

Document:-  
**A/CN.4/SR.2655**

**Summary record of the 2655th meeting**

Topic:  
**<multiple topics>**

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pared the drafts, but also of the Commission's "stillborn" drafts. As to the second proposal, the Committee might encourage its member States to answer the Commission's questionnaires by holding discussions on the topics with which the questionnaires dealt. Lastly, he was of the opinion that the fact that New Delhi was so far away should not be an obstacle to the French-speaking African countries' membership of the Committee.

18. Mr. GOCO said he was convinced that AALCC could play a useful role by urging its 45 members to reply to the questionnaires the Commission sent them on particular topics or drafts. Its assistance might also be especially useful from the viewpoint of the much hoped for entry into force of the Rome Statute of the International Criminal Court, the preparatory work for which the Committee had made a significant contribution during its meeting in Manila in 1996. Since the Rome Statute's entry into force depended on the deposit of 60 instruments of ratification and only about 10 States had ratified it, the Committee might approach its members to encourage them to deposit their own instruments of ratification.

19. Mr. Sreenivasa RAO thanked the Observer for the Asian-African Legal Consultative Committee for his excellent report and for his proposals, which were designed to intensify the relationship between the Commission and the Committee in the interests of the progressive development and codification of international law. He had no doubt that, primarily thanks to its new Secretary-General's personal qualities, AALCC would be joined by increasing numbers of French-speaking members from Africa and Asia.

20. Mr. ADDO said that he would like to know what was happening with the plan for the creation of a web site for AALCC, to which the former Secretary-General of the Committee had referred in the statement he had made at the Commission's preceding session.

21. Mr. KAMIL (Observer for the Asian-African Legal Consultative Committee) said that the web site had been created and that the address would be communicated to the members of the Commission shortly.

22. The CHAIRMAN thanked the Observer for the Asian-African Legal Consultative Committee for his very interesting statement on the activities of AALCC.

*The meeting rose at 1 p.m.*

## 2655th MEETING

*Friday, 11 August 2000, at 10.05 a.m.*

*Chairman:* Mr. Chusei YAMADA

*Present:* Mr. Addo, Mr. Al-Baharna, Mr. Baena Soares, Mr. Brownlie, Mr. Candioti, Mr. Crawford, Mr. Dugard,

Mr. Economides, Mr. Gaja, Mr. Galicki, Mr. Goco, Mr. Hafner, Mr. He, Mr. Kabatsi, Mr. Kamto, Mr. Kateka, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Momtaz, Mr. Pambou-Tchivounda, Mr. Pellet, Mr. Sreenivasa Rao, Mr. Rodríguez Cedeño, Mr. Rosenstock, Mr. Sepúlveda, Mr. Simma, Mr. Tomka.

### **Draft report of the Commission on the work of its fifty-second session**

1. The CHAIRMAN invited members to consider the Commission's draft report.

#### **CHAPTER I. *Organization of the session* (A/CN.4/L.590)**

Paragraphs 1 to 10

*Paragraphs 1 to 10 were adopted.*

Paragraph 11

2. The CHAIRMAN said that, in paragraph 11, the words "opened the session and" had to be deleted as Mr. Corell, the Legal Counsel, had not, in fact, opened the session.

*Paragraph 11, as amended, was adopted.*

Paragraph 12

*Paragraph 12 was adopted.*

*Chapter I, as amended, was adopted.*

#### **CHAPTER II. *Summary of the work of the Commission at its fifty-second session* (A/CN.4/L.591)**

Paragraph 1

*Paragraph 1 was adopted.*

Paragraph 2

3. Further to a query by Mr. PELLET, Mr. DUGARD and Mr. GAJA confirmed that it was draft articles 1, 3 and 5 to 8 that had been referred to the Drafting Committee. Draft article 4 had not been referred.

*Paragraph 2, as amended, was adopted.*

Paragraphs 3 and 4

*Paragraphs 3 and 4 were adopted.*

## Paragraph 5

4. Mr. ECONOMIDES recommended that the word *subsidaire* should be deleted from the French version of the paragraph.

5. The CHAIRMAN explained that the Commission had been deliberating the topic of prevention of transboundary damage from hazardous activities as a sub-topic of international liability for injurious consequences arising out of acts not prohibited by international law.

6. Mr. RODRÍGUEZ CEDEÑO (Rapporteur) proposed that the notion of sub-topic should be rendered as *sous-thème* in French.

*Paragraph 5, as amended in the French version, was adopted.*

## Paragraph 6

7. The CHAIRMAN suggested that the adoption of paragraph 6 should be deferred until after the submission of the report of the Planning Group.

*It was so agreed.*

## Paragraph 7

*Paragraph 7 was adopted.*

## Paragraphs 8 and 9

*Paragraphs 8 and 9 were adopted with minor editing changes.*

**CHAPTER V. Diplomatic protection (A/CN.4/L.594)****A. Introduction**

## Paragraphs 1 to 4

*Paragraphs 1 to 4 were adopted.*

## Paragraph 5

8. Mr. TOMKA pointed out that Mr. Bennouna had been elected as judge to the International Tribunal for the Former Yugoslavia in 1998, not 1999.

9. Mr. MIKULKA (Secretary to the Commission) said that the paragraph would be amended to read "At its fifty-first session, in 1999, the Commission appointed Mr. Christopher John R. Dugard Special Rapporteur for the topic, after Mr. Bennouna was elected as a judge to the International Tribunal for the Former Yugoslavia".

*Paragraph 5, as amended, was adopted.*

**B. Consideration of the topic at the present session**

## Paragraphs 6 and 7

*Paragraphs 6 and 7 were adopted.*

## Paragraph 8

10. The CHAIRMAN said that it would be necessary to amend paragraph 8 to state that draft articles 1, 3 and 5 to 8 had been referred to the Drafting Committee.

*Paragraph 8, as amended, was adopted.*

## Paragraphs 9 to 13

*Paragraphs 9 to 13 were adopted.*

## Paragraphs 14 to 16

11. Mr. PELLET asked whether the articles should not be referred to as draft articles.

12. Mr. PAMBOU-TCHIVOUNDA said that the terms "article" and "draft article" had been used indiscriminately in the paragraphs already adopted. Greater consistency would be desirable and, in his opinion, it would be more appropriate to speak of "draft articles".

13. Mr. PELLET and Mr. TOMKA proposed that the secretariat should ascertain what the normal practice was in that respect.

14. Mr. MOMTAZ suggested that paragraph 13, which spoke of eight draft articles, could be regarded as an introductory paragraph.

15. Mr. RODRÍGUEZ CEDEÑO (Rapporteur) said that paragraph 13 was indeed introductory. He felt that, for economy's sake, the term "article" could be employed thereafter.

*Paragraphs 14 to 16 were adopted.*

## Paragraph 17

16. Mr. KAMTO said that the paragraph set out two opposing viewpoints on whether diplomatic protection extended to the protection of human rights, but it did not indicate which of those viewpoints was favoured by the Commission as a whole. The average reader, including representatives in the Sixth Committee, would be left wondering what the Commission thought about the matter.

17. Mr. DUGARD (Special Rapporteur) said there had been no consensus on the issue, and the paragraph reflected the fact that differing views had been expressed without a clear trend being discernible. The question related to the philosophy underlying diplomatic protection and was not something on which a decision was required.

18. Mr. GAJA said he wished to make a general point. The report should not be weighted down with indications of exactly how many members of the Commission had taken a given view on a particular issue. That could be seen from the summary records, which should be made available on the Commission's web site as soon as the corrections procedure was completed.

19. Mr. TOMKA endorsed the Special Rapporteur's comments and drew attention to paragraph 89, which indicated that article 1 had been the subject of informal consultations because no consensus had been achieved.

20. Mr. PELLET said that paragraph 17 was fine as it stood: it faithfully reflected the discussion on article 1.

21. Mr. GOCO drew attention to the section heading for paragraphs 16 to 22, namely "Summary of the debate", and said paragraph 17 was merely a compilation of the various views expressed on whether diplomatic protection extended to human rights protection, not a reflection of the Commission's final stance.

*Paragraph 17 was adopted.*

Paragraph 18

22. Mr. TOMKA said the second and fourth sentences were contradictory. The best course would be to delete the words "and it usually involved two stages", in the second sentence and the word "First" in the third sentence.

*It was so agreed.*

*Paragraph 18, as amended, was adopted.*

Paragraph 19

*Paragraph 19 was adopted.*

Paragraph 20

23. Mr. SIMMA, supported by Mr. GALICKI and Mr. TOMKA, said that the phrase "particularly Eastern European States", in the third sentence, was superfluous and should be deleted.

*It was so agreed.*

*Paragraph 20, as amended, was adopted.*

Paragraph 21

24. Mr. SIMMA pointed out that the reference to a compromise solution, in the second sentence, was inappropriate in the context of breaches of domestic law. The words "a compromise solution" should be replaced by "it was" and the phrase "according to which" by the word "that".

*It was so agreed.*

*Paragraph 21, as amended, was adopted.*

Paragraph 22

25. Mr. SIMMA said the first sentence was awkwardly phrased. He proposed that the phrase "the Commission in its work on" should be inserted after "diplomatic protection," and that the words "its work on" should be inserted after "consistent with".

*It was so agreed.*

26. Mr. KAMTO pointed out that a phrase seemed to be missing in the French version of the last sentence.

27. The CHAIRMAN said that that omission would be rectified.

*Paragraph 22, as amended, was adopted.*

Paragraph 23

*Paragraph 23 was adopted.*

Paragraph 24

28. Mr. SIMMA said he objected to the comments mentioned in the first sentence being described as "interesting". It implied that some comments were more interesting than others.

29. Mr. AL-BAHARNA proposed that the word "interesting" should be deleted.

30. The CHAIRMAN, supported by Mr. PELLET, pointed out that the section heading for paragraphs 23 and 24 was "Concluding remarks by the Special Rapporteur". If the Special Rapporteur had described the comments in that way and had no objection to the use of the word "interesting", there was no reason for it to be deleted.

31. Mr. KABATSI, supported by Mr. GAJA, said that, in his own report, the Special Rapporteur was entitled to make whatever evaluations he wished, but the Commission was now adopting its report to the General Assembly. The word "interesting" should be deleted.

32. Mr. CANDIOTI suggested that the words "In his view" should be inserted at the beginning of the first sentence.

33. Mr. DUGARD (Special Rapporteur) said he had no strong views, but it would be better for the word "interesting" to be deleted.

*It was so agreed.*

34. Mr. TOMKA proposed that the word "internationally" should be inserted before "wrongful act" at the end of the second sentence of paragraph 24.

*It was so agreed.*

35. Mr. AL-BAHARNA said that, consequently, the word "internationally" should likewise be inserted between the words "potentially" and "wrongful act".

*It was so agreed.*

36. Mr. AL-BAHARNA said that the last sentence of paragraph 24 should be deleted, as it conveyed an opinion of the Special Rapporteur, but the report was that of the Commission.

37. Mr. DUGARD (Special Rapporteur) said his intention had been to have the question considered further by the Drafting Committee.

38. Mr. GOCO said he was in favour of keeping the last sentence, which merely set out the Special Rapporteur's assessment of the situation at the close of the discussion on diplomatic protection.

39. The CHAIRMAN suggested that the words "by the Drafting Committee" should be inserted at the end of the sentence to make the Special Rapporteur's intentions clear.

*It was so agreed.*

*Paragraph 24, as amended, was adopted.*

### Cooperation with other bodies (*continued*)

[Agenda item 9]

#### STATEMENT BY THE OBSERVER FOR THE AD HOC COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW

40. The CHAIRMAN invited Mr. Benítez, Secretary of the Ad Hoc Committee of Legal Advisers on Public International Law (CAHDI) of the Council of Europe, to inform the Commission of developments that had taken place within the Council of Europe since the Commission's previous session.

41. Mr. BENÍTEZ (Observer for the Ad Hoc Committee of Legal Advisers on Public International Law of the Council of Europe) said that the year 2000 marked the fiftieth anniversary of the adoption of the European Convention on Human Rights and a number of events had been organized for that milestone, including the preparation of a number of texts on topics that were relevant to the concerns of the Commission. First, a report had been prepared under the aegis of CAHDI by the Max Planck Institute for International and Foreign Public Law, the Eric Castren Institute and the T.M.C. Asser Institute, on the basis of information gathered under a pilot project of the Council of Europe on State practice regarding those issues.<sup>1</sup> The report had been presented to the Secretary-General of the Council of Europe at the CAHDI meeting in September 1999 and subsequently forwarded to the Secretary-General of the United Nations as the Council's contribution to the United Nations Decade of International Law.<sup>2</sup>

42. At the Commission's fifty-first session, he had mentioned the adoption by the Committee of Ministers of the Council of Europe of recommendation No. R (99) 13 on responses to inadmissible reservations to international treaties.<sup>3</sup> In 2000, CAHDI had been able to complete its work on the topic by producing a document entitled "Practical issues regarding reservations to international treaties",<sup>4</sup> which was a practice-oriented document based on

the expertise of practitioners in treaty-making. The aim was to avoid, as far as possible, problems connected with reservations to international treaties. The subject had been extensively discussed by CAHDI and its working party on reservations to international treaties, with particular focus on recent developments, especially the practice of denunciation of a treaty, re-ratification with reservations and modification of reservations. CAHDI had closely followed the practice of the Secretary-General of the United Nations in his role as the depositary of international treaties and had entered into a dialogue with his representatives in order to ascertain the implications of that practice. It should be stressed that the document, which had been adopted by CAHDI, was neither a recommendation nor a treaty. It was simply intended to serve the member States of the Council of Europe. With the document's endorsement by the Committee of Ministers and publication in the Official Gazette of the Council of Europe, the Group of Experts on Reservations to International Treaties (DI-E-RIT) of the Council of Europe had concluded its work. CAHDI, however, would pursue its activities, in the context of its role as the European observatory of reservations to international treaties, both within and outside the Council of Europe. It would also enter into a dialogue with reserving States where the admissibility of their reservations was called into question. CAHDI looked forward to the visit by Mr. Pellet at its meeting in September 2000.

43. As another contribution to the fiftieth anniversary of the European Convention on Human Rights, CAHDI had commissioned a special report on the Convention's implications for the development of public international law.<sup>5</sup> The report, assessed the implications of such topics as reservations, interpretation of treaties, State sovereignty, due process standards, protection of the environment, State responsibility with *erga omnes* obligations, diplomatic protection, responsibility and territoriality, State responsibility for non-governmental acts and imputability and, in the field of international humanitarian law, the application of the principle of proportionality and limits to collateral damage. The author's conclusion was that the Convention's impact on general international law had been significant. One area where its influence had, so far, been limited to human rights systems, however, and did not extend to general international law, was that of reservations to treaties. The report and a record of the significant discussion held by CAHDI had been forwarded to the Council of Ministers as CAHDI's contribution to the celebration of the fiftieth anniversary of the Convention. One issue raised at the discussion had been the preparation by the European Union of a charter of fundamental rights and the possible implications of such a charter—about which some delegates had expressed concern for the way the human rights bodies operated in Strasbourg. It had therefore been decided that CAHDI would act as a clearing house for information regarding the initiative. At its meeting in September, the Under-Secretary-General, himself a member of the working party entrusted with preparing the draft charter, would report on the progress made.

<sup>1</sup> J. Klabbers and others, eds., *State Practice Regarding State Succession and Issues of Recognition: the Pilot Project of the Council of Europe* (The Hague, Kluwer Law International, 1999).

<sup>2</sup> See 2654th meeting, footnote 1.

<sup>3</sup> Council of Europe, 670th meeting of the Ministers' Deputies (18 May 1999).

<sup>4</sup> See 2632nd meeting, footnote 8.

<sup>5</sup> T. Meron, *The Implications of the European Convention on Human Rights for the Development of Public International Law* (Strasbourg, Council of Europe Publishing, 2000).

44. CAHDI had also considered the latest developments concerning the International Criminal Court at a consultation meeting, held in May 2000, on the implications for the member States of the Council of Europe of the ratification of the Rome Statute of the International Criminal Court, in which the European Committee on Crime Problems had participated. All had stressed their commitment to the integrity of the Rome Statute and reaffirmed the objective of early establishment of the Court. In that context, they had noted the important role that the 41 member States of the Council could play, since they represented two thirds of the requisite number of 60 ratifications for the entry into force of the Statute. Another activity had been the exchange of views with representatives of various international bodies. The President of the European Court of Human Rights had participated in a discussion on developments in the Strasbourg system following the entry into force of Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby and the unification of the system since the European Commission of Human Rights had been wound down. There had also been a useful exchange of views with the President and Vice-President of the International Court of Conciliation and Arbitration, who had called for greater use of the Court by member States.

45. Yet another activity in the field of legal cooperation was the fight against corruption, in which the International Law Commission had also shown an interest. The Council of Europe Criminal Law Convention on Corruption and the Civil Law Convention on Corruption had been widely accepted by member States and others. Over 30 member States, and a non-member, Bosnia and Herzegovina, had signed the former, while three had ratified it. Over 20, with Bosnia and Herzegovina, had signed the latter, which had also been ratified by Bulgaria. Fourteen ratifications were needed for the entry into force of both Conventions. The Council had also adopted Recommendation No. R (2000) 10 of the Committee of Ministers to member States on codes of conduct for public officials, which sought to fight corruption in the public sector. The adoption of the Recommendation completed the Council's mandate concerning the fight against corruption, as set out in the Programme of Action against Corruption adopted by the Committee of Ministers in 1996. In that context, he recalled the Council's Enlarged Partial Agreement establishing the Group of States against Corruption (GRECO),<sup>6</sup> in which member and non-member States could participate on an equal footing, although not all member States were obliged to take part. It monitored all the Council's activities in the fight against corruption and the commitments by member and non-member States thereto. The condition for its establishment had been notification by 14 member States of their intention to participate; to date, 22 had done so. Austria, Italy, Malta and Portugal had also expressed their wish to join GRECO.

46. The European Convention on Nationality had produced a significant number of signatures and the required three ratifications for its entry into force, which had taken

place on 1 March 2000. He also drew attention to Recommendation No. R (99) 18 of the Committee of Ministers to member States on the avoidance and reduction of statelessness. In addition, the Council of Ministers had adopted Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, on the prohibition of discrimination, which would constitute a further substantial step in securing the collective enforcement of fundamental rights through the Convention and strengthen the arsenal available to member States for combating racism. Lastly, he drew attention to a statement by the Director-General of Human Rights at the Council of Europe to the United Nations Commission on Human Rights.

47. Mr. KATEKA noted that, under article 1, paragraph 4, of the Model Code of Conduct for Public Officials contained in the appendix to Recommendation No. R (2000) 10, the Code did not apply to publicly elected representatives, members of the Government or holders of judicial office. He wondered why such an important segment of public officials was excluded. Perhaps there was another code of conduct that applied to them.

48. Mr. GALICKI welcomed the continuing cross-pollination between the Council and Europe and the Commission. At the 1st European Conference on Nationality, in October 1999, the Commission's draft articles on nationality in relation to the succession of States had been highly valued and indeed had had some impact on further developments in the field, such as the adoption of Recommendation No. R (99) 18 and the draft recommendation on multiple nationality, which itself was connected with the Commission's work on diplomatic protection. Moreover, the proposed additional protocol to the European Convention on Nationality would undoubtedly draw on the Commission's work.

49. Mr. TOMKA informed members that CAHDI met each autumn to prepare for the consideration of the report of the Commission in the Sixth Committee. CAHDI's deliberations were greatly facilitated by the annual update of the Commission's work prepared by Mr. Simma and published in the *Nordic Journal of International Law* which provided valuable information in advance of the publication of the report of the Commission to the General Assembly.

50. Mr. GOCO said that the very important work undertaken by the Council of Europe on the topic of corruption offered a wealth of material that would continue to be of great assistance to the Commission as it moved forward in its own work on that topic. He noted that the Model Code of Conduct for Public Officials appeared to contain a provision requiring officials to make periodic declarations of their assets and liabilities. He also asked how the question of money laundering was addressed in the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption.

51. Mr. PELLET asked what was the precise meaning of the somewhat esoteric expression "commitment to the integrity of the Rome Statute", to be found in the conclusions of the consultation meeting on the implications for Council of Europe member States of the ratification of the

<sup>6</sup> Council of Europe, Committee of Ministers, resolution (98) 7 (5 May 1998).

Rome Statute of the International Criminal Court. Moreover, he would like some clarification concerning the deadline for the formulation of late reservations to Council of Europe conventions.

52. Mr. GAJA said that the survey of the practice of depositaries contained in paragraph 316 of Mr. Pellet's fifth report on reservations to treaties (A/CN.4/508 and Add.1-4) revealed that when faced with a late reservation, the Secretary-General of the United Nations and the Secretary-General of IMO circulated a note to all contracting parties, inquiring whether they had any objection to the making of the reservation. If no objection was expressed, the reservation was held as admissible, even if formulated late. According to the last paragraph of section 16 of the background document dealing with practical issues regarding reservations to international treaties, that option was currently unavailable in the Council of Europe. He would be interested to know the reasons, particularly in view of the comment at the end of the paragraph, to the effect that a number of States had started to explore ways of getting round the prohibition, such as denouncing a treaty and then ratifying the same treaty again with reservations.

53. Mr. BENÍTEZ (Observer for the Ad Hoc Committee of Legal Advisers on Public International Law of the Council of Europe), replying to Mr. Kateka's question, said that senior public officials and elected representatives were excluded from the scope of the Model Code of Conduct for Public Officials because it enshrined certain principles, such as the requirement of political neutrality, that could not be applied to persons holding a political mandate, such as ministers, staff of ministers' private offices or elected representatives. The Council of Europe had not as yet produced a model code applicable to such categories of persons, but, given the political will that existed in that area, the Parliamentary Assembly of the Council of Europe had not ruled out the possibility of formulating such a code. At local and regional level, the competent body, namely, the quasi-statutory Congress of Local and Regional Authorities in Europe, had adopted a code of conduct for local and regional elected representatives.

54. With regard to Mr. Goco's question concerning declaration of assets, article 14 of the Model Code of Conduct for Public Officials stipulated the duty of public officials to declare their interests at the time of nomination and at regular intervals thereafter. The Council of Europe definition of interests, to be found in article 13, paragraph 2, was very broad, encompassing personal and family interests of any nature. Article 14, covering officials leaving the public service, was to be read in conjunction with article 26, which contained further provisions in that regard. The Criminal Law Convention on Corruption and the Civil Law Convention on Corruption required 14 notifications in order to enter into force, a number which should shortly be attained. Twenty-two notifications by States of their intention to join GRECO had been received, and that agreement had thus already entered into force. CAHDI would be pleased to forward to the Commission any relevant information in that connection. As for Mr. Goco's question on money laundering, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime was already in force, and,

indeed, was one of the pillars of the Council's fight against crime.

55. The work of the Council of Europe in the field of nationality went far beyond the recent adoption of the recommendation of the Committee of Ministers on avoidance of statelessness. As Mr. Galicki had pointed out, a number of activities were under way, and it was to be hoped, that they would soon result in the adoption of texts.

56. As to Mr. Tomka's remarks, he stressed that the Council of Europe was extremely grateful for the fruitful cooperation that existed between its committees dealing with international law and nationality and the Commission, cooperation that those committees were committed to pursuing. Thus, Mr. Pellet would be participating in the next meeting of CAHDI. The reports submitted periodically by Mr. Simma were a further example of such cooperation. The secretariat of the Commission also kindly provided CAHDI with advance copies of the annual report of the Commission on the work of its most recent session, to facilitate its participation in the work of the Sixth Committee. Cooperation was further enhanced by the fact that some members of the Commission had been or were also members of CAHDI. Mr. Tomka was himself a Vice-Chairman of both bodies.

57. Replying to Mr. Gaja's and Mr. Pellet's questions, he said that the reference to the commitment of Council of Europe member States to the "integrity of the Rome Statute" was a formulation that had been chosen deliberately. It was his understanding that the intention had been to rule out the possibility of delegations using the process of negotiating the rules of procedure as an opportunity to call into question provisions of the Statute itself. He had no definite information to hand concerning the deadline for late reservations. Such reservations were admissible, and he was not aware that any deadline was imposed.

58. CAHDI had been extremely concerned at recent developments with regard to the possibility of denouncing and re-ratifying treaties. The issue was covered in the first paragraph of section 8 of the background paper on practical issues regarding reservations to international treaties, which stated that the validity of such action was controversial. The passage in question continued: "The view has been expressed that this procedure is circumventing the rule that reservations may only be made when expressing consent to be bound. The view has also been expressed that, although highly undesirable, there are no formal rules against such a procedure." Fortunately, the Council of Europe had not yet been confronted with concrete instances of such a situation. His own preliminary impression was that such a practice would not be welcomed.

59. The CHAIRMAN thanked the Observer for the Ad Hoc Committee of Legal Advisers on Public International Law of the Council of Europe for his very full presentation.

*The meeting rose at 1 p.m.*