Forty-five states, including Canada, were represented. The conference dealt with the following questions: objectives of fishery conservation; types of scientific information required for a fishery conservation programme; types of conservation measures applicable in a conservation programme; principal specific international fishery conservation problems of the world for the resolution of which international measures and procedures have been instituted; and the applicability of existing types of international conservation measures and procedures to other international fishery conservation problems. The report of the conference[1] was placed before the International Law Commission at its seventh session in 1955.

Arbitral Procedure

The consideration of a draft Convention on Arbitral Procedure, prepared by the International Law Commission at its fifth session[2], had been postponed at the eighth session of the General Assembly[3]. The question was taken up by the Legal Committee at the tenth session of the General Assembly.

This draft Convention would oblige states to submit to the procedure outlined in the draft whenever any undertaking to arbitrate a dispute, to which they are a party, might be invoked. It would not oblige them to submit disputes to arbitration. The two main objects of the draft Convention are to codify the basic features of the law of arbitral procedure, and to develop international law by establishing certain procedural safeguards for securing the effectiveness of an undertaking to arbitrate once it has been entered into. Those features of the traditional law of arbitration which have been incorporated in the draft Convention appear to be generally acceptable.

However a significant number of states are opposed, in principle, to those provisions which are intended to secure the effectiveness of an undertaking to arbitrate disputes once entered into. It is argued that the essence of arbitration is the autonomy of the will of the parties; that the International Law Commission has infringed upon this principle by introducing compulsion into arbitral procedure and that, to a large extent, the provisions of the draft Convention replace the will of the parties by decisions taken by the International Court of Justice, or its President, or by the arbitral tribunal. This, it was said, ignored the distinction between arbitral procedure and judicial process, and there was a danger that such exaggerated emphasis on compulsion might make states less inclined to resort to arbitration.

Other states (including Canada), on the other hand, considered that once a state had undertaken to arbitrate, it should not object to being obliged to carry through with the undertaking. But while these states approved the fundamental thesis of the draft Convention, they entertained misgivings concerning other aspects of the draft. It was pointed out that the draft Convenion does not make clear what would be its effect on previous undertakings to arbitrate. The Canadian Representative, along with some other representatives, suggested that it is undesirable that the Convention have retroactive effect. If it were to have such an effect, it would mean that the provisions relating to the settling of differences contained in the Boundary Waters Treaty of 1909 between Canada and the United States for instance, could be called into question. The draft also provides that an arbitral award may, in certain circumstances, be revised or annulled. A number of member states, including Canada,

[1]General Assembly document A/Conf. 10/5/Rev.2.
[2]For the text of the draft Convention see General Assembly document A/2456.
[3]See *Canada and the United Nations 1953-54*, p. 95.