

Document:-  
**A/CN.4/SR.1937**

**Summary record of the 1937th meeting**

Topic:  
**Other topics**

Extract from the Yearbook of the International Law Commission:-  
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50. Mr. LACLETA MUÑOZ, referring to the Spanish text, said that the words *puede no estar efectivamente utilizado*, in the fourth sentence, should be replaced by *puede no ser efectivamente utilizado*; in the penultimate sentence, the words *el buque* should be added after the words *está destinado*; and, in the last sentence, the words *de guerra* should be inserted after the word *fragata*.

*It was so agreed.*

51. Chief AKINJIDE said that, given the differences in the various national systems of law, it might be advisable to explain in the commentary that the word "ships" included boats.

52. Mr. FRANCIS suggested that a footnote might be added to the effect that the term "ships" included non-ocean-going vessels.

53. Sir Ian SINCLAIR said that such a footnote would broaden the scope of the article considerably. He proposed instead that a new sentence should be inserted after the second sentence of paragraph (1) of the commentary, which had already been adopted (1935th meeting), reading: "The expression 'ship' in this context should be interpreted as covering all types of seagoing vessels, whatever their nomenclature and even if they are engaged only partially in sea-traffic."

*It was so agreed.*

54. Mr. TOMUSCHAT said that, if river boats were to be covered, the text would have to be revised, since paragraph (1) of the commentary referred expressly to maritime law. It was a very important matter, particularly for countries such as his own, and he wondered whether the issue could in fact be excluded from the scope of the draft.

55. The CHAIRMAN said that the question of scope could be taken up on second reading.

*Paragraph (12), as amended, was approved.*

*The meeting rose at 1.05 p.m.*

## 1937th MEETING

*Thursday, 25 July 1985, at 3.05 p.m.*

*Chairman: Mr. Satya Pal JAGOTA*

*Present: Chief Akinjide, Mr. Arangio-Ruiz, Mr. Balanda, Mr. Calero Rodrigues, Mr. Díaz González, Mr. El Rasheed Mohamed Ahmed, Mr. Flitan, Mr. Francis, Mr. Illueca, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. McCaffrey, Mr. Ogiso, Mr. Reuter, Mr. Riphagen, Mr. Roukounas, Sir Ian Sinclair, Mr. Sucharitikul, Mr. Thiam, Mr. Ushakov, Mr. Yankov*

**Draft report of the Commission on the work of its thirty-seventh session (continued)**

CHAPTER V. *Jurisdictional immunities of States and their property* (concluded) (A/CN.4/L.389 and Add.1 and Add.1/Corr.1 and Add.2 and 3)

B. *Draft articles on jurisdictional immunities of States and their property* (concluded) (A/CN.4/L.389/Add.2 and 3)

SUBSECTION 2 (TEXTS OF ARTICLES 19 AND 20, WITH COMMENTARIES THERETO, PROVISIONALLY ADOPTED BY THE COMMISSION AT ITS THIRTY-SEVENTH SESSION) (concluded) (A/CN.4/L.389/Add.3)

*Commentary to article 19* (State-owned or State-operated ships engaged in commercial service) (concluded)

Paragraph (13)

*Paragraph (13) was approved.*

Paragraph (14)

1. Sir Ian SINCLAIR proposed that the words "merchant fleet", at the end of the second sentence, should be replaced by the word "owner", in order to bring the text into line with that of paragraph (4) of the commentary to article 19.

*It was so agreed.*

2. Mr. OGISO proposed that the word "could", before "be released", in the third sentence, should be replaced by "would". Moreover, in view of the reference to actions to enforce a maritime lien or to foreclose a mortgage, the words "or otherwise" should be inserted after the word "admiralty" in the fourth sentence.

*It was so agreed.*

3. Mr. BALANDA, referring to the French text, said that the word *caution*, in the third sentence, should be replaced by *cautionnement*.

*It was so agreed.*

*Paragraph (14), as amended, was approved.*

Paragraph (15)

4. Mr. USHAKOV said that the second sentence, which presumably referred to the view he himself had expressed, should read: "... it was difficult to see how property such as a ship or cargo could be State-owned and used by the State for non-governmental purposes".

*It was so agreed.*

*Paragraph (15), as amended, was approved.*

Paragraph (16)

5. Mr. SUCHARITKUL (Special Rapporteur) said that the words "commercial or non-commercial" should be inserted between commas between the words "cargo" and "carried" in the first part of the first sentence.

*Paragraph (16), as amended, was approved.*

Paragraph (17)

6. Chief AKINJIDE pointed out that the word "may", between the words "concerned" and "serve", in the penultimate sentence, should be replaced by "shall", so as to bring the text into line with paragraph 7 of article 19.

*It was so agreed.*

7. Mr. REUTER noted that paragraph 7 of article 19 followed closely the 1926 Brussels Convention, which he had criticized for its ambiguity. He would therefore like it to be reflected in the summary record that the French text of the article did not have precisely the same scope as the English text, since the phrase "shall serve as evidence" was not the same as *vaudra preuve*. It was too late, however, to alter the text of article 19 or the commentary thereto.

*Paragraph (17), as amended, was approved.*

*The commentary to article 19, as amended, was approved.*

*Commentary to article 20 (Effect of an arbitration agreement)*

Paragraph (1)

8. Sir Ian SINCLAIR proposed that the words "and to avoid unnecessary misimplications", at the end of the second sentence, should be deleted and that the beginning of the third sentence should be amended to read: "The article is based upon the concept of implied consent to the supervisory jurisdiction ...".

*It was so agreed.*

9. Mr. LACLETA MUÑOZ said that the Spanish text of the third sentence was badly phrased and should read: "... *jurisdicción supervisora del tribunal de otro Estado que sea competente en el caso concreto ...*".

*It was so agreed.*

*Paragraph (1), as amended, was approved.*

Paragraph (2)

10. Sir Ian SINCLAIR proposed the deletion of the words "The scope of", at the beginning of the first sentence. Moreover, in the second part of the second sentence, the word "are", between the words "members" and "more predisposed", should be replaced by "were", and the word "only" should be inserted between the words "exception" and "if".

*It was so agreed.*

11. Mr. RIPHAGEN wondered whether it was correct to imply, as did the second sentence of the paragraph, that investment disputes were not a commercial matter.

12. Mr. SUCHARITKUL (Special Rapporteur) said the view had been put forward in the Drafting Committee that investment disputes, since they involved Governments, formed a separate category of matters. However, for the sake of simplification, the phrase "such as investment disputes or industrial or labour relations", in the second sentence, could be deleted.

13. Mr. REUTER said that paragraph (2) covered three viewpoints: confining the exception to arbitration of differences relating to a commercial contract; confining the exception to arbitration of differences relating to a civil or commercial matter, but not in a broad sense; and confining the exception to arbitration of differences relating to a civil or commercial matter, while at the same time widening the scope of the exception. It was enough, however, to explain that there were two possibilities and to refer to com-

mercial contracts and civil or commercial matters. The most important example given was that of civil liability, which was of paramount importance in shipping.

14. Mr. MAHIU said that the three viewpoints could be reflected even if the examples were deleted. Indeed, it would be preferable to delete them, so as to avoid reflecting any difference of opinion about whether or not investments were a contractual matter. The phrase "such as investment disputes or industrial or labour relations" should therefore be deleted.

15. Mr. LACLETA MUÑOZ pointed out that, contrary to the statement in the first sentence, the scope of the draft articles was not designed to "cover arbitration", but in fact to deal with one of the consequences of the arbitration of a dispute.

16. Sir Ian SINCLAIR, recalling his position as stated both in plenary and in the Drafting Committee, said that he would prefer the second sentence of the paragraph to be maintained. The point raised by the previous speakers could be covered by deleting the word "Thus" at the beginning of the third sentence.

*It was so agreed.*

17. Mr. CALERO RODRIGUES proposed the deletion, in the second part of the second sentence, of the word "initially", between the words "limited" and "to differences".

*It was so agreed.*

*Paragraph (2), as amended, was approved.*

Paragraph (3)

18. Mr. ARANGIO-RUIZ said that he had reservations as to the terminology used in paragraph (3), but would be satisfied if the summary record of the meeting stated that supervisory jurisdiction was exercised not under a State's actual rules of private international law, but under its rules of international civil procedure.

19. Mr. USHAKOV proposed the insertion of the words "if any", between commas, between the words "court" and "to exercise" in the first part of the first sentence, and the deletion, in the second sentence, of the words "and prepared".

*It was so agreed.*

20. In his view, the words "in a proceeding relating to the arbitration agreement", at the end of the first sentence, should also be deleted.

21. Mr. BALANDA, referring to the French text, said that the end of the first sentence should read *d'arbitrage*.

*It was so agreed.*

*Paragraph (3), as amended, was approved.*

Paragraph (4)

22. Sir Ian SINCLAIR proposed that the words "still uphold the primacy of judicial independence,

maintaining", in the fourth sentence, should be replaced by "continue to maintain", and that the words "if not perfunctory" should be deleted.

*It was so agreed.*

23. Mr. McCAFFREY proposed that, for the sake of greater clarity, the words "at least in some jurisdictions", should be inserted, between commas, after the word "excluded", in the first part of the sixth sentence.

*It was so agreed.*

24. Mr. RIPHAGEN proposed the deletion of the words "and self-executory", in the second part of the sixth sentence.

*It was so agreed.*

25. Mr. MAHIU, referring to the first sentence, proposed that the phrase "States are now competing to create conditions more attractive and favourable for parties to choose to have their differences arbitrated in their territory" should be replaced by "States are providing more attractive and favourable conditions for this purpose". Care should be taken to avoid any value-judgment of the conduct of States.

26. Mr. REUTER said that he supported Mr. Mahiou's proposal, which had the additional advantage of not implying that States could engage in commercial activities. The French word *surenchère*, used for the verb "to compete" in English, denoted a purely commercial approach. The second sentence, which read: "One of the attractions is an endeavour to reduce the possibility of judicial control or interference", should also be changed. It was not correct to speak of judicial interference or of States reducing the possibility of control. States retained the possibility of control, but provided the parties with a means of dispensing with it. It was therefore necessary to say that one of the attractions lay in the "simplification of control procedures" and in the fact that the parties were allowed to dispense with such control.

27. Mr. LACLETA MUÑOZ, referring to the fifth sentence, said that he failed to see how "the court which is otherwise competent ... may be without such jurisdiction". A court either did or did not have jurisdiction. It would be preferable to say: "Thus it is possible, in a given instance, either that the court which is otherwise competent may decline to exercise supervisory jurisdiction, or that there is no court which is otherwise competent ...".

28. Mr. ARANGIO-RUIZ said that the proposals made by Mr. Mahiou and Mr. Reuter were very judicious, but he would propose that the text should be still further simplified by the deletion of the second sentence.

29. Mr. SUCHARITKUL (Special Rapporteur) said that some of the points raised could perhaps be met by redrafting the first sentence in such a way as to omit any reference to States competing in order to encourage commercial arbitrations to take place in their territory. The beginning of the third sentence,

reading "Thus, to compare and compete more favourably with other commercial arbitration centres", could be deleted.

*Paragraph (4), as amended, was approved.*

Paragraph (5)

30. Mr. THIAM, referring to the first sentence, proposed that the word "essentially" should be deleted, and that the first part of the sentence should speak simply of "submission to commercial arbitration".

31. Mr. SUCHARITKUL (Special Rapporteur) said that the beginning of the first sentence should read: "For the reasons indicated, submission to commercial arbitration under this article constitutes ...".

32. Sir Ian SINCLAIR said that the penultimate word of the paragraph should read "compromissory" and not "compromise".

*It was so agreed.*

*Paragraph (5), as amended, was approved.*

Paragraph (6)

33. Mr. CALERO RODRIGUES proposed the deletion, in the third sentence, of the word "invariably".

*It was so agreed.*

34. Sir Ian SINCLAIR proposed the deletion, in the same sentence, of the words "or entry into effect".

*It was so agreed.*

35. Mr. LACLETA MUÑOZ said that the first sentence of the Spanish text was grammatically incorrect: the words *de un tribunal* should be replaced by *respeto de un tribunal* or *ante un tribunal*. Again, in the third sentence, the opening phrase should be amended to: *Sólo dentro de esta esfera ...*, so as to render the idea contained in the other language versions.

36. Mr. REUTER said that the opening phrase of paragraph (6), reading "Submission to arbitration is as such no waiver of immunity from the jurisdiction ...", was a contradiction in terms and unacceptable. In point of fact, entering an appearance in arbitration proceedings was as such no waiver of immunity from jurisdiction.

37. Mr. ARANGIO-RUIZ, referring to the first sentence of the French text, said that, to avoid giving the impression that it was the court that enjoyed immunity, the word *la* should be inserted before *jurisdiction*.

*It was so agreed.*

38. Mr. RIPHAGEN proposed that the words "is otherwise", in the sentence, should be replaced by "would otherwise be".

*It was so agreed.*

39. Mr. McCAFFREY proposed that the word "Submission", at the beginning of the first sentence, should be replaced by "Consent".

40. Mr. REUTER said that the expression “submission to arbitration” was obviously ambiguous. Often, a State which had been notified of arbitration proceedings entered an appearance to show that it did not submit to the arbitration or that it expressly maintained its immunity. Entering an appearance did not signify waiver by a State of its immunity from jurisdiction; in any event, such waiver had to be written into the terms of the undertakings by which it was bound. What mattered was the right of a State to enter an appearance in order to show the court that that court lacked jurisdiction. If that interpretation were not accepted, a procedure by default would develop, as had been the case before the ICJ; States would no longer be able to enter a defence, since, if they did so for the purpose of submitting that the court lacked jurisdiction, the inference would be that they had waived their immunity.

41. Mr. CALERO RODRIGUES, supported by Mr. KOROMA and Mr. REUTER, proposed that the word “submission” should be replaced by the word “consent” wherever it occurred in the paragraph.

*It was so agreed.*

42. Mr. REUTER said that the French text would more accurately reflect the sense of the English if the word *domaine*, in the third sentence, were replaced by *cadre*.

*It was so agreed.*

*Paragraph (6), as amended, was approved.*

Paragraph (7)

43. Sir Ian SINCLAIR proposed the deletion of the second sentence, which was repetitious and obscured the meaning of the first sentence.

*It was so agreed.*

44. Mr. RIPHAGEN proposed that, as a consequential change, the beginning of the third sentence should read: “Also excluded from the article are ...”.

45. Mr. ILLUECA pointed out that the word “national”, in the first sentence, should be replaced by “natural”. Also, in the Spanish text, it would be preferable to replace the term *persona fisica*, which could give rise to confusion, by *persona natural*.

46. Mr. LACLETA MUÑOZ proposed that the third sentence of the Spanish text should start with the words: *Tampoco están incluidos ...*

47. Mr. MAHIOU proposed that, to establish the link with the first sentence following the deletion of the second, the first part of the third sentence should be reworded in French to read: *Ne sont pas visés les types d'arbitrage ...*

48. The CHAIRMAN said that the Secretariat would harmonize in the different language versions the changes in the third sentence consequential upon the deletion of the second sentence, and would take account of the various suggestions made.

*It was so agreed.*

*Paragraph (7), as amended, was approved.*

Paragraph (8)

49. Mr. CALERO RODRIGUES pointed out that the word “type”, in the second part of the first sentence, should be placed in the plural.

50. Sir Ian SINCLAIR proposed that the second sentence should be amended to read: “They may be conducted under International Chamber of Commerce or UNCITRAL rules or they may take the form of other institutionalized or *ad hoc* commercial arbitration.”

51. Mr. ARANGIO-RUIZ said that he would prefer to retain the idea that the types of arbitration referred to in the article could take any form.

52. Sir Ian SINCLAIR said that he would not insist on his proposal. The sentence could be improved without any loss of meaning by inserting the words “arbitration under” between the words “such as” and “International Chamber of Commerce”.

*It was so agreed.*

*Paragraph (8), as amended, was approved.*

Paragraph (9)

*Paragraph (9) was approved.*

*The commentary to article 20, as amended, was approved.*

*Section B.2, as amended, was adopted.*

*Section B, as amended, was adopted.*

*Chapter V of the draft report, as amended, was adopted.*

#### CHAPTER II. *Draft Code of Offences against the Peace and Security of Mankind* (concluded)\*

53. Mr. LACLETA MUÑOZ pointed out that, in the course of the debate on chapter II of the draft report (1933rd to 1935th meetings), the Spanish-speaking members of the Commission had raised the question of the translation of the word “offence” into Spanish by *delito*, a question that arose even in the title of chapter II. It was a terminological problem that was a legacy of the discussions in the General Assembly at its second session, in 1947, and it would eventually have to be settled by the Sixth Committee of the General Assembly. For the time being, however, the Spanish-speaking members of the Commission would like a footnote to be added to the title of chapter II, explaining their position on the matter.

54. The CHAIRMAN said that account would be taken of that suggestion.

#### CHAPTER III. *State responsibility* (A/CN.4/L.390 and Add.1)

##### A. *Introduction* (A/CN.4/L.390)

55. Mr. FLITAN (Rapporteur of the Commission) introduced chapter III of the draft report (A/CN.4/L.390 and Add.1) and drew attention to various typographical errors in the different language versions.

Paragraphs 1 to 5

*Paragraphs 1 to 5 were adopted.*

\* Resumed from the 1935th meeting.

Paragraph 6

56. The CHAIRMAN said that, since the Commission's report on its thirty-seventh session was a self-contained document, the text of the 12 draft articles submitted by the Special Rapporteur in his fifth report (A/CN.4/380) should be reproduced in footnote 11.

*Paragraph 6 was adopted on that understanding.*

Paragraphs 7 to 15

*Paragraphs 7 to 15 were adopted.*

Paragraph 16

57. The CHAIRMAN suggested that the words "In the discussions in the Commission" should be inserted at the beginning of the paragraph.

*It was so agreed.*

*Paragraph 16, as amended, was adopted.*

Paragraphs 17 and 18

*Paragraphs 17 and 18 were adopted.*

New paragraphs 18 *bis* and 18 *ter* and paragraph 19

58. Mr. ROUKOUNAS suggested that the following sentence should be added at the end of paragraph 19: "The question of injury (moral or material damage) was invoked in connection with reparation", the word *préjudice* being used in French to convey the English term "injury".

59. Mr. ARANGIO-RUIZ recalled that, in the general debate on the topic, he had raised (1900th meeting) the question of a distinction that might have to be drawn between classes of injured States. He would appreciate it if that point could be mentioned directly after that raised by Mr. Roukounas.

60. Further to a comment by Mr. BALANDA, Mr. RIPHAGEN (Special Rapporteur) said that a reference to the provision of alternative passage of a watercourse had certainly been made in the Commission. However, for the sake of simplification, he would be prepared to delete the passage in parentheses at the end of the first sentence of paragraph 19.

61. In addition, he had no objection to inserting two short paragraphs, paragraphs 18 *bis* and 18 *ter*, to cover the proposals made by Mr. Roukounas and Mr. Arangio-Ruiz.

*New paragraphs 18 bis and 18 ter and paragraph 19, as amended, were adopted.*

Paragraphs 20 to 30

*Paragraphs 20 to 30 were adopted.*

Paragraph 31

62. Sir Ian SINCLAIR proposed that the words "Most members agreed", at the beginning of paragraph 31, should be replaced by "There was general agreement".

*It was so agreed.*

*Paragraph 31, as amended, was adopted.*

Paragraph 32

63. Mr. LACLETA MUÑOZ said that the Spanish text of paragraph 32 should be corrected because the last part contained a mistranslation which, although elementary, was important.

*Paragraph 32, as amended in the Spanish text, was adopted.*

Paragraph 33

*Paragraph 33 was adopted.*

Paragraph 34

64. Mr. BALANDA considered that the words *la propriété de l'expression*, in the French text of paragraph 34, were quite wrong. He proposed that they should be replaced by *la pertinence de l'expression*.

*It was so agreed.*

*Paragraph 34, as amended in the French text, was adopted.*

Paragraph 35

65. Sir Ian SINCLAIR proposed that the paragraph should read: "The basic purpose of draft article 11 was generally accepted, although some doubts were expressed as to the wording of subparagraphs (b) and (c) of paragraph 1."

*It was so agreed.*

*Paragraph 35, as amended, was adopted.*

New paragraph 35 *bis*

66. Mr. ARANGIO-RUIZ proposed the insertion of a new paragraph 35 *bis* reading:

"The view was expressed that perhaps provisions should be included allowing for an 'intermediate' phase of amicable notification and discussions before any recourse to countermeasures against the author State."

Such a text would reflect his position more accurately than that appearing in paragraph 57. He would propose the deletion of paragraph 57 in due course.

*It was so agreed.*

*New paragraph 35 bis was adopted.*

Paragraphs 36 to 50

*Paragraphs 36 to 50 were adopted.*

Paragraph 51

67. Sir Ian SINCLAIR proposed the insertion of the words "by some members" after the word "expressed".

*It was so agreed.*

*Paragraph 51, as amended, was adopted.*

Paragraphs 52 to 56

*Paragraphs 52 to 56 were adopted.*

Paragraph 57

68. Mr. ARANGIO-RUIZ proposed the deletion of paragraph 57, for the reasons given in connection with the new paragraph 35 *bis*.

*It was so agreed.*

*Paragraph 57 was deleted.*

Paragraphs 58 to 60

*Paragraphs 58 to 60 were adopted.*

*Section A, as amended, was adopted.*

**B. Draft articles on State responsibility (part 2 of the draft articles)**  
(A/CN.4/L.390/Add.1)

*Commentary to article 5*

Paragraph (1)

69. Mr. ARANGIO-RUIZ, noting that the "author" State was referred to in the singular throughout the paragraph while the "injured" State was mentioned in both the singular and the plural, proposed that, in order to make the contrast less striking, the words "or States" should be added after "author State" in the second sentence.

*It was so agreed.*

70. Mr. LACLETA MUÑOZ said that, in the third sentence of the Spanish text, the words *al Estado* should be altered to *el Estado*.

*It was so agreed.*

*Paragraph (1), as amended, was approved.*

71. Mr. YANKOV proposed that, in the interests of uniformity of style, underlining of words solely for the purpose of emphasis should be dispensed with throughout the commentary.

*It was so agreed.*

Paragraphs (2) to (5)

*Paragraphs (2) to (5) were approved.*

Paragraph (6)

72. Mr. ARANGIO-RUIZ proposed that the words "what the States, as creators of the 'primary' rules, intended" should be replaced by "the content and scope of the 'primary' rules involved". He saw no need to go as far back as the creation of "primary" rules, especially where customary rules were concerned.

*The meeting rose at 6.10 p.m.*

## 1938th MEETING

*Friday, 26 July 1985, at 10 a.m.*

*Chairman: Mr. Satya Pal JAGOTA*

*Present: Chief Akinjide, Mr. Arangio-Ruiz, Mr. Balanda, Mr. Calero Rodrigues, Mr. Díaz González, Mr. El Rasheed Mohamed Ahmed, Mr. Flitan, Mr. Francis, Mr. Illueca, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Ogiso, Mr. Riphagen, Mr. Roukounas, Mr. Tomuschat, Mr. Ushakov, Mr. Yankov.*

## Draft report of the Commission on the work of its thirty-seventh session (*continued*)

**CHAPTER III. State responsibility** (concluded) (A/CN.4/L.390 and Add.1)

**B. Draft articles on State responsibility (part 2 of the draft articles)**  
(concluded) (A/CN.4/L.390/Add.1)

*Commentary to article 5* (concluded)

Paragraph (6) (*concluded*)

1. The CHAIRMAN recalled that the Commission had before it a proposal by Mr. Arangio-Ruiz to replace the phrase reading "what the States, as creators of the 'primary' rules, intended" by "the content and scope of the 'primary' rules involved".

2. Mr. RIPHAGEN (Special Rapporteur) said that the only difficulty with regard to that proposal was that the term "rebuttable presumptions" related to secondary, not primary, rules.

3. Mr. LACLETA MUÑOZ, agreeing with the Special Rapporteur, said that he did not know exactly what the term "rebuttable presumptions" covered, since there were in law only two categories of presumptions: presumptions *juris tantum* and presumptions *juris et de jure*. He therefore proposed that that term should simply be replaced by the word "presumptions".

4. Mr. ARANGIO-RUIZ supported that proposal.

5. Mr. CALERO RODRIGUES suggested that, to take account of the point made by the Special Rapporteur, the paragraph could be modified so as to refer not to the content and scope of the primary rules but to the intention expressed therein.

6. Following a brief discussion in which Mr. ARANGIO-RUIZ, Mr. RIPHAGEN (Special Rapporteur) and Mr. TOMUSCHAT took part, the CHAIRMAN suggested that paragraph (6) should be amended to read:

"(6) Accordingly, article 5 can only make presumptions as to what legal consequences are intended by the scope and content of the 'primary rule', involved."

*It was so agreed.*

*Paragraph (6), as amended, was approved.*

Paragraphs (7) to (9)

*Paragraphs (7) to (9) were approved.*

Paragraph (10)

7. Mr. CALERO RODRIGUES proposed the deletion, in the first part of the paragraph, of the word "bilateral", since it did not appear in article 36 of the 1969 Vienna Convention on the Law of Treaties to which paragraph (10) made reference.

*It was so agreed.*

*Paragraph (10), as amended, was approved.*

Paragraph (11)

8. Mr. LACLETA MUÑOZ, supported by Mr. DÍAZ GONZÁLEZ, proposed that in the