in so far as the jurisdiction of the Conference was concerned, that it should not prejudice any of the related problems awaiting consideration by the General Assembly, and more particularly the régime of the territorial sea and that of the high seas.

In his opinion, any resolution of the Conference suggesting some form of priority in favour of any State whether coastal or not would prejudice problems awaiting consideration by the General Assembly, inasmuch as the special interests of coastal States regarding fishery conservation fell within the topics of the régime of the territorial sea and that of the high seas.

Mr. BILINSKI (Poland) said that, although his country was itself a coastal State, he agreed with the Norwegian representative that the question of the special interests of coastal States was not within the Conference's terms of reference. He would therefore vote against the amendment.

Mr. PONCE Y CARBO (Ecuador) said he had been most impressed by the plea for truth and sincerity made at an earlier meeting by the Norwegian representative and he wished now to take it up on his own behalf. Paragraph 3 of document A/CONF.10/L.28 did not meet the requirement of truth, for although the first part was true it was not the whole truth and a most vital point had been omitted. In order to give a completely true picture, it was essential to mention the welfare of mankind as the prime objective of conservation programmes. The text as it stood could be taken to mean that the programmes were for the benefit of the fish and it was therefore essential to adopt an amendment. Once the reference to the welfare of mankind had been included, it would then be only natural to refer to the special interests of the coastal State whose population depended for their food upon the resources of the sea.

It was impossible to draw a rigid distinction between technical and scientific problems on the one hand and legal questions on the other. For, after all, science was not pursued for its own sake but for the service of mankind, and law too did not operate in a vacuum but was in fact concerned with the relations between men. The Conference was dealing with relations between nations and between men and consequently with legal relations. It could not therefore be argued that the question of coastal States was outside the Conference's terms of reference.

The inclusion of a reference to the interests of coastal States would not give them any special privilege or involve any discrimination against other States. The matter was of the utmost importance and he could not believe that the Conference could be so unjust as to reject the amendment.

Mr. PETREN (Sweden) regretted that he could not agree with the Cuban and Mexican representatives' interpretation of the Conference's terms of reference. General Assembly Resolution 900(IX) stated that the Conference should not prejudge "the related problems awaiting consideration by the General Assembly" and the question of the special interests of coastal States was one of those problems. He would therefore be obliged to vote against the amendment.

Mr. BRAJKOVIC (Yugoslavia) felt that the Conference should not confine itself to problems which were of special interest to countries in general engaged in fishing on the high seas, but that it should emphasize from the outset the special interests of coastal States. In his view, the problems of the conservation of the living resources of the sea included not only scientific and technical questions but also economic and social ones. Consequently recommendations concerning the position of coastal States did not involve legal definitions but would rather serve as a basis for the establishment of such definitions at a later stage. There was therefore no conflict between the amendment proposed and the Conference's terms of reference and his delegation would support the amendment.

Mr. HAN (Korea) considered that it was perfectly within the Conference's terms of reference to take account of the special interests of coastal States. His delegation would therefore support the amendment.

Mr. PEDROSA (Spain) maintained the views he had already expressed in the General Committee, viz:- (1) that it was not consonant with the scientific nature of the Conference, and consequently with the resolution of the General Assembly of the United Nations, to make a distinction between coastal States and non-coastal States; (2) that the consideration of economic and social factors was outside the scope of the Conference; (3) that in any case, if economic and social factors were considered, all States should be taken into account, whatever their geographical position; (4) that the factors referred to in the amendment were important and he would not hesitate to recommend the calling of another conference, with wider terms of reference, to discuss them; (5) that a logical conclusion should be reached on the basis of the fact that fishing was a legitimate occupation in which all countries were free to engage on the high seas for the common benefit of mankind; (6) that in spite of his delegation's sympathy with the views of others, it held that freedom of the high seas should prevail.



Mr. CATO (Costa Rica) said that States were entitled to attach special importance to the waters adjacent to their territories, and he supported the proposed Chilean, Cuban and Peruvian amendment.

Mr. ECHEVERRI-HERRERA (Colombia) said that, while the Conference was not responsible for settling juridical problems, such problems should be defined prior to their consideration by the International Law Commission when that body was examining fisheries regulations and related subjects. A special reference to the position of the coastal States, in defining the objectives of conserving the living resources of the sea, as had been proposed, would not, however, alter the nature or the aims of the present Conference for that proposal would not include any notion of regulation but merely of definition. For that reason his delegation was not opposed to the amendment proposed by Cuba and Mexico to paragraph 30 of the report of Sub-Committee I on agenda item 9. For the same reason his delegation also asked that the text of the report of Committee I, should be restored to the form in which it had originally been submitted to the officers of the Committee, paragraph 30 of which had read as follows:

"The principal objective of conservation of the living resources of the seas is to obtain the optimum sustainable yield so as to secure a maximum supply of food and other marine products."

It would be quite appropriate to add the Cuban-Mexican amendment after those words. His delegation naturally thought it would be regrettable if the Conference were unable to work at a text on the subject which would have the unanimous support of the Members. The formula might reconcile the reference to the interests of coastal States, in the wording proposed by Mexico and Cuba, with those of mankind in general to which purpose all conservation measures should be directed. Accordingly, he asked the officers of the Committee to decide upon his suggestion that a fresh form of words should be found for the proposed amendment, thus making the text as a whole more acceptable to the Conference.

Mr. VILLA (Argentina) supported the Cuban-Mexican-Peruvian amendment whereby opportune reference would be made in paragraph 3 to economic and social factors.

Mr. BABAIAN (Union of Soviet Socialist Republics) said that most of the States represented at the Conference were coastal States and that the interests of the coastal State as such clearly presented an important problem. If, however, the discussion of those interests raised social, legal or economic issues, as would be the case if the Cuban-Mexican-Peruvian proposal were taken into consideration, the Conference would be precluded by its terms of reference from examining them. He would therefore vote in favour of the Drafting Sub-Committee I's report in the form in which it had been submitted to the Conference and against any amendment not based on the fundamentally scientific and technical nature of the Conference.

Mr. CHARIDJI (Indonesia) said that his delegation, which had been represented on Drafting Sub-Committee I, was aware of the difficulty raised by the relation between the problem of the conservation and regulation of the resources of the sea and those of the high seas, territorial waters, the continental shelf and superjacent waters. He referred to document A/CONF.10/GC.2 in which the Indonesian delegation had stated in the footnote its point of view in this matter. He suggested that the Sub-Committee's report be put to the vote. The Indonesian delegation was in favour of accepting the amended draft.

Mr. OZERE (Canada) regretted that the question of the special interest of the coastal State in conservation problems should have been debated under item 9, instead of item 12, of the agenda. If it had been discussed under item 12, his delegation would have taken the view that the interests of coastal States in the resources of adjacent seas might properly have been considered. If the Conference could not discuss those special problems on the ground that they were outside its competence, then the consideration of many other proposals which did not relate strictly to scientific and technical problems in conservation would have to be severely circumscribed. If the Conference failed to discuss matters which might assist the International Law Commission in determining the questions to be dealt with by it, the omission would be difficult to remedy, whereas, if the Conference went beyond its strict terms of reference, the International Law Commission of the General Assembly would simply disregard the matters so introduced. In view of the confusion which had arisen through the problem being examined under the wrong agenda item, his delegation would reserve its position and would abstain from voting on the Cuban-Mexican-Peruvian amendment.

Mr. FERNANDEZ (Paraguay) thought that the Conference was entitled to discuss questions which, though not strictly technical or scientific, were essential for the guidance of the International Law Commission. He therefore supported the joint proposed amendment in view of the important social and economic principles involved.

Mr. ALLOY (France) agreed with the Norwegian delegation that the proposed amendment went beyond the terms of reference of the Conference, which should seek a solution on technical and scientific lines. He was opposed to the amendment on the ground that coastal States and fishing States should be on an equal footing with regard to research, regulation and exploitation of resources.

Mr. ANDERSON (Australia) agreed by and large with the Canadian representative. Through being placed under item 9, the question of the coastal State had turned the discussion into a regional debate which threatened to split the Conference. He hoped therefore that a vote would not be taken. In any case, he held the view that coastal fishery was primarily the responsibility of the coastal nation, although other nations should not be excluded from it.

Mr. OLAFSSON (Iceland) thought that a matter of principle of the utmost importance was involved. He would support the proposed amendment.

Mr. RIVERA DEVOTO (Uruguay) was also in favour of the amendment, which came within the terms of reference of the Conference.



Mr. SERBETIS (Greece) agreed with the Norwegian delegation. The purpose of the Conference had been well defined as scientific and technical and he had himself been sent as a technical expert. The Conference should avoid juridical problems. He would accordingly vote in favour of the report as contained in document A/CONF.10/L.28 and against the proposed amendment thereto.

Mr. ECHEVERRI-HERRERA (Colombia) suggested that a vote be taken on paragraphs 1 and 2 of the report and that paragraph 3 be referred back to the General Committee, for reconsideration since a report which was not unanimous, or nearly so, would be of little assistance to the International Law Commission.

Mr. GARCIA AMADOR (Cuba), Deputy Chairman, pointed out that the problem had been fully discussed in the General Committee where it had been decided to refer it to the plenary session, since the General Committee had been unable to reach agreement.

Mr. ECHEVERRI-HERRERA (Colombia) therefore withdrew his proposal.

Mr. D'ANCONA (Italy) said that the question of coastal States might have technical and scientific aspects which could be considered later under item 12, but not under item 9 of the agenda.

Mr. RAMALHO (Portugal) said that he would vote against the amendment, but reserved his delegation's position should the question subsequently be raised under item 12.

Mr. ARIAS-SCHREIBER (Peru) asked for a vote by roll-call on the proposed amendment to paragraph 3 of the report, reading as follows:

"When formulating conservation programmes, account should be taken of the special interests of the coastal State in maintaining the productivity of the resources of the high seas near to its coast", (A/CONF.10/L.28/Add.1/Rev.1).

Mr. BABAIAN (Union of Soviet Socialist Republics) proposed (1) that the amendment sponsored by the Cuban, Mexican and Peruvian delegations should be studied in connexion with item 12 of the agenda; and (2) that a vote should be taken on the draft of Sub-Committee 1 as submitted to the Conference.

Mr. CASTAÑEDA (Mexico) said that the proposed amendment referred to item 9, and insisted that it be voted upon under that item. Other proposals would be made under item 12.

After a procedural discussion in which several representatives and the Legal Adviser took part, the CHAIRMAN requested the Conference to vote paragraph by paragraph on the report of the General Committee on the consensus of the Conference on item 9 of the agenda (A/CONF.10/L.28).

Paragraph 1 was adopted unanimously.

Paragraph 2 was adopted unanimously.

Upon a vote being taken by roll-call on the proposed amendment to paragraph 3 (document A/CONF.10/L.28/Add.1/Rev.1), the delegations voted as follows:

For: Argentina, Brazil, Chile, China, Colombia, Costa-Rica, Cuba, Ecuador, Guatemala, Iceland, India, Indonesia, Republic of Korea, Mexico, Paraguay, Peru, Uruguay, Yugoslavia.

Against: Belgium, Egypt, France, German Federal Republic, Greece, Italy, Japan, Monaco, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Union of Soviet Socialist Republics, United Kingdom, United States of America.

Abstentions: Australia, Canada, Denmark, Honduras, Nicaragua, Panama, Turkey, Union of South Africa.

The amendment was accordingly adopted by 18 votes to 17, with 8 abstentions.

Paragraph 3, as amended, was adopted.

The report as a whole, as amended, was adopted.

The meeting rose at 7.15 p.m.