

Document:-
A/CN.4/234

**Report on the eleventh session of the Asian-African Legal Consultative Committee by
Nikolai A. Ushakov, Observer for the Commission**

Topic:
Cooperation with other bodies

Extract from the Yearbook of the International Law Commission:-
1970, vol. II

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CO-OPERATION WITH OTHER BODIES

[Agenda item 6]

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Report on the eleventh session of the Asian-African Legal Consultative Committee,
by Mr. Nikolai A. Ushakov, Observer for the Commission

[Original text: English/Russian]
[11 May 1970]

1. In accordance with the decision taken by the International Law Commission at its twenty-first session,¹ I had the honour to attend as an observer for the Commission the eleventh session of the Asian-African Legal Consultative Committee, held at Accra (Ghana) from 19 to 29 January 1970.
2. I take particular pleasure in stating that, as is evident from the whole course of its work at the eleventh session, the Committee attaches very great importance to the maintenance and development of the fruitful relations which have been so felicitously established between the Committee and the Commission, to their mutual advantage and satisfaction.
3. The delegations of the following member States took part in the work of the eleventh session: Ceylon, Ghana, India, Indonesia, Iraq, Japan, Jordan, Nigeria, Pakistan and the United Arab Republic. The delegations of two associated States, the Philippines and the Republic of Korea, also took part.²
4. At the inaugural meeting, a special message was read out from Brigadier Afrifa, Chairman of the Presidential Commission of Ghana, in which he emphasised that the Asian and African countries had many problems in common and that the Asian-African Legal Consultative Committee was one forum for the discussion of those problems, its purpose being to harmonize the views of member States on important legal problems.³
5. Mr. Adade, Attorney-General and Minister of Justice of Ghana, also spoke at the inaugural meeting. He referred to the importance of the problems on the Committee's agenda for the session and wished the Committee success in its work.
6. The head of the Ghanaian delegation (Mr. Adade) and of the Nigerian delegation (Mr. Shitta-Bey) were elected President and Vice-President respectively.
7. Mr. B. Sen, the Committee's permanent secretary, acted in that capacity and was re-elected to the post for the next two years.
8. At its first meeting, the Committee adopted the following agenda for the session:
 - I. Administrative and organizational matters:
 1. Adoption of the agenda
 2. Election of the President and Vice-President
 3. Election of the Secretary for the term 1970-1972
 4. Admission of observers
 5. Consideration of the Secretary's report
 6. Consideration of the reports of the Committee's observers to the United Nations Conference on the Law of Treaties and the twenty-first session of the International Law Commission
 7. Dates and place on the twelfth session.
 - II. Matters arising out of the work done by the International Law Commission under article 3 (a) of the Statutes:
 - State succession (for preliminary discussion)
 - III. Matters referred to the Committee by the Governments of the participating countries under article 3 (b) of the Statutes:
 1. Rights of refugees (reconsideration of the Committee's report on the rights of refugees adopted at the eighth session of the Committee in the light of new developments—Subject originally referred by the Government of the United Arab Republic, referred for reconsideration by the Government of Pakistan)
 2. Law of international rivers (referred by the Governments of Iraq and Pakistan)
 - IV. Matters taken up by the Committee under article 3 (c) of the Statutes:
 1. International sale of goods (taken up by the Committee at the suggestion of the Government of India)
 2. International legislation on shipping (for preliminary discussion)
9. Apart from administrative and organizational matters, the Committee concentrated at the session on three of the items listed above: rights of refugees, international sale of goods and law of international rivers. For lack of time, the Committee did not consider the items on State succession and international legislation on shipping.

¹ See *Yearbook of the International Law Commission, 1969*, vol. II, p. 235, document A/7610/Rev.1, para. 97.

² See annex I.

³ For the text of the message, see annex II.

Rights of refugees

10. At its eighth session at Bangkok in 1966, the Committee had approved the "Principles concerning treatment of refugees" which it had drafted.⁴ At the suggestion of the Government of Pakistan, the Committee reconsidered this question in the light of new developments. After a lengthy and very useful discussion, the Committee approved an "Addendum to the principles concerning treatment of refugees".⁵

11. As indicated in the preamble to the Addendum, the principles approved at Bangkok relate to what might be called political refugees who have been deprived of the protection of their own government. The Addendum, on the other hand, deals with other classes of refugees or displaced persons.

12. At the same time, the Committee adopted a resolution providing for the inclusion of the question of the rights of refugees in the agenda of its next session, with a view to the reconsideration of that question in the light of the relevant international instruments, *inter alia*: the Protocol relating to the Status of Refugees, adopted by the General Assembly on 16 December 1966;⁶ the Recommendations made by the Conference on African Refugee Problems held by the Organization of African Unity at Addis Ababa in October 1967, and the Convention of the Organization of African Unity Governing the Specific Aspects of Refugee Problems in Africa, adopted on 10 September 1969 at the sixth ordinary session of the Conference of Heads of State and Government, held at Addis Ababa.⁷

International sale of goods

13. A comprehensive and very valuable discussion of

⁴ *Yearbook of the International Law Commission, 1967*, vol. II, p. 331, document A/CN.4/197, annex B.

⁵ For the text of the Addendum, see annex III.

⁶ United Nations, *Treaty Series*, vol. 606, p. 268.

⁷ Organization of African Unity, document CM/267/Rev.1.

the international sale of goods took place during the session. As a result of the discussion, the Committee approved a special report on the question and decided to continue its discussion in the future.

Law of international rivers

14. The Committee devoted considerable attention to the question of international rivers, consideration of which was begun at the tenth session. During the discussion there was an exchange of views on the appropriate basis to be adopted for the preparation of rules governing the use of international rivers and, in particular, on the desirability of adopting the "Helsinki Rules" adopted by the International Law Association in 1966⁸ as the basis for this work.

15. The Committee decided to transmit the relevant documents for study by the Governments of member States and to continue its examination of the question at its twelfth session.

16. The Committee secretariat prepared for the session extremely comprehensive studies on the items on the rights of refugees, the law of international rivers and the international sale of goods. These studies, which were thorough and of extremely high quality, included all the most important existing documentation on those subjects. The excellence of this work is a matter for sincere admiration.

17. In conclusion, I should like to express to the President and Secretary of the Committee my deep appreciation of the cordial welcome I received and of the great courtesy shown, through me, to the Commission.

⁸ International Law Association, *Report of the Fifty-second Conference, held at Helsinki* (London, International Law Association, 1967), pp. 484-532.

ANNEXES

ANNEX I

List of delegates and observers at the eleventh session of the Asian-African Legal Consultative Committee

[not reproduced]*

ANNEX II

Special message from Brigadier A.A. Afrifa
Chairman of the Presidential Commission of Ghana

On behalf of my colleagues, the members of the Presidential Commission, the Government and people of Ghana, it is my great pleasure to welcome the distinguished delegates, advisers and

* For the list, see the mimeographed version of this document, annex A.

observers to the Eleventh Session of the Asian-African Legal Consultative Committee to which we feel privileged to play host.

Asia and Africa share a common heritage and we have many problems in common. It is quite obvious therefore that we should meet occasionally to discuss these common problems and explore possible common solutions to them. It is because of this need to find a forum for the discussion of our common problems that I welcome the existence of the Asian-African Legal Consultative Committee as an institution which meets to harmonize the views of member States on important legal problems.

I observe that this present session has very important items on its agenda: items like rights of refugees, law of international rivers, international sale of goods and international shipping legislation. The refugee problem in many of the Asian-African countries has been the result of political upheavals or cataclysms in the wake of decolonization and the resultant international adjustments. The rights of these unfortunate refugees must be

guaranteed in order to alleviate human suffering. Any contribution therefore that this session could make towards solving this problem will be a great service to humanity.

Another area of international conflict is the use of international rivers by riparian States. If your deliberations could result in finding equitable formulae towards eliminating this area of international conflict you will have contributed greatly towards the promotion of international peace and security.

I am also happy to see that this session is directing its mind towards the study of new topics, such as the international sale of goods and international shipping legislation. As primary producing countries which contribute the bulk of the world's raw materials to international trade, we cannot better protect our own interests than by examining the legal framework within which we sell and transport these commodities in order to ensure to ourselves a fair share of the proceeds of world trade.

It is hoped that this session taking place here in Ghana will succeed in arriving at important decisions which will offer a guiding-light to a conflict-torn world and show humanity the way to peace and progress.

We wish you a very comfortable stay in Ghana.

ANNEX III

Addendum to the "principles concerning treatment of refugees" approved by the Committee

Whereas it appears to the Committee on further consideration that the principles adopted at its eighth session held in Bangkok in 1966^a mainly contemplate the status of what may be called political refugees who have been deprived of the protection of their own Government and do not provide adequately for the case of other refugees or displaced persons;

And whereas the Committee considers that such other refugees or displaced persons should enjoy the benefit of protection of the nature afforded by articles IV and V of those principles;

Now therefore, the Committee at its eleventh session held at Accra from 19-29 January 1970 resolves as follows:

1. Any person who because of foreign domination, external aggression or occupation has left his habitual place of residence, or being outside such place, desires to return thereto but is prevented from so doing by the Government or authorities in control of such a place of his habitual residence shall be entitled to return to the place of his habitual residence from which he was displaced;
2. It shall accordingly be the duty of the Government or authorities in control of such place of habitual residence to facilitate by all means at their disposal the return of all such persons as are referred to in the foregoing paragraph, and the restitution of their property to them;
3. This natural right of return shall also be enjoyed and facilitated to the same extent as stated above in respect of the dependants of all such persons as are referred to in paragraph 1 above;
4. Where such a person does not desire to return he shall be entitled to prompt and full compensation by the Government or the authorities in control of such place of habitual residence as determined in the absence of agreement by the parties concerned by an international body designated or constituted for the purpose by the Secretary-General of the United Nations at the request of either party;

^a See foot-note 4.

5. If the status of such a person is disputed by the Government or authorities in control of such place of habitual residence or if any other dispute arises, such matter shall also be determined in the absence of agreement by the parties concerned by an international body designated or constituted as specified in paragraph 4 above.

ANNEX IV

Resolution No. XI (8) adopted by the Committee

The Committee

Considering that the Government of the United Arab Republic by a reference made under article 3 (b) of the Statutes had requested the Committee to consider certain questions relating to the rights of refugees,

Considering that the Government of Pakistan had requested the Committee to reconsider at its tenth session its report on some of the aspects, which request had been supported by the Governments of Iraq, Jordan and the United Arab Republic,

Considering further that it was not possible for the Committee at its tenth session to give detailed consideration to the various suggestions made and that by resolution No. X (8) the Committee had requested the Secretariat to put the item concerning rights of refugees on the agenda of its eleventh session including all the proposals made at the tenth session by the delegations of Pakistan and Jordan, and in the meantime, in order to facilitate the work of the Committee, to prepare, in co-operation with the Office of the United Nations High Commissioner for Refugees, a detailed analysis of the above-mentioned instruments and recommendations,^a including particularly:

(i) the Protocol relating to the Status of Refugees, adopted by the General Assembly on 16 December 1966,^b

(ii) the United Nations Declaration on Territorial Asylum, adopted by the General Assembly on 14 December 1967,^c

(iii) the Recommendations made by the Conference on African Refugee Problems held by the Organization of African Unity at Addis Ababa in October 1967,

(iv) the Convention of the Organization of African Unity Governing the Specific Aspects of Refugee Problems in Africa, adopted on 10 September 1969 at the sixth ordinary session of the Conference of Heads of State and Government of the Organization, held at Addis Ababa,^d

Convinced that the above-mentioned new instruments and recommendations made an important contribution towards further development in international law relating to refugees,

Requests the Secretariat to put the item "Rights of refugees" on the agenda of its twelfth session if possible for reconsideration of the Principles concerning the Treatment of Refugees, adopted at its eighth session, in the light of the above-mentioned international instruments and recommendations with a view to bringing these principles, as far as appropriate, in line with these instruments and recommendations.

^a See *Yearbook of the International Law Commission, 1969*, vol. II, p. 194, document A/CN.4./212, annex. IV.

^b See foot-note 6.

^c See General Assembly resolution 2312 (XXII).

^d See foot-note 7.