question 3 by recognizing that the validity of the four judgements was no longer open to challenge. This conclusion was adopted by 10 votes to 3.

Judge Kojevnikov made a declaration stating that he was unable to concur with the Court regarding question 2, which he thought should have been given an affirmative answer. Judges Winiarski, Klaestad and Sir Muhammad Zafarulla Khan appended separate opinions, and President Hackworth, Vice-President Badawi and Judges Read and Cordova appended dissenting opinions.

CHAPTER II

THE INTERNATIONAL LAW COMMISSION

THE INTERNATIONAL LAW OF THE SEA

At its eighth session, in 1956, the International Law Commission prepared a final draft of the law of the sea and submitted it to the General Assembly with the recommendation that an international conference be convened to deal with the matter. The General Assembly, at its eleventh session, accepted this recommendation.

Questions relating to the law of the sea had occupied the Commission since its first session in 1949. The Commission then selected the regime of the high seas as a subject for codification and gave it priority in its plan of work. In 1951 the Commission, at the request of the General Assembly, decided to begin work also on the regime of the territorial sea. Mr. J. P. A. François was appointed special rapporteur for both subjects. In 1953, the Commission submitted to the Assembly a number of draft articles on certain questions pertaining to the regime of the high seas, namely, the continental shelf, fisheries and the contiguous zone. The Assembly, however, decided by resolution 798(VIII) of 7 December 1953 not to deal with any aspect of the regime of the high seas or of the regime of the territorial sea until the Commission had completed its study of those questions and submitted to the Assembly a report on all the problems involved. This decision was reaffirmed by Assembly resolution 899(IX) of 14 December 1954, which also asked the Commission to submit its final report on these subjects in time for the Assembly to consider them as a whole at its eleventh session.

The Commission's final draft dealt with the law of the sea in time of peace only. It consisted of two parts, the first relating to the territorial sea and the second to the high seas. The second part was divided into three sections: (1) general regime of the high seas; (2) contiguous zone; (3) continental shelf. The draft was accompanied by a commentary.

In preparing its rules on the law of the sea, the Commission had become convinced that in this domain it was not always possible to determine clearly which provisions were a codification of existing law and which were new rules and consequently constituted a development of the law. In these circumstances, the Commission found that in order to give effect to the project as a whole, it would be necessary to include the draft in a convention or similar international instrument. The Commission therefore recommended, in conformity with article 23, paragraph 1(d), of its Statute, that "the General Assembly should summon an international conference of plenipotentiaries to examine the law of the sea, taking account not only of the legal but also of the technical, biological, economic and political aspects of the problem, and to embody the results of its work in one or more international conventions or such other instruments as it might deem appropriate".

At the General Assembly's eleventh session the Sixth (Legal) Committee devoted the greater part of its time to a consideration of the International Law Commission's report on the law of the sea. After a general debate on the report, the Committee discussed a 22-Power draft resolution to hold an international conference on the law of the sea, and certain
amendments to this draft resolution. The Committee also heard two statements by Mr. J.
P. A. François, the special rapporteur of the Commission for the matters under discussion.

Representatives were unanimous in praising the Commission for its work. Approval in prin-
ciple was expressed of many of the Commission's proposals, but other proposals on such matters
as the breadth of the territorial sea, the closing line across bays and the operation of govern-
ment-owned commercial ships aroused controversy. There was general agreement, however,
that, instead of attempting to resolve these questions itself, it would be wiser for the
General Assembly to accept the suggestion of the International Law Commission that it
should summon an international conference of

plenipotentiaries to examine the law of the sea.

After being amended in certain respects, the 22-Power draft resolution, which requested the
Secretary-General to convoque such a conference at Rome early in 1958, was approved by the
Sixth Committee, after a series of votes on separate paragraphs, by 65 votes to 1. There
were no abstentions.

On 21 February 1957 the General Assembly,
by 67 votes to 0, with 3 abstentions, approved
the draft resolution of the Sixth Committee,
which became General Assembly resolution
1105(XI), subject to the understanding that
the decision on the site of the conference should
be left to the Secretary-General.

DOCUMENTARY REFERENCES

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SIXTH COMMITTEE, meetings 485-505.
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A/C.6/L.378. Reference guide to articles concerning
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mission at its eighth session.
Australia, Brazil, Ceylon, Cuba, Denmark, Domin-
ican Republic, France, Greece, Guatemala, Nether-
lands, New Zealand, Norway, Pakistan, Panama,
Philippines, Portugal, Spain, Sweden, Thailand,
United Kingdom, United States, Uruguay draft
resolution and revision, adopted by Sixth Committee,
as amended orally by Ecuador, by 65 votes to 1.
A/C.6/L.387, 395. Statements by J. P. A. François,
Rapporteur of International Law Commission, on
28 November and 21 December 1956.
A/C.6/L.388. Text of "Principles of Mexico on
Juridical Regime of the Sea" and of "Resolution
of Ciudad Trujillo".
A/C.6/L.389. Ceylon, India, Indonesia amendment
to joint draft resolution.
A/C.6/L.391. Belgium amendment to joint draft resolution.
A/C.6/L.392. Argentina, Chile, Ecuador, El Salvador,
Haiti, Mexico, Paraguay, Peru amendments to joint
draft resolution.
A/C.6/L.393. Afghanistan, Austria, Bolivia, Czecho-
slovakia, Nepal, Paraguay amendment to joint draft resolution.
A/C.6/L.396. Israel, Mexico, Peru amendments to
joint draft resolution.
A/C.6/L.397. Statement by Secretary-General on
financial implications.
A/C.5/699; A/3528. Reports by Secretary-General
and Advisory Committee on Administrative and
Budgetary Questions on financial implications of
draft resolution recommended by Sixth Committee.

RESOLUTION 1105(XI), as recommended by Sixth
Committee, A/3520 and Corr.1, adopted by the
Assembly on 21 February 1957, meeting 658, by
67 votes to 0, with 3 abstentions.

INTERNATIONAL CONFERENCE OF PLENIPOTENTIARIES
TO EXAMINE THE LAW OF THE SEA

"The General Assembly,
"Having received the report of the International
Law Commission covering the work of its eighth
session, which contains draft articles and commentaries
on the law of the sea,
"Recalling that the General Assembly, in resolution
798(VIII) of 7 December 1953, having regard to the
fact that the problems relating to the high seas, terri-
torial waters, contiguous zones, the continental shelf
and the superjacent waters were closely linked together
juridically as well as physically, decided not to deal
with any aspect of those matters until all the problems
involved had been studied by the International Law
Commission and reported upon by it to the General
Assembly,
"Considering that, by its resolution 899(IX) of 14
December 1954, it requested the International
Law Commission to submit its final report on these subjects
in time for the General Assembly to consider them
as a whole at its eleventh session,
"Taking into account also paragraph 29 of the
report of the International Law Commission wherein
it is stated that the Commission considers—and the
comments of Governments have confirmed this view—
that the various sections of the law of the sea hold
together, and are so closely interdependent that it
would be extremely difficult to deal with only one
part and leave the others aside,
"1. Expresses its appreciation to the International Law Commission for its valuable work on this complex subject;

"2. Decides, in accordance with the recommendation contained in paragraph 28 of the report of the International Law Commission covering the work of its eighth session, that an international conference of plenipotentiaries should be convoked to examine the law of the sea, taking account not only of the legal but also of the technical, biological, economic and political aspects of the problem, and to embody the results of its work in one or more international conventions or such other instruments as it may deem appropriate;

"3. Recommends that the conference should study the question of free access to the sea of land-locked countries, as established by international practice of treaties;

"4. Requests the Secretary-General to convene the conference early in March 1958;

"5. Invites all States Members of the United Nations and States members of the specialized agencies to participate in the conference and to include among their representatives experts competent in the fields to be considered;

"6. Invites the interested specialized agencies and inter-governmental bodies to send observers to the conference;

"7. Requests the Secretary-General to invite appropriate experts to advise and assist the Secretariat in preparing the conference, with the following terms of reference:

"(a) To obtain, in the manner which they think most appropriate, from the Governments invited to the conference any further provisional comments the Governments may wish to make on the Commission's report and related matters, and to present to the conference in systematic form any comments made by the Governments, as well as the relevant statements made in the Sixth Committee at the eleventh and previous sessions of the General Assembly;

"(b) To present to the conference recommendations concerning its method of work and procedures, and other questions of an administrative nature;

"(c) To prepare, or arrange for the preparation of, working documents of a legal, technical, scientific or economic nature in order to facilitate the work of the conference;

"8. Requests the Secretary-General to arrange also for the necessary staff and facilities which would be required for the conference, it being understood that the technical services of such experts as are needed will be utilized;

"9. Refers to the conference the report of the International Law Commission as the basis for its consideration of the various problems involved in the development and codification of the law of the sea, and also the verbatim records of the relevant debates in the General Assembly, for consideration by the conference in conjunction with the Commission's report;

"10. Requests the Secretary-General to transmit to the conference all such records of world-wide or regional international meetings as may serve as official background material for its work;

"11. Calls upon the Governments invited to the conference and groups thereof to utilize the time remaining before the opening of the conference for exchanges of views on the controversial questions relative to the law of the sea;

"12. Expresses the hope that the conference will be fully attended."

OTHER DOCUMENTS

AMENDMENTS TO THE STATUTE OF THE COMMISSION
INCREASE IN MEMBERSHIP
The General Assembly, at its eleventh session, decided to amend articles 2 and 9 of the Statute of the International Law Commission so as to increase the membership of the Commission from 15 to 21. Election of members of the Commission took place at the same session on the basis of the new wording of these articles. (For details of membership, see APPENDIX II.)

QUESTION OF FILLING CASUAL VACANCIES
Article 11 of the Statute of the International Law Commission provides that casual vacancies, i.e., vacancies which occur between the regular elections of members by the General Assembly, shall be filled by the Commission itself. At its tenth session, the General Assembly decided to increase the term of office of Commission members from three to five years and invited the Commission to consider whether article 11 should not be modified to provide that casual vacancies would in the future be filled by the Assembly. The Commission decided not to recommend such a change, one reason being that, since the General Assembly meets shortly after the session of the Commission, this would delay the filling of casual vacancies by the Assembly; consequently, the Commission would have to work for at least one session with the vacancy unfilled.

The Sixth Committee of the General Assembly approved the opinion of the Commission and decided, without vote, not to recommend any change in article 11 of the Statute.
INCREASE IN MEMBERSHIP
A/3141. Letter of 19 June 1956 to Secretary-General from representatives of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Haiti, Panama, Paraguay, Peru, Spain and Venezuela, proposing inclusion in agenda of 11th session of item entitled "Questions of amending Article 2 of the Statute of the International Law Commission to increase the membership of the Commission".
A/C.6/L.380. Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela draft resolution, adopted by the Sixth Committee as amended by United Kingdom and, orally, by Portugal and the Philippines, by 68 to 0, with 1 abstention.
A/C.6/L.384. United Kingdom amendment to joint draft resolution.
RESOLUTION 1103(XI), as recommended by Sixth Committee, A/3427 and Corr.1, adopted by the Assembly on 18 December 1956, meeting 623, by 75 votes to 0, with 1 abstention.
"The General Assembly,
"Having regard to the present composition of the United Nations and to the duties and responsibilities of the International Law Commission,
"Considering that, for the purpose of securing in the Commission an adequate presentation of the main forms of civilization and of the principle legal systems of the world, it is appropriate to increase the number of the members of the Commission,
"1. Decides to amend as follows article 2, paragraph 1, of the Statute of the International Law Commission:
"'The Commission shall consist of twenty-one members who shall be persons of recognized competence in international law';
"2. Decides, as a consequence, to amend as follows article 9, paragraph 1, of the said Statute:
"'The twenty-one candidates who obtain the greatest number of votes and not less than a majority of the votes of the Members present and voting shall be elected'."

OTHER MATTERS CONSIDERED BY INTERNATIONAL LAW COMMISSION
PUBLICATION OF DOCUMENTS
By its resolution 987(X) of 3 December 1955 the General Assembly invited the International Law Commission to give its views on the selection and editing of the Commission's documents to be printed and, if necessary, to re-submit the question to the Assembly.

The Commission, at its eighth session, decided not to re-submit the question of the printing of the documents to the Assembly. It further recommended that the records and documents be published in the form of a yearbook, entitled Yearbook of the International Law Commission, consisting of one or two volumes according to the size of the documentation of each session.

CO-OPERATION WITH INTER-AMERICAN BODIES
The Commission, considering that the contacts established in 1956 between the Commiss-
OTHER LEGAL QUESTIONS

QUESTION OF DEFINING AGGRESSION

By resolution 895(IX), of 4 December 1954, the General Assembly established a Special Committee of 19 Member States to meet at United Nations Headquarters in 1956 and to report in detail to the General Assembly's eleventh session, and submit a draft definition of aggression, having regard to the ideas expressed on the matter at the ninth session of the General Assembly and to the draft resolutions and amendments submitted. The General Assembly decided also to place the question on the provisional agenda of its eleventh session.

CONSIDERATION BY SPECIAL COMMITTEE

The 1956 Special Committee on the Question of Defining Aggression therefore met at Headquarters and held 19 meetings, from 8 October to 9 November 1956.

The extensive documentation before the Committee included the International Law Commission's report on its discussions of the question of defining aggression, a report of the Secretary-General and views of Governments, the report of the 1953 Special Committee on the Question of Defining Aggression, the observations of Governments on that report, the relevant reports of the General Assembly's Sixth Committee at the sixth, seventh and ninth Assembly sessions, and the draft definitions submitted by delegations at the ninth session.

The USSR and Paraguay reintroduced in the Special Committee the draft definitions they had submitted at the Assembly's ninth session. At the request of Peru, the draft definition submitted by Iran and Panama at the ninth session was also circulated. Mexico presented a working paper which incorporated the Mexican proposal to the 1953 Special Committee. Draft definitions were also submitted in writing by Iraq and jointly by the Dominican Republic, Mexico, Paraguay and Peru. The Netherlands representative suggested the Committee should concentrate on defining the term "armed attack" as used in Article 51 of the United Nations Charter and submitted a tentative formulation accordingly.

Members of the Special Committee differed on the possibility and desirability of defining aggression, on the function and scope of such a definition and on the draft definitions submitted to it. The Special Committee therefore did not adopt any definition of aggression but decided, as the 1953 Special Committee had done, to transmit the draft definitions together with the report of the Committee to the General Assembly.

CONSIDERATION BY GENERAL ASSEMBLY

The question of defining aggression was included in the provisional agenda of the eleventh session of the General Assembly. The Assembly, however, decided on the basis of a proposal by the Secretary-General to the General Committee and on that Committee's recommendation, that this item should be postponed until the twelfth session. The 1956 Special Committee, the Secretary-General pointed out, had been unable to meet until shortly before the opening of the eleventh session of the Assembly. Any discussion of the question would therefore take place without any opportunity being given to Governments for prior study of the Special Committee's report.