

Document:-
A/CN.4/SR.1529

Summary record of the 1529th meeting

Topic:
Other topics

Extract from the Yearbook of the International Law Commission:-
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Commentary to article 28 (Non-retroactivity of the present articles)
The commentary to article 28 was approved.

Commentary to article 29 (Provisions otherwise agreed)
The commentary to article 29 was approved.

CHAPTER VII. Second part of the topic "Relations between States and international organizations" (A/CN.4/L.286)

Chapter VII was approved.

CHAPTER VIII. Other decisions and conclusions of the Commission (A/CN.4/L.278 and Add.1, 3 and 4)

10. The CHAIRMAN invited the Commission to consider the parts of its draft report appearing in documents A/CN.4/L.278 and Add.3 and 4, namely, sections A, B, E, F, G, H, I, J and K.

A. The law of the non-navigational uses of international water-courses (A/CN.4/L.278)
Section A was approved.

B. Review of the multilateral treaty-making process (A/CN.4/L.278)
Section B was approved.

E. Programme and methods of work of the Commission (A/CN.4/L.278/Add.3)
Section E was approved.

F. Inclusion in the Yearbook of the Commission of the survey on "force majeure" and "fortuitous event" as circumstances precluding wrongfulness (A/CN.4/L.278/Add.3)
Section F was approved.

G. Co-operation with other bodies (A/CN.4/L.278/Add.4)

Paragraphs 1-5

Paragraphs 1-5 were approved.

Paragraph 6

11. Mr. EL-ERIAN proposed the deletion of the second sentence of paragraph 6 in order to bring the wording of the paragraph into line with that of paragraph 10.

It was so agreed.

Paragraph 6, as amended, was approved.

Paragraphs 7-13

Paragraphs 7-13 were approved.

Paragraph 14

12. Mr. EL-ERIAN suggested that the same change should be made in paragraph 14 as had been decided on for paragraph 6.

It was so agreed.

Paragraph 14, as amended, was approved.

Paragraphs 15-17

Paragraphs 15-17 were approved.

Section G, as amended, was approved.

H. Date and place of the thirty-first session (A/CN.4/L.278/Add.4)

13. The CHAIRMAN said that the Enlarged Bureau had decided to recommend that the thirty-first session of the Commission should be held from 14 May to 3 August. He proposed that those dates should be inserted in paragraph 18.

It was so agreed.

Section H, as completed, was approved.

I. Representation at the thirty-third session of the General Assembly (A/CN.4/L.278/Add.4)

Section I was approved.

J. Gilberto Amado Memorial Lecture (A/CN.4/L.278/Add.4)

Section J was approved.

K. International Law Seminar (A/CN.4/L.278/Add.4)

Paragraphs 23 and 24

Paragraphs 23 and 24 were approved.

Paragraph 25

14. Mr. ŠAHOVIĆ, supported by Mr. EL-ERIAN, suggested that the last sentence of paragraph 25 should appear as a separate paragraph at the end of the section.

It was so agreed.

Paragraphs 26 and 27

Paragraphs 26 and 27 were approved.

Section K, as amended, was approved.

The meeting rose at 5.25 p.m.

1529th MEETING

Friday, 28 July 1978, at 10.15 a.m.

Chairman: Mr. José SETTE CÂMARA

Members present: Mr. Ago, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

Draft report of the Commission on the work of its thirtieth session (concluded)

CHAPTER II. *The most-favoured-nation clause (concluded)*
 (A/CN.4/L.274 and Add.1-6)

D. Draft articles on most-favoured-nation clauses (concluded)
(A/CN.4/L.274 and Add.1-6)

ARTICLES 17-23 (A/CN.4/L.274/Add.5)

Commentary to article 17 (Irrelevance of the fact that treatment is extended to a third State under a bilateral or a multilateral agreement)

Paragraphs 1-13

Paragraphs 1-13 were approved.

Paragraph (14)

1. Mr. TSURUOKA suggested that the term "most-favoured-nation treaty", used twice in the English version of the paragraph, should be replaced by less unusual wording.

2. The CHAIRMAN said that the English version would be brought into line with the French version. *Paragraph (14) was approved, subject to that amendment.*

Paragraphs (15)-(23)

Paragraphs (15)-(23) were approved.

The commentary to article 17 was approved.

Commentary to article 18 (Irrelevance of the fact that treatment is extended to a third State as national treatment)

Paragraphs (1)-(7)

Paragraphs (1)-(7) were approved.

Paragraph (8)

3. Mr. TSURUOKA suggested that, once again, the term "most-favoured-nation treaty" should be replaced by more standard wording.

4. The CHAIRMAN said that the English version would be brought into line with the French version. *Paragraph (8) was approved, subject to that amendment.*

The commentary to article 18 was approved.

Commentary to article 19 (Most-favoured-nation treatment and national or other treatment with respect to the same subject-matter)

The commentary to article 19 was approved.

Commentary to article 20 (Arising of rights under a most-favoured-nation clause)

The commentary to article 20 was approved.

Commentary to article 21 (Termination or suspension of rights under a most-favoured-nation clause)

The commentary to article 21 was approved.

Commentary to article 22 (Compliance with the laws and regulations of the granting State)

The commentary to article 22 was approved.

Commentary to article 23 (The most-favoured-nation clause in relation to treatment under a generalized system of preferences)

Paragraphs (1)-(21)

Paragraphs (1)-(21) were approved.

Paragraph (22)

5. Mr. USHAKOV requested the deletion of the word "other", at the end of the last sentence.

It was so agreed.

Paragraph (22), as amended, was approved.

The commentary to article 23, as amended, was approved.

ARTICLES 24 AND 30 (A/CN.4/L.274/Add.4)

Commentary to article 24 (The most-favoured-nation clause in relation to arrangements between developing States)

Paragraphs (1)-(14)

Paragraphs (1)-(14) were approved.

New paragraph (15)

6. Mr. USHAKOV proposed the addition of a new paragraph (15) to the commentary to article 24. It would read:

"(15) The absence of such agreed concepts for purposes of international trade may give rise to enormous difficulties in the application of the provisions of article 24."

7. Mr. NJENGA, supported by Mr. DÍAZ GONZÁLEZ, said that the idea reflected in the proposed paragraph was not shared by all members of the Commission. However, provided that was made clear, he could accept the new paragraph.

8. Mr. YANKOV pointed out that the paragraph proposed by Mr. Ushakov reflected the discussion that had taken place in the Drafting Committee. Perhaps the text would be acceptable to the majority of the Commission if the word "generally" were inserted between the words "such" and "agreed", because it was the absence of generally agreed concepts of "developed" and "developing" States that might create difficulties in applying the article.

9. Mr. ŠAHOVIĆ said that the viewpoint of the Commission as a whole on the matter under discussion was adequately reflected in article 14. To take account of Mr. Ushakov's proposal, it would suffice to say that a member of the Commission had expressed a dissenting opinion.

10. Mr. USHAKOV said that, to render the text more acceptable, the new paragraph could begin with the words "some members of the Commission believed that", and the words "in particular" could be inserted after the word "concepts".

It was so agreed.

The proposed new paragraph (15), as amended, was approved.

The commentary to article 24, as amended, was approved.

Commentary to article 30 (New rules of international law in favour of developing countries)

*The commentary to article 30 was approved.
Section D, as amended, was approved.
Chapter II, as amended, was approved.*

CHAPTER III. State responsibility (concluded)* (A/CN.4/L.275 and Add.1-5)

B. Draft articles on State responsibility (concluded) (A/CN.4/L.275 and Add.1-5)

2. TEXT OF ARTICLES 23-27, WITH COMMENTARIES THERETO, ADOPTED BY THE COMMISSION AT ITS THIRTIETH SESSION (concluded) (A/CN.4/L.275/Add.1-5)

Commentary to article 25 (Moment and duration of the breach of an international obligation by an act of the State extending in time) (A/CN.4/L.275/Add.3)

The commentary to article 25 was approved.

Commentary to article 26 (Moment and duration of the breach of an international obligation to prevent a given event) (A/CN.4/L.275/Add.4)

The commentary to article 26 was approved.

Commentary to article 27 (Aid or assistance by a State to another State for the commission of an internationally wrongful act) (A/CN.4/L.275/Add.5)

The commentary to article 27 was approved.

Subsection 2 was approved.

Section B, as amended, was approved.

Chapter III, as amended, was approved.

CHAPTER VI. Status of the diplomatic courier and of the diplomatic bag not accompanied by diplomatic courier (A/CN.4/L.288)

Chapter VI was approved.

CHAPTER VIII. Other decisions and conclusions of the Commission (concluded) (A/CN.4/L.278 and Add.1, 3 and 4)

11. The CHAIRMAN invited the Commission to consider the parts of its draft report appearing in document A/CN.4/L.278/Add.1, namely, sections C and D.

C. International liability for injurious consequences arising out of acts not prohibited by international law (A/CN.4/L.278/Add.1)

Section C was adopted.

D. Jurisdictional immunities of States and their property (A/CN.4/L.278/Add.1)

Section D was adopted.

Chapter VIII, as amended, was adopted.

12. The CHAIRMAN put the draft report of the Commission on the work of its thirtieth session as a whole, as amended, to the vote.

The draft report as a whole, as amended, was adopted.

Organization of work

13. Mr. SCHWEBEL said that the speed with which the Commission had adopted its draft report was a cause for concern. That question might be taken up by the Planning Group or the Enlarged Bureau; consideration might, for instance, be given to the possibility of adopting parts of the report as the session proceeded, rather than leaving the whole report for adoption at the last few meetings of the session.

Closure of the session

14. After an exchange of congratulations and thanks, the CHAIRMAN declared the thirtieth session of the International Law Commission closed.

The meeting rose at 12.35 p.m.

* Resumed from the 1527th meeting.