

Document:-
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**Succession of States in respect of treaties: draft resolution submitted by Mr. El-Erian -
reproduced in A/CN.4/SR.1301**

Topic:
Succession of States with respect to treaties

Extract from the Yearbook of the International Law Commission:-
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31. Sir Francis VALLAT (Special Rapporteur) proposed that the third sentence should be amended to read: "Such unions might obtain an exclusive right to enter into certain types of agreement, as in the case of the European Economic Community under the Treaty of Rome".

It was so agreed.

Paragraph 49, as amended, was approved.

Paragraphs 50 and 51

Paragraphs 50 and 51 were approved.

(c) *Scheme of the draft* (paragraphs 52-63) (A/CN.4/L.217/Corr.1).

Paragraphs 52-55

Paragraphs 52-55 were approved.

Paragraph 56

Paragraph 56 was approved, with a change in the positions of the footnotes.

Paragraph 57

32. In reply to comments made by Mr. USHAKOV, Sir Francis VALLAT (Special Rapporteur) said he would amend the text of paragraph 57 to take account of the concern expressed about treaties of a general or universal character.

Paragraph 57 was approved, subject to revision by the Special Rapporteur.

Paragraph 58

33. Mr. AGO suggested that the first sentence should be divided into two sentences, the first ending with the words "Red Cross". The second sentence would begin with the words: "Unfortunately, the Commission was unable to find...".

34. Sir Francis VALLAT (Special Rapporteur) said that paragraph 58 should be divided into two paragraphs, the second beginning at the words "Nevertheless, the attention paid to this matter...".

35. After a discussion on the last sentence, in which Mr. AGO, Mr. ŠAHOVIĆ, Mr. SETTE CÂMARA, Mr. USHAKOV and Mr. KEARNEY took part, Sir FRANCIS VALLAT (Special Rapporteur) suggested that the sentence should be retained, but that the word "positive", before the word "solution", should be deleted.

Paragraph 58 was approved with the amendments suggested by Mr. Ago and the Special Rapporteur.

Paragraph 59

36. Mr. KEARNEY proposed that the last sentence should be amended to read: "The provisions are based on article 66 of the Vienna Convention on the Law of Treaties and the proposed annex is identical with the annex to the Vienna Convention."

It was so agreed.

Paragraph 59, as amended, was approved.

Paragraphs 60-63

Paragraphs 60-63 were approved.

B. RECOMMENDATION OF THE COMMISSION (A/CN.4/L.217/Corr.1)

Paragraph 64

37. Mr. KEARNEY proposed that the Secretariat should draft a text for paragraph 64 stating that the Commission recommended that the draft articles should be submitted to States for their comments and then be submitted to a diplomatic conference.

38. Mr. TSURUOKA supported that proposal.

39. The CHAIRMAN said that, as had been suggested earlier by Mr. El-Erian, the Commission wished to express its appreciation of the work done by the Special Rapporteur in so brief a period, which had enabled it to submit a much improved version of the draft articles on succession of States in respect of treaties.

40. Sir Francis VALLAT (Special Rapporteur) said he was grateful for that tribute. He wished to thank the Secretariat for the help he had received in connexion with the work of the Drafting Committee and with the preparation of the commentaries to the draft articles.

The meeting rose at 1 p.m.

1301st MEETING

Friday, 26 July 1974, at 10.20 a.m.

Chairman: Mr. Endre USTOR

Present: Mr. Ago, Mr. Bilge, Mr. Calle y Calle, Mr. El-Erian, Mr. Elias, Mr. Hambro, Mr. Kearney, Mr. Quentin-Baxter, Mr. Ramangasoavina, Mr. Šahović, Mr. Sette Câmara, Mr. Tabibi, Mr. Tammes, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Yasseen.

Draft report of the Commission on the work of its twenty-sixth session

(A/CN.4/L.216/Add.1; L.220/Add.1 and 2; L.223 and Add.1; L.224)

(continued)

Chapter I

ORGANIZATION OF THE SESSION
(resumed from the 1297th meeting)

H. COMMEMORATION OF THE TWENTY-FIFTH ANNIVERSARY OF THE OPENING OF THE COMMISSION'S FIRST SESSION

1. The CHAIRMAN reminded the Commission that it had been agreed that paragraph 15 of chapter I should be revised.¹ He invited members to consider the new paragraphs 15*bis* and 15*ter* in document A/CN.4/L.216/Add.1.

2. Mr. EL-ERIAN thought that, in referring to the Commission's influence on legal opinion, para-

¹ See 1297th meeting, para. 21.

graph 15^{ter} should also mention the International Law Seminar, whose members had attended many of the Commission's meetings. The Commission was in fact the only United Nations body which had a formal working relationship with young people from universities.

3. Mr. KEARNEY said that the Seminar might also be mentioned in chapter VI, in the remarks on the report of the Joint Inspection Unit (A/CN.4/L.220/Add.2), which could include a statement to the effect that the Seminar had proved most valuable and that some of the Commission's members had lectured to it.

4. Mr. AGO said he agreed that the Seminar might be mentioned in more than one part of the report, but the most important point was to emphasize its links with the Commission's meeting place—Geneva—which enabled participants to attend the Commission's meetings.

5. The CHAIRMAN, speaking as a member of the Commission, said that, since the part of the report under consideration dealt with the commemoration of the Commission's twenty-fifth anniversary, he thought the reference to the Commission's influence should be of a more general nature. He therefore suggested the addition to paragraph 15^{ter} of a sentence to the effect that the Commission also directly helped to spread the science of international law through seminars. The International Law Seminar itself could be mentioned in connexion with the meeting place of the Commission, as suggested by Mr. Ago.

It was so agreed.

Paragraphs 15bis and 15ter of chapter I, as amended, were approved.

Chapter I as a whole, as amended, was approved.

Chapter VI

OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION (resumed from the 1299th meeting)

D. ORGANIZATION OF FUTURE WORK, and

F. DATE AND PLACE OF THE TWENTY-SEVENTH SESSION

6. The CHAIRMAN said that section D (A/CN.4/L.220/Add.1) contained a recommendation that the General Assembly should approve a twelve-week session as the standard period of work for the Commission, as from the next session. Since approval of that recommendation by the General Assembly would entail additional expenditure, the Secretary-General had circulated, in document A/CN.4/L.224, a statement of its financial implications. That statement was now before the Commission and he assumed that members had considered it carefully.

7. Mr. TSURUOKA asked why the Commission was asking for a twelve-week and not a fourteen-week session.

8. Mr. TABIBI said he thought the Commission should ask for a fourteen-week session.

9. Mr. AGO said that a fourteen-week session would generally be too long for some of the Commission's

members. A ten-week session had proved too short, so it seemed wise to ask for a minimum of twelve weeks. He suggested that the words "it would have been possible only" in the fourth sentence of paragraph 2 of section D should be amended to read "it would not have been possible".

It was so agreed.

10. After a brief discussion, the CHAIRMAN suggested that the word "minimum" should be inserted before the words "standard period" in the last sentence of section D, paragraph 2.

It was so agreed.

Sections D and F of chapter VI, as amended, were approved.

G bis. REMARKS ON THE REPORT OF THE JOINT INSPECTION UNIT (A/CN.4/L.200/Add.2)

Paragraphs 1 and 2

11. Mr. HAMBRO suggested that, in order to explain why the Commission had discussed in its report what was essentially an administrative question, a sentence should be added to the end of paragraph 1 to the effect that, since the report of the Joint Inspection Unit dealt with the work of the Commission, which was generally discussed by the Sixth Committee of the General Assembly, the Commission had considered it natural and necessary to include the remarks which followed. He had doubts about the phrase "The Commission was informed", at the beginning of the first sentence. If the Commission had been informed by the Secretary-General, the report should say so.

12. Mr. AGO said that, since the Secretariat had formally drawn the Commission's attention to the report of the Joint Inspection Unit and had provided a copy of the relevant passages of that report, it was right for the Commission to say what it thought of those passages in its own report, which would be circulated to all the appropriate United Nations organs.

13. Mr. RAMANGASOAVINA said he thought that the text under consideration gave a clear analysis of the points raised in the report of the Joint Inspection Unit and would dispel any misunderstanding about the Commission's work.

14. Sir Francis VALLAT suggested that the opening words of paragraph 1 should be amended to read: "The Commission learned, towards the end of the session, of the existence of a report by the Joint Inspection Unit entitled...".

It was so agreed.

15. Mr. QUENTIN-BAXTER suggested that, to meet the point raised by Mr. Hambro, the third sentence of paragraph 2 should be replaced by the following text:

Nevertheless, these developments give the Commission an occasion to place before the General Assembly its own estimate of the nature and requirements of the task entrusted to the Commission by the General Assembly in the process of codification and progressive development of international law.

It was so agreed.

Paragraphs 1 and 2, as amended, were approved.

Paragraphs 3-5

Paragraphs 3-5 were approved.

Paragraph 6

16. Mr. KEARNEY suggested that the phrase "over a continuous period" in the last sentence should be replaced by the words "on a continuing basis over a lengthy period".

It was so agreed.

Paragraph 6, as amended, was approved.

Paragraph 7

Paragraph 7 was approved.

Paragraph 8

17. Mr. ELIAS suggested that the following sentence should be added to the end of paragraph 8:

Several members of the Commission also give lectures to the annual seminar which is held under the auspices and during the sessions of the Commission.

It was so agreed.

Paragraph 8, as amended, was approved.

Paragraph 9

18. Mr. QUENTIN-BAXTER suggested that the word "completely" in the first sentence should be deleted.

It was so agreed.

Paragraph 9, as amended, was approved.

Paragraphs 10 and 11

Paragraphs 10 and 11 were approved.

Paragraph 12

19. Sir Francis VALLAT proposed that a reference should be made to the special character of the Commission's discussions, which consisted of exchanges of new ideas and views, whereas the deliberations of most other United Nations bodies consisted largely of statements of Governments' positions. He would submit an appropriate text for insertion in paragraph 12.

It was so agreed.

Paragraph 12 was approved, subject to the addition proposed by Sir Francis Vallat.

Paragraphs 13-17

Paragraphs 13-17 were approved.

Paragraph 18

20. Mr. AGO suggested that a sentence should be added at the end of paragraph 18 explaining that the International Law Seminar organized every year by the United Nations Office at Geneva was closely linked with the Commission's sessions, that the Commission's members took part in it, and that one of the important features of the Seminar was that it gave participants an opportunity of attending the Commission's discussions.

It was so agreed.

Paragraph 18 was approved, subject to an addition on the lines suggested by Mr. Ago.

Paragraphs 19-21

Paragraphs 19-21 were approved.

Chapter VI as a whole, as amended, was approved.

21. The CHAIRMAN suggested that, since the question of honoraria and other emoluments payable to members was not dealt with in the Commission's report, he might take up those matters when representing the Commission at the next session of the General Assembly.

It was so agreed.

Chapter II

SUCCESSION OF STATES IN RESPECT OF TREATIES

(resumed from the previous meeting)

D. DRAFT ARTICLES ON SUCCESSION OF STATES IN RESPECT OF TREATIES

22. The CHAIRMAN invited the Commission to adopt the draft articles on succession of States in respect of treaties (A/CN.4/L.223 and Add.1).

23. Mr. USHAKOV said that, in consequence of his position with regard to article 18,² he wished to go on record as having abstained from voting on the draft articles as a whole.

The draft articles on succession of States in respect of treaties were adopted.

Chapter II as a whole, as amended, was approved.

RESOLUTION ADOPTED BY THE COMMISSION

24. Mr. EL-ERIAN said that as a gesture of appreciation to the Special Rapporteur, he would like to submit the following draft resolution:

The International Law Commission,

Having adopted the draft articles on succession of States in respect of treaties,

Desires to express to the Special Rapporteur, Sir Francis Vallat, its deep appreciation of the outstanding contribution he has made to the treatment of the topic by his scholarly research and vast experience, thus enabling the Commission to bring to a successful conclusion the important task of finalizing the draft articles on succession of States in respect of treaties.

The draft resolution was adopted by acclamation.

The draft report of the Commission on the work of its twenty-sixth session as a whole, as amended, was adopted.

Closure of the session

25. After an exchange of congratulations and thanks, the CHAIRMAN declared the twenty-sixth session of the International Law Commission closed.

The meeting rose at 1.25 p.m.

² See 1293rd meeting, paras. 41-44.