

DIPLOMATIC CONFERENCE ON WILLS

Washington, D.C. October 16-26, 1973

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October 16, 1973

SUMMARY RECORD - FIRST PLENARY SESSION Tuesday, October 16, 1973

Convening of the Conference

The opening Plenary Session of the Diplomatic Conference on the International Form of Wills was convened at 10:30 a.m. on Tuesday, October 16, 1973, in the main Conference Room of the United States Department of State in Washington, D.C. The meeting was called to order by the Secretary General, Mr. Francis J. Seidner. The Secretary General welcomed the delegates and announced that M. Jean-Pierre Plantard, Deputy Secretary General of UNIDROIT, would serve as Deputy Secretary General of the Conference. He then introduced Mr. George Aldrich, Acting Chief Legal Adviser of the U.S. Department of State.

Mr. Aldrich welcomed the delegates to the Conference on behalf of the U.S. Government. He noted that this was not only the first general private law conference which the U.S. has hosted but also that the Conference had the largest participation of any of its kind in history. He then discussed the background of events which have led to the convening of this Conference, noting that the increased mobility of mankind has led to a need for an agreement on the international form of wills. He then expressed his hope that, based on the excellent preliminary work which has been done, an agreement which will lead to international agreement on this question will come from the Conference.

The Secretary General then introduced Mr. Mario Matteuci, Secretary General of UNIDROIT and Delegate from Italy. Mr. Matteuci thanked the U.S. for agreeing to host the Conference. He praised the distinguished lawyers and professors responsible for formulating the Draft Convention. He then discussed the role of UNIDROIT as regards international private law and its role in preparing the background for this Conference. He discussed the advantages of having an international form of will and expressed his hope for the success of the Conference.

Election of Conference Chairman

The Secretary General then asked for nominations for the office of Chairman of the Conference. The Delegate from France nominated Ambassador Richard D. Kearney of the United States, Chairman of the Department of State's Advisory Committee on Private International Law.

The nomination was seconded and endorsed by Delegates from the Federal Republic of Germany, Italy, Greece, Paraguay, Spain, USSR, Switzerland and Yugoslavia. There being no other nominations, the Secretary General declared Ambassador Kearney unanimously elected and relinquished the chair to him.

NOTE: Unless changes or corrections to this Summary Record are submitted to the Secretary General within two working days, it will be considered Final.

Ambassador Kearney gratefully accepted his election as Chairman. He then called for a spirit of cooperation and determination to overcome the obstacles to international uniformity in this matter. He cited the increased mobility of mankind and the recent tendency to own property and/or live in two or more countries as basic reasons for the need for a convention on wills. He expressed his admiration for the Draft Convention and his hope that the Conference will produce a final text based on it that will be widely adopted and that will rank as an outstanding contribution to the development of international private law.

Adoption of the Agenda

The Chairman called for the adoption of the Agenda for the Conference (Document 2). There being no objection, the Chairman declared it adopted.

Adoption of the Rules of Procedure

The Chairman then called for the adoption of the rules of procedure (Document 3). There being no objection, the Chairman declared it adopted.

The Chairman then noted that the election of Vice Chairmen was the next order of business. He called for a recess to allow the delegates to discuss the question and consider nominations.

The Conference recessed briefly at 11:20 a.m.

Re-Convening of the Conference

The Chairman re-convened the first Plenary Session at 12:10. He reported that a list of nominees had been formulated for the offices of Vice Chairmen and the Credentials Committee. However, due to the absence of one or two experts, the Chairman recommended final decision on the composition of the Drafting Committee be postponed.

Election of Vice Chairmen

The Chairman suggested that the following persons be elected to serve as Vice Chairmen: Attorney General L. A. M. Brewah, Sierre Leone; Professor Elliseo Perez Cadalso, Honduras; Minister Toshio Yamazaki, Japan; Jonkheer T. Van Sasse Van Isselt, The Netherlands; A. Sukharev, USSR. The delegates were elected by acclamation.

Credentials Committee

The Chairman suggested the following states be accepted as members of the Credentials Committee: Austria, Italy, Mexico, Poland, and Sierre Leone. There being no further proposals, the Credentials Committee was established as recommended by the Chairman.

Organization of Work

In considering whether to deal first with the Draft Convention or with the Uniform Law itself, the Chairman proposed that the Uniform Law

be considered first since it contained the substantive portion of the Conference's work. However, he suggested that, prior to discussion of the Uniform Law, there be a brief discourse on the Draft Convention. There being no comment on the Chairman's proposal, the Chairman declared the suggested method adopted.

General Statements

The Chairman called on any delegation wishing to do so to make general remarks with respect to the work of the Conference or with respect to the Draft Convention or the Uniform Law.

The Delegate of the United Kingdom noted that Article I of the Draft Convention suggests that provisions of the Annex should be incorporated into law as they stand. He pointed out that the ultimate form of the law may not conform to the style of the countries concerned and suggested that a certain latitude respecting national differences in style be allowed.

The Delegate of Honduras stated that his delegation had several specific concerns that it would indicate during the course of debates, adding that he believed good will and a desire for unity would overcome difficult

In response to a question from the Delegate of Japan, regarding the number of Drafting Committees, the Chairman stated that one Drafting Committee will be established. He noted, however, that the Drafting Committee itself may decide to establish smaller working groups.

The Delegate of the USSR agreed with the statement made by the Delegate of the United Kingdom with regard to Article I and stated that his delegation will make specific, constructive remarks on Article I.

In response to a question from the Delegate of Canada, the Chairman stated that the Conference will meet from 10:00 a.m. - 1:00 p.m. and from 3:00 p.m. - 6:00 p.m. on week days, with the possible exception of Monday.

The Delegate of the Netherlands stated that the Convention creates some difficulties for his government because his country does not recognize the validity of holograph wills and because of insufficient provision on the preservation of wills.

Responding to the remarks of the Delegate of the Netherlands, the Delegate of Switzerland stressed the importance of achieving improvement even though some imperfections might perhaps continue to exist. Referring to previous comments on Article I, the Delegate of Switzerland stated that it was necessary to reflect carefully on incorporating latitude into Article I on the one hand, and achieving unification that would cover hidden conflict on the other.

The Delegate of Greece suggested consideration of a clause which would distinguish between form and substance.

The Delegate of France suggested that the observations made by the United Kingdom and the USSR be represented in more detailed manner at a later time.

Referring to previous remarks on Article I, the Delegate of Canada cautioned that self-restraint was necessary in order to avoid substantial differences in substance, adding that it was a matter to be considered by the Drafting Committee.

The Delegate of the Federal Republic of Germany stressed that ratification by a large number of nations would make it more possible for his government to overcome its doubts regarding the usefulness of the Convention

The Delegate of Honduras suggested it would be advisable to give order to the discussions by first considering problems in general and then considering the Articles in order.

The Chairman noted that while general discussion could continue during the afternoon session, it would be better to move on to the discussion of the articles themselves.

The Chairman adjourned the session at 1:05.

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