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Summary record of the 338th meeting

Topic:
Law of the sea - régime of the high seas

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45. Mr. KRYLOV said that there was no reason why the Commission should not discuss the articles on the contiguous zone, particularly in the light of the Icelandic Government's comments.

46. Sir Gerald FITZMAURICE considered that the Commission must discuss the points referred to it by the Special Rapporteur in order to enable him to prepare an analysis of government comments on the conservation articles. Such analyses had proved valuable in the past.

It was agreed to continue at the next meeting the general discussion on the articles concerning the conservation of the living resources of the high seas.

The meeting rose at 1 p.m.

338th MEETING

Wednesday, 2 May 1956, at 10 a.m.

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Chairman: Mr. F. V. GARCÍA-AMADOR.

Rapporteur: Mr. J. P. A. FRANÇOIS.

Present:

Members: Mr. Gilberto AMADO, Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. L. PADILLA-NERVO, Mr. Radhabinod PAL, Mr. Carlos SALAMANCA, Mr. A. E. F. SANDSTRÖM, Mr. Jean SPIROPOULOS, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary to the Commission.

Regime of the high seas (item 1 of the agenda) (A/2934, A/CN.4/99 and Add.1-5) (continued)

Conservation of the living resources of the high seas (continued)

1. The CHAIRMAN invited the Commission to continue its general discussion of the draft articles relating to the conservation of the living resources of the high seas.

2. Mr. EDMONDS said that, in considering the subject at its previous session, the Commission had been guided by the following five principles. First, that within its territorial sea, the coastal State had full jurisdiction over fisheries; secondly, that outside that area the nationals of each State enjoyed equal rights to fish; thirdly, that the coastal State had a special interest in the living resources of the sea in the area contiguous to its coast and that that interest should be recognized and protected by international law; fourthly, that for practical purposes fishing in areas where nationals of

more than one State operated could be carried on only if the rights of each were protected by bilateral or multilateral agreement; and fifthly, that it was important to settle disputes about fishing rights on the high seas by arbitration. Those principles, which were essentially those recognized and formulated at the International Technical Conference on the Conservation of the Living Resources of the Sea,¹ were the basis of the draft articles adopted by the Commission at its previous session.²

3. In order to achieve greater clarity and to state a number of additional principles omitted from the draft he had prepared a new text, reading as follows:

Article 24

All States have the right to engage in fishing on the high seas, subject to their treaty obligations, to applicable principles of international law, and to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

Article 25

1. A State whose nationals are engaged in fishing in any area of the high seas where the nationals of other States are not thus engaged may adopt measures for regulating and controlling fishing activities in such areas for the purpose of the conservation of the living resources of the high seas.

2. For the purposes of this and succeeding articles the conservation of the living resources of the sea is to be understood as the conduct of fishing activities so as:

(a) Immediately to increase or at least to maintain the average sustainable yield of the living resources of the sea;

(b) Ultimately to obtain the optimum sustainable yield so as to maintain a maximum supply of food and other marine products; and

(c) To develop the yield of various species through selectivity and control of that particular species.

Article 26

1. If the nationals of two or more States are engaged in substantial fishing of the same stock or stocks of fish in any area or areas of the high seas, these States shall, at the request of any of them, enter into negotiations in order to prescribe by agreement the measures necessary for the conservation of such stock or stocks of fish.

2. If these States do not, within a reasonable period of time, reach agreement upon the need for conservation or as to the appropriateness of conservation measures proposed by any of them, any of the parties may initiate the procedure contemplated in article 31, in which case the arbitral commission shall make one or more of the following determinations depending upon the nature of the disagreement:

(a) Whether conservation measures are necessary to make possible the maximum sustainable productivity of the concerned stock or stocks of fish;

(b) Whether the specific measure or measures proposed are appropriate for this purpose, and if so which are the more appropriate, taking into account particularly:

(i) The expected benefits in terms of maintained or increased productivity of the stock or stocks of fish;

(ii) The cost of their application and enforcement; and

(iii) Their relative effectiveness and practicability.

¹ Hereinafter referred to as the "Rome Conference".

² *Official Records of the General Assembly, Tenth session, Supplement No. 9 (A/2934), pp. 10-13.*

(c) Whether the specific measure or measures discriminate against the fishermen of any participating State as such.

3. Measures considered by the arbitral commission under paragraph 2 (b) of this article shall not be sanctioned by the arbitral commission if they discriminate against the fishermen of any participating State as such.

Article 27

1. If, subsequent to the adoption of the measures referred to in articles 25 and 26, nationals of other States engage in fishing the same stock or stocks of fish in any area or areas of the high seas, the measures adopted shall be applicable to them.

2. If the States whose nationals are so engaged in fishing do not accept the measures so adopted and if no agreement can be reached within a reasonable period of time, any of the interested States may initiate the procedure contemplated in article 31, in which case the arbitral commission shall make one or more of the determinations set forth in paragraph 2 of article 26 of these articles, depending upon the nature of the disagreement. Subject to the provisions of paragraph 2 of article 33 of these articles, the measures adopted shall be obligatory pending the arbitral decision.

3. Where the maximum sustainable yield is, within reasonable limits, already being obtained from any stock of fish, and the maintenance and further development of such yield is dependent on the conservation programme, involving research, development and conservation being carried on by all the States whose nationals are fishing such stock substantially, States not fishing such stock substantially or which have not done so within a reasonable period of time, excepting the coastal State adjacent to the waters in which this stock occurs, shall abstain from fishing such stock. In the event of disagreement as to whether a particular stock meets the above qualifications for abstention, the matter shall be referred for decision to an arbitral commission to be set up as provided in article 31.

4. The arbitral commission shall reach its decision and make its recommendations under paragraph 3 of this article on the basis of the following criteria:

(a) Whether the stock is subject to reasonably adequate scientific investigation with the object of establishing and taking the measures required to make possible the maximum sustainable yield;

(b) Whether the stock is under reasonable regulation and control for the purpose of making possible the maximum sustainable yield, and whether such yield is dependent upon the programme of regulation and control; and

(c) Whether the stock is, within reasonable limits, under such exploitation that an increase in the amount of fishing will not reasonably be expected to result in any substantial increase in the sustainable yield.

Article 28

1. A coastal State having a special interest in the maintenance of the productivity of the living resources in any area of the high seas contiguous to its coasts is entitled to take part on an equal footing in any system of research and regulation in that area, even though its nationals do not carry on fishing there.

2. If the States concerned do not reach agreement within a reasonable period of time, any of the parties may initiate the procedure contemplated in article 31.

Article 29

1. A coastal State having a special interest in the maintenance of the productivity of the living resources in any area

of the high seas contiguous to its coasts may adopt unilaterally whatever measures of conservation are appropriate in the area where this interest exists, provided that negotiations with the other States concerned have not led to an agreement within a reasonable period of time.

2. The measures which the coastal State adopts under the first paragraph of this article shall be valid as to other States only if the following requirements are fulfilled:

(a) That scientific evidence shows that there is an imperative and urgent need for measures of conservation;

(b) That the measures adopted are based on appropriate scientific findings;

(c) That such measures do not discriminate against foreign fishermen.

3. If these measures are not accepted by the other States concerned, any of the parties may initiate the procedure envisaged in article 31. Subject to paragraph 2 of article 33, the measures contemplated shall remain obligatory pending the arbitral decision.

Article 30

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas, has a special interest in the conservation of the living resources in that area, may request the State or States whose nationals are engaged in fishing there to take the necessary measures of conservation.

2. If no action is taken upon such a request within a reasonable period, such requesting State may initiate the procedure contemplated in article 31.

3. The arbitral commission shall, in procedures initiated under this article, reach its decision and make its recommendations on the basis of the following criteria:

(a) Whether scientific evidence shows that there is a need for measures of conservation to make possible the maximum sustainable productivity of the concerned stock or stocks of fish; and

(b) Whether the conservation programme of the States fishing the resource is adequate for conservation requirements.

4. Nothing in this article shall be construed as a limitation upon the action a State may take within its own boundaries.

Article 31

1. The differences between States contemplated in articles 26, 27, 28, 29 and 30 shall, at the request of any of the parties, be settled by arbitration, unless the parties agree to seek a solution by another method of peaceful settlement.

2. The arbitration shall be entrusted to an *ad hoc* arbitral commission composed, in any combination, of seven members well qualified in the legal, administrative or scientific fields of fisheries, depending upon the nature of the dispute to be settled.

Article 32

1. Two members shall be named by the State or States on the one side of the dispute; and two members shall be named by the State or States on the other side of the dispute. The remaining three members, one of whom shall be designated chairman of the commission, shall be named by agreement of the States in dispute. If, within a period of three months from the date of the request for arbitration, there shall be a failure to name any member, such member or members shall, upon the request of any State party to the dispute, be named by the Secretary-General of the United Nations after consultation with the President of the International Court of Justice, in the case of the naming of a member well qualified in the legal field of fisheries, and with the Director-General of the Food and Agriculture Organization,

in the case of the naming of a member well qualified in the field of fishery administration or fishery science. Any vacancy arising shall be filled in the same manner as provided for the initial selection.

2. The arbitral commission shall be convoked by the chairman within five months from the date of the request for arbitration. Its determination or determinations shall be submitted to the States parties to the dispute within a further period of three months, unless the arbitral commission decides to extend such period.

3. Except as herein provided, the arbitral commission shall determine its own procedure.

4. The remuneration of members of the arbitral commission shall be paid by the State or States selecting the member or on whose behalf the member was selected by the Secretary-General of the United Nations; the remuneration of the three members to be named jointly by the parties to the dispute, or failing agreement, by the Secretary-General of the United Nations, shall be an item of joint expense. Joint expenses arising from the arbitration shall be divided equally between the States parties to the dispute.

Article 33

1. The determinations of the arbitral commission shall be by majority vote and shall be based on written or oral evidence submitted to it by the parties to the dispute or obtained by it from other qualified sources.

2. The arbitral commission may decide that pending its determination or determinations under paragraph 2 of article 27 of these articles the measure or measures in dispute shall not be applied.

3. The determinations of the arbitral commission shall be binding upon the States concerned. If the determination is accompanied by a recommendation, it shall receive the greatest possible consideration.

4. During the detailed discussion of the draft articles he would state his reasons for the changes he had proposed, but in the meantime would confine himself to commenting on three of the points raised by the Special Rapporteur at the previous meeting.

5. First, the United States Government had proposed the insertion of the word "substantial" before the word "fishing" in article 26, paragraph 1, in order to prevent abuse whereby a State whose nationals were engaged only in sporadic fishing in a particular area might insist that a State whose nationals fished there on a substantial scale should enter into negotiations with it for a conservation programme. If the negotiations broke down, the former would be in a position to inconvenience the latter in a very irresponsible manner.

6. Secondly, in order to ensure absolute clarity, the United States Government had proposed that that paragraph should refer to fishing "of the same stock or stock of fish". The present text, which spoke of "fishing in any area of the high seas" was somewhat ambiguous. The amended wording would conform to the conclusion of the Rome Conference that conservation measures should be based upon geographical and biological considerations. His proposed text would also prevent any State whose nationals did not fish the same stock from asking a State whose nationals did so to enter into negotiations for conservation measures.

7. Thirdly, his purpose in article 27, paragraph 3,

was to meet the point made by the United States Government that any State which by its own measures had increased the sustainable yield should be allowed to profit thereby. By the use of present-day technological skills, within the foreseeable future there would be a continuing and increasing productivity of the stocks of fish as a result of the operations of nationals of a State or a group of States. The right to such increased production should be recognized by the Commission in its definitive articles. Failure to take into consideration technological advances would encourage the abandonment of conservation activities. The Commission should formulate articles which would stimulate conservation of fisheries.

8. Mr. PADILLA-NERVO, making some general observations, reminded the Commission that the original intention in granting certain unilateral powers to the coastal State had been to forestall excessive claims with respect to the territorial sea. Thus, in response to the complaints made by some under-developed countries regarding the extermination of stocks by fishing fleets from larger countries many thousands of miles away, the Commission had recognized the right of the coastal State to protect effectively the living resources of the sea in any area of the high seas contiguous to its coasts.

9. While that decision of principle had very considerable merit, it did not fully meet the need and, as the Governments of Chile and Iceland had pointed out, it was not a satisfactory substitute for an extension of the territorial sea. The inescapable conclusion was that the system proposed by the Commission offered inadequate guarantees for many countries and would have to be amended in favour of the coastal State if considerable extensions of the territorial sea were to be avoided. No effective solution would be found unless the Commission recognized that the overriding consideration was the interest of the coastal State, as had been done at the Rome Conference, albeit by a small majority. The special interest of the coastal State existed by virtue of its very position, since it was vitally important to its population that stocks were not exterminated.

10. The interest of the coastal State in preventing over-fishing in the area contiguous to its coast was self-evident and did not need to be demonstrated. The Commission had failed to bring out sufficiently clearly the difference between the interests of the coastal State and the interests of other States. Article 29 was altogether too rigid and would be difficult to apply. Though he certainly did not wish to suggest that there should be no limitation on the unilateral right of the coastal State to adopt measures of conservation in the absence of any international agreement, it should suffice to set out certain conditions such as those in article 29, paragraph 2, without including a provision of the kind contained in paragraph 3, since any coastal State disregarding the requirements laid down would in any case have to accept the responsibility.

11. The rights allowed to the coastal State in article 28 did not amount to much and the remaining provision contained in paragraph 1 might result in the creation in favour of possibly remote States of what might be

described as a reserved zone in the high seas off the coast of the coastal State—a possibility which small States could hardly be expected to welcome.

12. He supported the Indian Government's suggested amendment to article 25 (A/CN.4/99) which would then clearly apply solely to coastal States. Similarly, he favoured the Indian Government's amendment to article 26, so that their interests might be properly safeguarded.

13. As stated in the joint Cuban-Mexican proposal submitted at the Rome Conference, conservation of the living resources of the sea could most efficaciously be achieved by means of international agreements, and some statement of that sort should be included in the present draft. But in the absence of international agreement coastal States could take steps to prevent the extermination, or partial extermination, of the living resources of the sea.

14. Turning to the articles on implementation, he said that no one could entertain any illusions about the possibility of securing acceptance of compulsory arbitration. In certain cases that gave strong States the opportunity of putting pressure on the weak and often created greater problems than those it solved, thereby postponing settlement indefinitely. The only kind of durable settlement was that reached through arbitration voluntarily accepted by the parties, or by recourse to one of the processes enumerated in Article 33 of the Charter. Although admittedly under the concluding phrase of article 31, paragraph 1, such procedures were not excluded, the main emphasis throughout was on compulsory arbitration.

15. Summarizing his conclusions, he said that articles 25 and 26 should be amended in the sense proposed by the Indian Government. Article 28 should be deleted. Article 29 should be re-drafted so as to recognize that the coastal State always had a special interest in maintaining the productivity of the area contiguous to its coasts, instead of requiring it to prove such an interest. The proviso at the end of article 29, paragraph 1, should be dropped and in that connexion he failed to understand the alternative text suggested by the Indian Government, since it was obvious that any State could ask the coastal State to initiate negotiations on conservation measures. Article 29, paragraph 3, should be replaced by a provision that in the event of measures not being accepted, some means of settlement should be sought under Article 33 of the Charter. Article 30 should be omitted. The remaining articles, 31-33, should be deleted in consequence of the changes suggested.

16. The Commission should find some way of reconciling the interests of coastal States and those of States with a large fishing industry. Neither the spirit nor the letter of the present text was satisfactory to a large number of coastal States, particularly the less advanced ones, and they would not support the draft articles in the General Assembly as they stood at present.

17. Mr. PAL, associating himself fully with Mr. Padilla-Nervo's observations, reminded the Commission of the considerations put forward in the comment on the draft

articles adopted at the fifth session.³ The Commission had on that occasion concluded that it was necessary to move cautiously and that the aim might best be achieved on a regional basis. In the absence of any international organ empowered to promulgate binding regulations, moderation was necessary if conservation regulations were to secure acceptance. The special interests of the coastal State had been recognized at the Rome Conference, when suggestions had been made as to the manner in which it could take part in the establishment of conservation measures.

18. While reserving detailed observations until later, he would confine himself at the present stage to pointing out that the opening words of article 29 were ambiguous and might be interpreted as drawing a distinction between coastal States having a special interest in the maintenance of productivity and those having no interest whatsoever.

19. Sir Gerald FITZMAURICE expressed his grave concern at Mr. Padilla-Nervo's observations. If those views prevailed the Commission could abandon the project altogether, since, in the form outlined by Mr. Padilla-Nervo, there was not the slightest chance of its being accepted by the principal maritime countries, and, as Mr. Pal had rightly implied, any system such as that of the Commission's draft could only be enforced by agreement amongst all the States concerned.

20. In that field the Commission was not engaged in a task of codification *de lege lata*, but was proposing a system *de lege ferenda* to regulate fisheries, and must steer a middle course if it was to find a generally acceptable solution. He believed that article 29, as it stood, represented the limit of what was both practicable and acceptable.

21. With respect to Mr. Padilla-Nervo's proposal to delete the provisions for compulsory arbitration, he reaffirmed his conviction that they formed an essential part of the draft and that without them many States would find it impossible to subscribe to articles conferring extensive unilateral rights on the coastal State.

22. It was an over-simplification to describe the issue as a straight conflict between the interests of two groups of States. The issue was in fact far more complicated, since it was not only the economic interests of under-developed countries that were at stake, but also those of others which were equally dependent on overseas fishing—as for example, Japan. Among the latter group, large communities even in the richest countries were entirely dependent on overseas fisheries and their livelihood might be threatened irremediably if their fishing activities were severely curtailed. Thus it was imperative to take full account of all the interests involved and not to favour one side disproportionately. If the draft were heavily weighted in favour of the coastal States, they would be unlikely to benefit because the scheme would become unacceptable, so that none of the measures they instituted would be enforceable except among the signatories of any particular agreement. On the other hand, if the coastal States supported the present draft, even though it

³ *Official Records of the General Assembly, Eighth session, Supplement No. 9 (A/2456), paras. 97 and 98.*

did not go as far as they wished, it would become possible for them to impose certain conservation measures on other States provided those measures complied with the requirements laid down. Some States, it should be noted, had already gone a long way towards meeting the views of the coastal States by expressing a considerable measure of support for the draft articles.

23. Finally, although in some respects the articles adopted the previous year were open to improvement, if they were amended as drastically as proposed by Mr. Padilla-Nervo, the balance of the project would be destroyed and the safeguards which alone could make it generally acceptable would be removed.

24. Faris Bey el-KHOURI said that it was essential to devise a generally acceptable draft, and as the fishermen of small coastal States seldom went outside the territorial belt, the rights of such States should be protected.

25. Mr. SANDSTRÖM doubted the accuracy of that statement. Swedish and Norwegian fishermen, for example, fished at great distances from their native shores and, particularly for the latter, freedom to continue to do so was of vital importance.

26. He shared the views of Sir Gerald Fitzmaurice regarding the need to reconcile the various interests involved and urged that interests established by long usage should not be sacrificed. He felt sure that some compromise was possible and that the draft adopted the previous year, though undoubtedly capable of improvement, would be judged acceptable.

27. Finally, article 25 contained a statement of existing law. Any regulations of the kind mentioned could be instituted by any State. However, if they were regarded by others as detrimental to their interests, a remedy was provided.

28. Mr. SPIROPOULOS considered, in contrast to certain other members, that the Commission had taken the interests of the coastal State fully into account. It would be well to bear in mind that at present any State was free to fish in any area of the high seas however near the coast, provided it was outside the territorial belt, and unless special agreements existed, that right was not circumscribed in any way. The Commission in its draft was aiming at creating new law and would indeed confer on coastal States certain rights which they did not at present possess. He hoped that, textual improvements apart, the Commission would preserve the draft as it now stood.

29. The CHAIRMAN said that, in view of the number and scope of the amendments to articles 24-33 submitted by Mr. Edmonds, it would be advisable to defer discussion of them until members of the Commission had had time to digest their significance.

30. Having regard to his special responsibilities in respect of the draft articles on the conservation of the living resources of the high seas, he said that it might be useful if he were to clarify briefly the decisions taken by the Commission at its seventh session, subsequent to the study of the question by the Rome Conference in April 1955. The Commission had had two main factors to

bear in mind. In the first place, there had been the system of international co-operation in measures of conservation, based on the application of regulatory measures collectively agreed upon. That system had been followed for over half a century and was the system on which the Commission had based the articles it had drafted at its fifth session. In the light of the Rome Conference, however, it had been realized that that traditional system had been lacking in two respects. First, it was a *sine qua non* that there should be general agreement on the measures of conservation to be adopted; one single State withholding its consent could frustrate the whole system of international regulation by agreement, and that contingency of unilateral action was the first defect which the Commission had taken into account. The second defect of the traditional system was that it had not recognized the special interest of any individual State.

31. The Rome Conference, however, had remedied that situation by acknowledging the special interests of the coastal State,⁴ and when the Commission had come to review the whole subject at its seventh session it had attempted to reconcile the opposing tendencies, while maintaining the fundamental freedom of fishing on the high seas by following the line taken in that respect by the Rome Conference and granting the coastal State increased prerogatives over a certain area of the high seas. That had constituted an innovation in international law, and he could not help reflecting that the States Members of the United Nations would have been somewhat surprised in 1953 had they been able to foresee the radical development that had taken place in the Commission's approach to that problem in the space of only two years. The Commission's proposals represented a compromise between the traditional system and the system that had been outlined by Mr. Padilla-Nervo.

32. In that connexion, he would stress one aspect that had been referred to by Sir Gerald Fitzmaurice in his reply to Mr. Padilla-Nervo's linking of the major interests of the coastal State and of States fishing overseas grounds with the question of small and of economically more powerful States. A generalization of that kind was, as Mr. Sandström had pointed out, weakened by so many exceptions—in that a number of small countries had vital interests in overseas fisheries—that it quite lost any general validity. Certain coastal States undoubtedly had a special interest in overseas fisheries, whereas others, owing to the lack of economic motive, had never displayed any interest in the matter. The Commission had recognized that the mere fact of being a coastal State did not confer an inherent right to special prerogatives on any country. That was the fundamental idea underlying article 29. Having established the principle of the recognition of a special right, the Commission had decided that, in order to prevent that right being exercised to the detriment of other States, it must be circumscribed, and paragraph 2 of article 29 stated the requirements that must be fulfilled in order to justify any measures of conservation taken unilaterally by the coastal State. The need to regulate the right of the coastal State arose from the

⁴ A/CONF. 10/6, Section II, para. 18.

possibility of the principle of conservation being applied as if it were one of appropriation.

33. Mr. Padilla-Nervo, while accepting the conditions in sub-paragraphs (a) and (b) of article 29, paragraph 2, had raised serious objections to the provisions for compulsory arbitration, preferring the provisions in Article 33 of the United Nations Charter, under which the method of settlement of a dispute was left to the choice of the parties. Although the Commission had preferred the method of compulsory and automatic arbitration adopted in 1948 at the ninth Inter-American Conference, held at Bogotá, he would admit that that solution might not command general support. That particular point, however, was not the Commission's immediate concern, save in regard to the question of the type of arbitration that should be adopted. The disputes that the Commission had had in mind had been mainly of a technical nature, arising out of the use of fisheries in those areas of the high seas in which the Commission had recognized the special interests of the coastal State. The principle of arbitration was essential to the functioning of the system proposed by the Commission. A coastal State could rest assured that, provided it had fulfilled the requirements in article 29, paragraph 2, and had acted in good faith, no question of compulsory arbitration would arise.

34. Mr. AMADO said that he had not heard the phrase "fishing industry" used during the discussion. Yet it was the rapid and extensive development of fishing owing to scientific research and technical progress that really lay behind the new provisions that the Commission was attempting to codify. The idea of conservation of the living resources of the high seas had been born of the necessity for protection against large-scale fishing by big industrial interests, with the consequent possibility of abuse and the risk of denuding the sea of vital marine products. The Rome Conference had acknowledged the responsibilities of States fishing in areas of the high seas and had recognized the special position of coastal States—he had in mind the case of Peru—whose special interest in the area of the high seas off its coast was paramount. The extension of rights previously restricted to the three-mile limit had opened wide the door to the coastal State, which previously had been excluded from the enjoyment of such rights in sea areas of vital importance to it.

35. Mr. Padilla-Nervo had felt that the Commission had not gone far enough in that respect; it must therefore decide whether it would be possible still further to improve the position of the coastal State. He would not conceal the fact that in matters of arbitration his own preference was for the voluntary method which, though perhaps old-fashioned, had solid advantages. He would go to the limit of practicability in attempting to meet Mr. Padilla-Nervo's point, but in that process care should be taken not to undo the valuable work already accomplished.

The CHAIRMAN declared closed the general discussion on the conservation of the living resources of the high seas.

The meeting rose at 12.55 p.m.

339th MEETING

Thursday, 3 May 1956, at 10 a.m.

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Chairman: Mr. F. V. GARCÍA-AMADOR.

Rapporteur: Mr. J. P. A. FRANÇOIS.

Present:

Members: Mr. Gilberto AMADO, Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. L. PADILLA-NERVO, Mr. Radhabinod PAL, Mr. Carlos SALAMANCA, Mr. A. E. F. SANDSTRÖM, Mr. Jean SPIROPOULOS, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Secretary of the Commission.

Regime of the high seas (item 1 of the agenda) (A/2934, A/CN.4/97 and Add.1, A/CN.4/99 and Add.1-5) (continued)

1. The CHAIRMAN invited the Commission to continue its consideration of item 1 of the agenda: Regime of the high seas.

2. Mr. FRANÇOIS, Special Rapporteur, introducing the addendum (A/CN.4/97/Add.1) to his report on the regime of the high seas and the regime of the territorial sea, pointed out the impossibility of dealing in such a document with all the comments by governments, some of which were excessively detailed; others proposed drafting changes, and those could be dealt with by a drafting committee. If the articles were discussed *seriatim*, he would outline the salient comments by governments and, where necessary, explain his own views.

It was so agreed.

Article 1: Definition of the high seas

3. Mr. FRANÇOIS, Special Rapporteur, referring to the comment of the Philippine Government, said that as the Commission had discussed the question of groups of islands at its seventh session and provisionally decided against the insertion of special provisions,¹ he would suggest that that question be dealt with in connexion with "groups of islands" in the chapter on the territorial sea.

4. The criticisms of the Turkish and Israeli Governments might be met if a definition of internal waters were given in the chapter on the territorial sea, as suggested in paragraph 6 of the addendum to his report.

5. The Yugoslav proposal seemed to regard the contiguous zone as not forming a part of the high seas. That

¹ A/CN.4/SR.319, paras. 57-66.