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

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

held on 7 May 1955 at 5 p.m.

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CHAIRMAN: Mr. SUNNANAA (Norway)

1. PRINCIPAL SPECIFIC INTERNATIONAL FISHERY CONSERVATION PROBLEMS OF THE WORLD FOR THE RESOLUTION OF WHICH INTERNATIONAL MEASURES AND PROCEDURES HAVE BEEN INSTITUTED: REPORT OF THE GENERAL COMMITTEE ON THE CONSENSUS OF THE CONFERENCE ON ITEM 12(a) OF THE AGENDA (A/CONF.10/L.34)

The CHAIRMAN outlined the work of the General Committee and of Drafting Sub-Committee III on item 12(a) of the agenda.

Mr. CIEGLEWICZ (Poland) said that the Baltic was among the regions for which scientific research was coordinated by the International Council for the Exploitation of the Sea and should accordingly be added to paragraph 2 of Part I. Again, Poland was a party to the 1946 Convention which was mentioned in paragraph 3 as being a Western European arrangement.

The CHAIRMAN understood that the International Council covered part if not the whole of the Baltic, a matter which could be easily verified. The Polish representative's second remark might be met by using the formula "among certain nations of Europe".

Mr. CIEGLEWICZ (Poland) said that the Chairman's proposal satisfied him.

The report was adopted.

2. PRINCIPAL SPECIFIC INTERNATIONAL FISHERY CONSERVATION PROBLEMS AND APPLICABILITY OF EXISTING TYPES OF INTERNATIONAL CONSERVATION MEASURES AND PROCEDURES TO THESE PROBLEMS: CONSENSUS OF THE CONFERENCE ON ITEM 12(b) AND (c) OF THE AGENDA, AND DRAFT OF SOME CONCLUSIONS FOR INSERTION IN THE REPORT OF THE CONFERENCE SUBMITTED BY THE CUBAN AND MEXICAN DELEGATIONS (A/CONF.10/GC.13 and A/CONF.10/GC.1/Rev.1)

The CHAIRMAN explained that owing to a divergency of opinion with regard to the problem of coastal States the General Committee had been unable to complete its consideration of the report submitted by Drafting Sub-Committee III for agenda item 12(b) and (c). In those circumstances the Committee had decided to seek the guidance of the Conference in plenary session on that subject and he would therefore invite it to discuss Part A of the Sub-Committee's report (A/CONF.10/GC.13) together with the Cuban-Mexican Draft contained in document A/CONF.10/GC.1/Rev.1.

Mr. GARCIA-AMADOR, Deputy Chairman, said that the General Committee, having reached a deadlock, was unable to proceed with its work on item 12(b) and (c) until a final decision had been taken in plenary session on the question of principle relating to coastal States. The report of Drafting Sub-Committee III mentioned only two trends of thought on the question, but the Cuban-Mexican Draft, submitted over a week ago, showed that an intermediate solution could be found. The report of the Drafting Sub-Committee III was a purely descriptive document and would take no longer to approve than the reports submitted earlier on items 9, 10 and 11, once the plenary meeting had given the General Committee a clear mandate on the substantive question relating to coastal States.

Mr. CHOPRA (India) thought that Part A of the Sub-Committee's report, though an accurate summary of the two conflicting trends of opinion, failed to fulfil the mandate of the Conference. The problem of the coastal States therefore had still to be solved, and the International Law Commission could legitimately expect positive proposals on that point from the Conference.

Mr. CASTAÑEDA (Mexico) said that the Cuban-Mexican Draft which represented a half-way house between the two conflicting trends, offered a balanced and moderate solution in that it allowed for the special interest which coastal States might have in adopting conservation measures while providing a guarantee against any possible abuse on the part of those States.

After proposing a few textual alterations to the Cuban-Mexican Draft, he drew attention to the last paragraph which recommended that differences between the coastal States and other States concerned should be settled by appropriate technical bodies of an international character. The whole international community was interested in a peaceful solution of such problems, and only a technical organization would be competent to decide whether a measure was scientifically and technically justified.

Mr. LUND (Norway) said, in accordance with the declarations made by his delegation from the outset of the Conference, that the Cuban-Mexican proposal exceeded the Conference's terms of reference. Any coastal State might, of course, introduce regulatory measures outside as well as within its territorial waters. Norway had done so in several cases, but any such regulations were binding only on the fishermen of the country introducing them. The proposals now before the Conference would permit a coastal State to introduce measures binding upon fishermen of other nations, an innovation that conflicted with contemporary international law. To confer such powers upon coastal States would, therefore, mean prejudging legal matters under consideration by the United Nations and would be outside the Conference's mandate.

That did not mean that Norway had no interest in the subject. Being a coastal State with important fisheries, it would consider carefully whether some progress was desirable in international law so as to empower coastal States to conserve the stocks existing off their coasts. As, however, the Cuban-Mexican Draft contained proposals which lay outside the competence of the Conference, his delegation would move that the Conference should not consider the Draft.

Mr. DE VIANA (Brazil) said that his delegation would maintain its rule of taking no part in discussions of a political or legal character, since it felt that under its terms of reference the Conference should consider only technical and scientific issues. The technical and scientific findings of the Conference were to serve as a basis for the studies which the International Law Commission would submit to the General Assembly on fisheries regulation and conservation. But the formulation of suggestions based on technical and scientific considerations to serve as a basis for the subsequent establishment by the competent authority of a legal rule must not be confused with the a priori elaboration of that rule. That was why during the nineteenth plenary session, when the Conference had under

consideration the amendment submitted by the delegations of Cuba, Mexico and Peru to paragraph 3 of the General Committee's report on item 9 of the agenda (A/CONF.10/L.28/Add.1/Rev.1), his delegation had unhesitatingly and unreservedly voted in favour of that amendment which had finally been approved by a majority of the Conference. That proposal contained nothing in the nature of a pre-determined legal principle. It consisted merely of a logical conclusion based on the recognition of an unquestionable fact and supported by scientific considerations, one that recommended examination by the competent authority a condition upon which depended the efficacy of the regulations it was required to set on foot.

Mankind was organized politically in a number of independent and sovereign States. If the conservation of marine species was scientifically recognized as being a biological necessity for the food supplies of mankind, it was evident that, when the objectives of conservation were being defined in terms of international regulations, those objectives could not be regarded as being totally unconnected with the interests of the populations of the coastal States whose natural means of livelihood consisted in fishing. The thesis of the need to survive applied to the populations of the coastal States was not incompatible with the doctrine of the freedom of the high seas, and could therefore be examined by the competent authority in connexion with its studies on the technical and scientific bases for the conservation of the biological resources of the sea.

It was not the Conference's task, nor was it within its power, to solve the problems of the interests of those States or of the extent to which or way in which they could be safeguarded; so that in adopting the amendment on item 9 the Conference had not prejudged any legal or political problem; it had merely enunciated a condition governing the efficacy of the objectives of conservation.

The fact that Brazil, which had the closest fraternal relations with the other Latin American countries, had voted for that amendment should not be regarded as a demonstration of regional particularism on the part of Latin America. The amendment had a universal objective and scientific aspect which was common to all coastal countries. The Brazilian delegation had taken part in many of the informal meetings of the Latin American group in the hope of finding a common denominator between the opinions held by the various Latin American delegations and those of the other countries. It had done so because it was anxious to ensure the success of the Conference.

At its fifth session in 1953, the International Law Commission had agreed that any regulations introduced by a State for the protection of fishery within a specified maritime zone situated outside its territorial waters should only be binding on the nationals of that State. Similarly, any arrangements made by mutual agreement between two or more States could only be binding on the nationals of the States concerned. Finally, international conventions designed to prevent overfishing or the depletion of a resource empowered the authorities set up for that purpose only to make recommendations and not to introduce provisions binding on the contracting parties and their nationals. Consequently, the Commission had recognized that the existing law did not provide sufficient protection for the marine fauna against extermination. Moreover, the inadequacy of the measures

for the conservation of the resources necessary for the human food supply was complicated by the possibility of disputes between States, due to the absence of international fishery regulations. Obviously, equitable and effective regulations were inevitably dependent on previous and detailed knowledge of a practical and scientific nature. That was why the General Assembly, acting on the suggestion of the International Law Commission, had convened the present Conference. The Brazilian delegation therefore believed that the Cuban-Mexican proposal was entirely in accordance with the Conference's objectives and, as the considerations and arguments advanced therein were in principle in harmony with its instructions, it would vote in favour of that proposal.

Mr. HULT (Sweden) reaffirmed his delegation's statement in the 19th plenary meeting that the Conference ought not to prejudice "the related problems awaiting consideration by the General Assembly". The special interests of coastal States was definitely one of those problems. His delegation, therefore, entirely agreed with the Norwegian representative's remarks.

Mr. BOGDANOV (Union of Soviet Socialist Republics) did not think the Cuban-Mexican proposal harmonized with the fundamental objective of the conservation of the living resources of the sea. As a biologist he stressed the fact that fish did not restrict their movements to a single area and frequently spawning took place in regions remote from the species' habitual haunts. It was therefore impossible to restrict a resource to a single biotic system. It was certainly more advisable to solve that problem on the basis of international conventions and agreements where several countries could co-operate in the conservation of the resource. From the biologist's point of view there was not sufficient reason to accept the principle of the special interest of the coastal State.

From another angle, the conclusion of multilateral conventions might well be rendered difficult if each State with a coastline claimed special rights of regulation and conservation in its coastal area.

Several delegations had stated that the solution of the problem on the lines of the Cuban-Mexican proposal was outside the competence of the Conference. In fact, the discussion of that proposal would be tantamount to discussing the principle of the freedom of the high seas, a question which clearly exceeded the Conference's terms of reference.

The Soviet Union delegation therefore shared the Norwegian representative's view and hoped that the Conference would adopt the solution proposed in the report of Drafting Sub-Committee III.

Mr. ALVAREZ DEL VILLAR (Mexico) stated it was only exceptionally that fish wandered all over the world. In most cases, populations, and even whole species, were attached to particular areas, and clearly marked regions existed in the sea. He also pointed out that, as was implied in paragraph 4 of the Cuban-Mexican proposal, when circumstances arose necessitating the protection

of certain species, it was obviously the human group nearest those species, and dependent upon them as a resource, that had the greatest interest in the adoption of the appropriate conservation measures.

The CHAIRMAN proposed that in view of the short time at the disposal of the Conference future statements should be limited to five minutes.

It was so agreed.

Mr. OZERE (Canada) said that any compromise must be a real compromise, not one representing the opinion of a very small majority on a highly controversial issue. It might be assumed that the International Law Commission, being a reasonable body, would formulate relatively acceptable proposals. Paragraphs 4 and 5 of the Cuban-Mexican Draft covered questions affecting the coastal jurisdiction of States and national sovereignty. His delegation, while sympathizing with the general ideas underlying the Draft, had no instructions from its Government on the matters raised in those paragraphs. It had been assumed that those matters would only be dealt with by the International Law Commission and would then be submitted for comment to the governments and finally to the United Nations Assembly. To adopt the Cuban-Mexican proposal would therefore be tantamount to prejudging an issue which was outside the Conference's competence. If a real compromise could not be reached, the only solution would be for the Conference to present the International Law Commission with a statement of the opposing and still unreconciled attitudes.

Mr. HAVINGA (Netherlands) said his delegation completely agreed with that of Norway. The proposals made on behalf of the coastal States went into legal matters and so exceeded the practical and technical domain assigned to the Conference. To grant States jurisdiction outside their own territorial waters would be an invasion of the field of international law, and his delegation must therefore vote against the Cuban-Mexican proposal.

Mr. TANING (Denmark) considered that the proposal of Cuba and Mexico was outside the competence of the Conference. Having no instructions from its Government on the matters with which it dealt, his delegation would be obliged to vote against it.

Mr. CIEGLEWICZ (Poland) had already expressed his delegation's point of view in the discussion on item 9. With the Norwegian and other delegations it maintained that the questions raised in the Cuban-Mexican Draft went beyond the scientific, technical and biological mandate of the Conference. He would therefore vote against the Cuban-Mexican proposal.

Mr. HERRINGTON (United States of America), while appreciating the Cuban and Mexican delegation's effort to find a solution for a problem existing in certain areas where no conservation system was in operation, feared that the three conditions mentioned in the Draft for the protection of the interests of non-adjacent States were not altogether free from objection. The condition as

to absence of agreement among the States concerned was meaningless, for the coastal State could prolong that absence indefinitely by failing to agree with other States. That as to non-discrimination against foreign fishermen raised the questions: Who was to be the judge of non-discrimination? and how long would the proposed technical body take to settle the matter? No terms of reference were provided in the Draft. The third condition, that any regulations introduced by the coastal State must be based on scientific and technical principles could hardly be regarded as a real limitation. The words, "scientific and technical", could have a very wide meaning.

No convincing argument had been advanced to show that the granting of special authority to the coastal State was the only practical way of achieving the objectives of conservation. The only arguments in its favour, therefore, must be of a political and legal character and it followed that a recommendation to grant a coastal State such special rights was obviously outside the Conference's terms of reference.

The United States delegation held that the Conference might properly consider the conservation problems created by the absence of an accepted set of regulations off the shores of the coastal State and that such problems could properly be brought to the attention of the International Law Commission, but it could not support proposals to grant special rights in that matter to coastal States. Its instructions stated clearly that a proposal such as that of Cuba and Mexico was outside the competence of the Conference. It supported the Norwegian argument and was against the proposal made in document A/CONF.10/GC.1/Rev.1.

Mr. ARIAS-SCHREIBER (Peru) agreed that it was essential for the Conference to present the International Law Commission with a clearly expressed opinion on the question of coastal States. He therefore supported both in its spirit and in its substance the Cuban-Mexican proposal which, in his view, was not of a political or legal nature, and was well within the scope of the Conference.

He drew the attention of the opponents of the proposals to the three following points: Firstly, in President Truman's proclamation, released on September 28, 1945, on the right of the United States to establish "conservation zones" for the protection of fishery resources in areas of the high seas contiguous to its coasts, it was stated that right was founded on the importance of fishery products as a means of livelihood to fishing populations and to the nations in general as a food and industrial resource.

Secondly, a recent article in "The American Journal of International Law" stated that the United States Government held that the safeguarding of fishery resources involved important principles of equity and justice and that an industry which had been set up by the nationals of one country should not be left to be destroyed by the nationals of another.

Thirdly, Norway, by a decree dated 12 July 1935, had declared its sovereignty over a maritime zone four miles broad, measured not from its continental coast but from straight base-lines connecting the outermost points of the islands off its coast and the headlands of its fjords, though some of these were as much as ten miles apart. Upon the United Kingdom Government submitting the question to the International Court of Justice, the latter had ruled that the Norwegian decree did not infringe any principle of international law and that a State should be allowed sufficient latitude to draw its coast lines in accordance with its practical needs and with local requirements.

Mr. ANDERSEN (Iceland) recalled that in his first statement on his Government's views on fisheries conservation in general, he had said that the second fundamental consideration from its point of view was the fact that in many instances the coastal State was in the best position to evaluate the conservation needs and to adopt the necessary measures in the waters adjacent to its coasts. That State in many instances possessed the necessary experience, and it had the added incentive, in some cases, of protecting the very basis of its economy. It was quite clear that the Conference was not competent to deal with the question of how far that coastal jurisdiction extended. On the contrary, the Conference should expressly state in its report that its work had been conducted without prejudging anything so far as that and other legal questions were concerned. That, however, did not alter the fact that the coastal State had the power to take the necessary steps in the waters adjacent to its coast up to a certain distance from the coast - whatever that distance might be under international law - and all he was concerned to say was that the second fundamental point in his Government's policy was to make use of those powers in the interest of effective conservation.

His delegation had later proposed the following text for insertion in the Conference's report:

"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, the extent of the jurisdiction of the coastal State over fisheries",

to which clause it would now like to add:

"or the legal status of the superjacent waters of the continental shelf".

All those terms were used in the General Assembly resolution.

With regard to the Cuban-Mexican proposal, his delegation considered that the purpose of the Conference was to recommend international co-operation in the field of fisheries conservation. Where such co-operation could not be achieved, other solutions might well be pointed out to the International Law Commission for consideration. Nor did his delegation see any objection to suggesting recommendations concerning abstention, scientific arbitration or joint enforcement. Such ideas would be submitted simply as food for thought by the

International Law Commission. After all the International Law Commission was engaged in the progressive development of international law and should receive help through the submission of a variety of reasonable proposals. It had not been shown that the ideas underlying the Cuban-Mexican Draft were not within the Conference's competence and he saw no reason why it should not be submitted to the International Law Commission. If agreement proved impossible on a common text, then the only solution would be to include in the report a statement on the different ideas that had been expressed.

Mr. WALL (United Kingdom) said his delegation supported the Norwegian representative's view. The question of the rights or powers of the coastal State was essentially a legal question and therefore outside the mandate of the Conference which was concerned with measures to be taken, on the basis of technical and scientific principles and as the result of international agreement, for the benefit of all States concerned and not for that of any particular kind of State.

Mr. HERRINGTON (United States of America), referring to the Peruvian representative's statement, thought that for the sake of clarity, he should lay before the Conference the complete text of President Truman's Proclamation of 1945, which read:

"NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to coastal fisheries in certain areas of the high seas:

In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other States, explicitly bounded conservation zones may be established under agreements between the United States and such other States; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any State to establish conservation zones off its shores in accordance with the above principles is conceded provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such area. The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected".

Mr. TSURUOKA (Japan) said that, from the identity of the Observers at the Conference and the scientific or technical nature of the working papers submitted, it might have been assumed that the United Nations had intended the Conference to be exclusively scientific and technical in character, and had given no authority for the discussion of political, juridical or economic issues. Much had been said about the special interest of coastal States, but little evidence had been adduced, and many delegations had refrained from referring to that topic in the debates because they had understood it to be outside the terms of reference of the Conference. Valid conclusions could not be reached by such a method. He was opposed to the Cuba-Mexican proposal, in which the biological aspects of the question required amplification, as the USSR representative had demonstrated. Further, the proposal raised a number of legal questions, to which the United States representative had drawn attention and which called for clarification.

Mr. TRIGUEROS (Salvador) supported the Cuba-Mexican proposal which did not lay down any legal rules but in its paragraphs 4 and 5 simply constituted a recommendation to the International Law Commission. Moreover, the special position of the coastal State recognized therein merely conferred upon it a provisional right, since it was only where common agreement could not be reached among the States concerned that the coastal State was to be empowered to adopt conservation measures and moreover only when the need of conserving these resources became imperative.

Mr. HERNANDEZ (Chile) recalled that earlier in the session the Chilean delegation had submitted, jointly with the delegations of Ecuador and Peru, a draft declaration (A/CONF.10/GC.8) which went further than the Cuban-Mexican proposal under discussion. He would, however, support the latter proposal while reserving his rights to express his views at a later stage.

Mr. VILLA (Argentina) said that the Conference had already ruled that the matter of special interest of the coastal State was within its competence by the vote taken in connexion with item 9 of the agenda. His delegation would vote in favour of the Cuban-Mexican proposal, which fitted exactly with the terms of reference laid down for the Conference by the General Assembly.

Mr. ALLOY (France) said he had explained his position with regard to coastal States at the nineteenth plenary meeting. He could not associate himself with the Cuban-Mexican proposal, since the Conference was not competent to examine the political and juridical problems raised by it. The Conference should deal exclusively with fishery conservation, any difficulties arising in connexion with which should be met by international co-operation. Regulations applied unilaterally by a coastal State could not affect ships belonging to other "States concerned", in the sense in which the latter were defined in document A/CONF.10/GC.13, section A. He would support the Norwegian proposal.

Mr. PONCE Y CARBO (Ecuador) supported the Cuban-Mexican proposal which expressed very adequately the opinion of the majority of those present and fell well within the terms of agenda item 13. The proposal was highly conciliatory; it provided for the adoption of conservation measures by means of international

co-operation, failing which the coastal State would adopt unilateral measures. That did not mean adopting new principles of international law; it was merely an answer to the scientific conservation problem which presented itself to the coastal State where no international convention on the matter existed. Finally, the proposal did not prejudice any of the "related problems", as it did not deal with the regime of the territorial waters, the continental shelf, or any other of the problems in that category.

Mr. SOLJAN (Yugoslavia) shared the Icelandic delegation's opinion for the reasons stated by his delegation at the nineteenth plenary meeting.

Mr. CHARIOJI (Indonesia) thought that the Conference could not separate social and economic factors from the problem of conservation. He would consequently support the Cuban-Mexican proposal.

Mr. CASTAÑEDA (Mexico) said it was not accurate to suggest that the Cuban-Mexican proposal implied an extension of the sovereignty of jurisdiction of a coastal State beyond the territorial sea. That proposal in no way affected the status as high seas of the maritime zones concerned. It did not even provide for the coastal State's property over the products of the sea: that was clear from the fact that it did not establish any privilege in favour of the nationals of a coastal State in the matter of fishing, indeed it expressly forbade discrimination against foreign fishermen.

In reply to Mr. Herrington's objections, he said that the scientific and technical principles upon which the coastal State would have to base its unilateral action would be defined in detail in every specific instance by technical bodies of an international character as provided in paragraph 5 of the Draft. Had he and the other authors of the resolution gone into any more detail regarding the terms of reference of the international bodies concerned, he felt no doubt that they would have been accused of trespassing on ground lying outside the competence of the Conference.

Mr. HAN (Korea) reminded the Conference that, at the nineteenth meeting he had voted for the proposal, which had been adopted, that the Conference should take into account the special interests of coastal States. He would go further and maintain that it might also make recommendations. He accordingly supported the Cuban-Mexican proposal; but with certain reservations and on the understanding that it in no way prejudiced the existing jurisdiction over waters adjacent to coastal waters.

Mr. CHOPRA (India) supported the Cuban-Mexican proposal in principle: certain aspects of conservation were connected with the question of coastal areas and the high seas, and the Conference's views on those matters would be of assistance to the International Law Commission. He would support the proposals if they were put to the vote, though he would have preferred them to have been framed otherwise.

Mr. RODEZNO (Honduras) said that the Cuban-Mexican proposal was not exclusively technical and scientific, since it contained certain legal implications in the last sentence of paragraph 4 and in paragraph 5. For that reason, his delegation would abstain from voting. He stressed, however, that in his delegation's opinion, the suggestions contained in the Cuban-Mexican proposal were correct and proper, and he had no doubt that they would be well received when submitted to the competent body.

Mr. PEDROSA (Spain) agreed with the Norwegian delegation's view that the Cuban-Mexican proposal did not come within the competence of the Conference. The vote taken by the Conference on item 9 of the agenda concerned the objectives of conservation, a term which in his opinion covered both the grounds and the purposes of conservation. Conservation aimed at maintaining the maximum sustainable yield and not at the protection of the ecological systems of certain particular States. Conservation measures required the co-operation of all States concerned, whether they were situated near to or far from the ocean areas involved in each case.

In suggesting unilateral measures by the coastal States, the Cuban-Mexican proposal displayed little faith in the international accord and co-operation to which it referred, though that co-operation had hitherto given excellent results.

Mr. ANDERSON (Australia) thought that paragraphs 1, 2 and 3 of the Cuban-Mexican proposal were within the scope of the Conference, but that paragraphs 4 and 5 were not, since they involved legal questions. In spite of his sympathy with the claims of coastal States, he would vote against the proposal. He felt that if the relevant part of President Truman's Proclamation of 28 September 1945 had been used instead of the proposal as framed, it would have been much more likely to meet with the approval of the Conference.

Mr. ECHEVERRI-HERRERA (Colombia) supported paragraphs 1, 2 and 3 and the first sentence of paragraph 4 of the Cuban-Mexican proposal. The latter could well serve as material for the International Law Commission's work, and it did not define the limits of the territorial sea or otherwise enter into the legal field. The second sentence of paragraph 4 and the whole of paragraph 5, however, dealt with topics which were within the competence of the International Law Commission. He hoped that it would prove possible to re-draft the proposal so as to secure for it maximum support from the delegations.

Mr. DU FLESSIS (Union of South Africa) said that, for the same reasons as those stated by the Canadian representative, he considered that the questions raised in paragraphs 4 and 5 of the Cuban-Mexican proposal were not within the purview of the Conference.

Mr. LIU (China) said that, while viewing with sympathetic consideration the problem of coastal States, his delegation thought that the amendment already made to paragraph 3 of the General Committee's report on item 9 of the agenda (A/CONF.10/L.28) represented ample satisfaction for the patriotic point of view

in the work of conservation. Further discussion of the problem would lead the Conference to deal with legal problems which his delegation was not authorized to decide. It would therefore reserve its position.

Mr. D'ANCONA (Italy) thought the Conference might adopt paragraphs 1, 2 and 3 of the Cuban-Mexican proposal, but not paragraphs 4 and 5, which involved matters of international law. He pointed out, in addition, that the words "scientific and technical" had given different meanings by different delegations according to their interests.

Mr. VALLARINO (Panama) agreed with the first three paragraphs of the Cuban-Mexican proposal but felt that paragraphs 4 and 5 trespassed on the legal field and were therefore outside the competence of the Conference.

Rear-Admiral LLOSA (Peru) wished to refute the suggestion that the Cuban-Mexican proposal was based on legal grounds. Speaking from the experience gathered in 25 years in the Navy, the last eight of them specially devoted to oceanographic studies which were intimately related with marine biology, he could confidently assert that the proposal was based exclusively on scientific and technical grounds. From the scientific point of view it proceeded from the fact that the living resources of the sea were closely linked with the land of a coastal State and constituted part of the latter's ecological system. Myriads of beings lived and died in that system: they did not live and die isolated, but rather in close and intimate interdependence.

From a technical point of view, the position was equally clear. The depredations of man, greatly accentuated by technical progress in fishery, threatened to upset the balance, or rather the dynamic equilibrium, of the species. As stocks became depleted in one area, fishermen moved onwards until they reached waters many thousands of miles away from their homes. And in those more remote fishing grounds their activities would upset the biological equilibrium of the area. It was a practical reality, based on scientific and technical facts, that unless the coastal State were in a position to put a stop to those activities, the latter could threaten to deplete the stocks on which the population of the coastal State depended - directly or indirectly - for its food.

Mr. GARCIA-ANADOR (Cuba), Deputy Chairman, said that the Norwegian objection that the Cuban-Mexican proposal was outside the competence of the Conference made it imperative for him to stress that the Cuban delegation which had co-sponsored that proposal was no less zealous than the others in ensuring that the Conference should remain within its terms of reference.

He referred to the statement by the Chairman at the eleventh plenary meeting (see Document A/CONF.10/L.23), laying down a series of guiding principles as a basis for the work of the Conference and dividing the problems before the Conference into four main groups, the third of which concerned "the regional and international system of co-operation and the practical arrangements for recommending and introducing the necessary regulation measures". In that connexion, the Chairman had put forward as a basis of discussion a series of

proposals, the third of which stated that all nations fishing in a certain area were under an obligation to join a conservation convention. Paragraphs 4 and 5 of the same statement dealt in detail with the proposed convention. It was therefore clear that in the mind of the Chairman at that time it was within the competence of the Conference to discuss the legal framework and the legal principles, that was to say, the structure and provisions of international law and conventions, governing problems of conservation.

Again in the Chairman's proposals for the General Committee's report on the consensus on item 12 of the Agenda (A/CONF.10/GC.12) the concluding paragraph suggested international conventions as a solution, thereby providing for those problems an answer drawn from the legal field.

Any reference to the necessity of international conventions concerned international law and was therefore a reference to legal questions.

Finally, he stressed that at its nineteenth plenary meeting the Conference had already voted in favour of including in its report a reference to the special position of the coastal State, thus leaving no doubt as to its competence to deal with that position and with all that it implied. The Cuban-Mexican proposal, in paragraphs 4 and 5, did no more than apply a principle already voted when it specified the condition under which the coastal State could adopt conservation measures. It was therefore clear that the Conference was competent to deal with that proposal.

The CHAIRMAN replied that the legal questions on which the Conference could take no decisions were those referred to in General Assembly resolution 900 (IX), and that the principles on which nations ought to agree for fishery conservation were not to be confused with principles of international law. It was to be feared, as certain representatives had pointed out, that the Cuban-Mexican proposal, if adopted, might provide a pretext for giving coastal States special rights under international law, thereby prejudging some of the "related questions awaiting consideration by the General Assembly".

He added that the subject upon which a vote had been taken under item 9 of the agenda was quite distinct from the matter at present under consideration, being merely connected with the position of coastal States with regard to conservation problems.

The CHAIRMAN, after consulting the Legal Adviser, ruled that in accordance with Rule 25 of the Rules of Procedure the Norwegian motion for the rejection of the Cuban-Mexican proposal as being outside the competence of the Conference should be put to the vote before the Cuban-Mexican proposal.

Mr. GARCIA-AMADOR (Cuba), Deputy Chairman, appealed to the Chairman, to whom by reason of his office all delegations were bound to show due respect, not to press, in his capacity as leader of the Norwegian delegation, for a vote on the Norwegian proposal but to withdraw it.

Mr. ROLLEFSEN (Norway) regretted that he was unable to withdraw his delegation's proposal.

Mr. GARCIA-AMADOR (Cuba), Deputy Chairman, requested the Chairman's leave to withdraw from the platform and rejoined his delegation.

Mr. ECHEVERRI-HERRERA (Colombia) suggested that it might be a judicious solution to take a separate vote as to the competence of the Conference on each paragraph of the Cuban-Mexican proposal.

The CHAIRMAN called for a vote by roll-call on the Norwegian proposal that the Cuban-Mexican proposal was outside the scope of the Conference and should not be put to the vote.

The name of the United States of America having been drawn by lot, the delegations voted as follows:

For: United States of America, Canada, Denmark, Egypt, France, German Federal Republic, Greece, Israel, Italy, Japan, Monaco, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Turkey, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom.

Against: Uruguay, Yugoslavia, Argentina, Australia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Salvador, Guatemala, Iceland, India, Indonesia, Korea, Mexico, Panama, Paraguay, Peru.

Abstentions: China, Honduras, Nicaragua.

The Norwegian proposal was accordingly adopted by 21 votes to 20, with 3 abstentions, one delegation (Belgium) being absent.

The meeting rose at 8.20 p.m.