Document:-

A/CN.4/SR.1009

Summary record of the 1009th meeting

Topic:

Succession of States in respect of matters other than treaties

Extract from the Yearbook of the International Law Commission:-

1969, **vol. I**

46. It seemed, therefore, that compensation was essentially a political and economic problem, not a legal one. It was a question of the international balance of forces. In the case of States born of decolonization, willingness to pay compensation was often prompted by the desire to establish good political relations with the predecessor State. The matter was then usually settled by agreement.

47. He recognized that large landowners or corporations which had exploited the natural resources of former colonies should not be compensated, because there were good grounds for believing that they had acted in bad faith. There could be no unjustified enrichment when they were expropriated by the successor State, because it was only recovering assets which formed part of the national heritage; that was in accordance with justice and with the resolutions of the General Assembly concerning permanent sovereignty over natural resources.[5] Private persons of humble means, however, like workers or farmers, living in the territory of the predecessor State, had the right to compensation within the limits of what was fair and reasonable, or to facilities for taking their property with them if they left that territory. It could be said that that kind of debt was an obligation of general international law which did not derive from a treaty, though it might be sanctioned by a treaty settling all questions of compensation.

48. The Special Rapporteur should be invited to prepare a definitive set of draft articles in the light of the comments made by the various speakers during the discussion, and to submit it at the Commission's next session.

The meeting rose at 12.40 p.m.

[5] See General Assembly resolutions 1803 (XVII) and 2158 (XXI).

1009th MEETING

Thursday, 26 June 1969, at. 11.15 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Mr. Yasseen.

Succession of States and Governments: Succession in Respect of Matters other than Treaties

(A/CN.4/216/Rev.1)

[Item 2 (*b*) of the agenda]

(continued)

1. The CHAIRMAN invited the Commission to continue consideration of the Special Rapporteur's second report (A/CN.4/216/Rev.1).

2. Mr. ALBÓNICO said he fully supported the political philosophy underlying the Special Rapporteur's excellent report, though he did not agree with some of the legal conclusions. As he understood it, the Commission's terms of reference required it to study in broad outline the main legal systems of the world, regardless of the political views held by its members.

3. He proposed to examine the report in some detail in order to indicate the points on which he agreed with the Special Rapporteur and those on which he disagreed with him. In the first place, he noted that the Special Rapporteur said at the outset (para. 1) that he had made "only a provisional approach to the problem"—which explained certain minor omissions in such matters as citations.

4. The Special Rapporteur said that he was "acting in accordance with the views expressed in the Sixth Committee", and he made special reference to those views in his report (para. 5). It had been suggested that, because of that approach, the report amounted to an advocate's brief rather than a balanced analysis of the position. He (Mr. Albónico) thought that in some respects the Special Rapporteur had gone too far, while in others he had been rather cautious.

5. Contrary to what was maintained in the report (para. 7), the problem of acquired rights did not arise only in cases of social and political upheaval. It figured prominently in conflicts of laws in private international law, and also in disputes arising from intertemporal developments; in neither case was there any question of abrupt social or political change.

6. He agreed with the Special Rapporteur that a law which took effect immediately and affected all the consequences of legal situations which had come into existence before its promulgation was not a retroactive law (para. 11). A law had retroactive effect only when it took away a right already acquired. In Chile, the rule of non-retroactivity of the law was a mere recommendation of the legislators; the legislature had the power to make a law specifically retroactive and had been known to do so, despite a century and a half of uninterrupted democratic rule in that country.

7. He did not think that non-payment of compensation for expropriation amounted to a denial of acquired rights (para. 12). It could result from a state of necessity, though admittedly that idea was not yet part of international law.

8. He fully supported the Special Rapporteur's suggestion that a conspectus of State practice in the matter should be prepared (para. 16). If its work was to be successful, the Commission needed to have full information on the actual practice of States. As no commentaries would be attached to the compilation in question, it would cost less than the Secretariat had estimated.

9. Paragraphs 22 and 23 of the report, which dealt with essential points of substance, had very much impressed him. The Special Rapporteur had rightly stressed that the successor State had the same rights and obligations as the predecessor State (paras. 24

and 25) and that the successor State did not derive its sovereignty from the predecessor State, but from its own statehood (para. 29).

10. He agreed with the Special Rapporteur that the successor State derived its sovereignty from international law and did so "fully and without restriction" (para. 35). He himself would add that the successor State could restrict the exercise of acquired rights, and even abolish them on such grounds as public policy, national security or public health, subject to payment of appropriate compensation commensurate with the State's real economic capacity. In the same paragraph the Special Rapporteur spoke of "pre-existing situations", but that expression obviously referred to acquired rights. The terminology used was immaterial: the problem remained the same.

11. He fully agreed with the contents of the section entitled "Absence of acquired rights in the case of public rights" (paras. 36 to 38). As far as public debts were concerned, however, he believed that a distinction must be made between debts contracted by a State and those contracted by a régime, a distinction which the Special Rapporteur had omitted to make in the section ont that subject (paras. 39 to 43); moreover, he had not dealt with the question of terms of payment. With regard to the important subject of nationality, paragraph 44 of the report said nothing about plebiscites or the right of option, which were especially relevant.

12. On the question of administrative contracts, he would go further than paragraph 46 of the report; he believed that the successor State had the widest powers in the matter and that no acquired rights could be invoked against those powers.

13. He entirely agreed that acquired rights were subject to limitation for reasons of public policy (para. 53).

14. In paragraph 59, the Special Rapporteur appeared to confuse the proper exercise of the right of diplomatic protection with the régime of exterritorial jurisdiction or capitulations. On that point, he fully approved of the comments made by Mr. Bartoš at the previous meeting.[1]

15. As to the idea of an "international minimum standard", discussed in paragraphs 63 and 64, in contemporary international law such standards existed not only for aliens, but also for nationals. Since the adoption of such instruments as the International Covenants on Human Rights,[2] no State was free to disregard the human rights of any person, whether an alien or a national.

16. The Special Rapporteur had acted with commendable caution in drawing attention to the illegality of a nationalization measure "directed against a class of persons because of their foreign nationality" (para. 67); but that statement should be qualified by the rule in paragraph 71 that such measures were permissible when required by national security or public policy.

17. The Special Rapporteur had rightly pointed out in paragraph 68 that an alien could not object to structural changes of a general character. In Latin America, great social changes were now taking place; in Chile, important measures of agrarian reform had been enacted and implemented, and no alien or foreign firm had protested against them in any way.

18. On the subject of public policy as a limitation on acquired rights, paragraphs 72 to 76 did not go far enough. The Bustamante Code, which regulated conflicts of laws between fifteen Latin American States, laid down that acquired rights must be respected, but it added the important proviso that those rights could not be invoked against the requirements of public policy. Since the successor State was the sole judge of what the requirements of public policy were, that reservation provided the necessary counterweight to the doctrine of acquired rights.

19. With regard to compensation, he considered that a State which expropriated property was under an obligation to pay an amount that represented a reasonable valuation of the property. The State concerned could defer payment, and even suspend it in case of need, but it could not do away with compensation altogether, because international law did not countenance spoliation.

20. He agreed that it was necessary to distinguish between the various types of State succession. The problems of State succession arising between a former colonial Power and a new State were completely different from those arising when two States were merged into one. Decolonization called for special treatment, particularly as the General Assembly had adopted specific decisions on the matter, such as resolution 1803 (XVII) on permanent sovereignty over natural resources. In cases of decolonization, the amount of compensation to be paid for nationalization, and the terms of payment, were bound to be different. In particular, the benefits derived in the past by the colonizing Power would have to be taken into account in order to avoid unjustified enrichment.

21. It was desirable, however, not to lay too much stress on the decolonization process, which belonged essentially to the past. There were more topical problems, such as those connected with integration and the formation of communities among States having similar legal, economic and social systems. The Commission should concentrate its attention on those problems of the future; in so doing, it would make a contribution to the formulation of the new international law which Alejandro Alvarez had heralded in his works.

22. Mr. BEDJAOUI (Special Rapporteur) said he could not sum up a debate so full of substance as the one which had taken place or refer specifically to each of the comments made; moreover, that might lead to further debate. He was sorry if he had caused some difficulty to certain members of the Commission, but he was sure that, in view of its importance, the problem of acquired rights would be discussed by the Commission again at subsequent sessions. He would therefore confine himself to replying, first to Mr. Ago,

[1] See para. 43.

[2] See General Assembly resolution 2200 (XXI).

the Special Rapporteur on State responsibility, regarding the boundary between international responsibility and State succession, and secondly to Sir Humphrey Waldock, who like himself was studying State succession, regarding the direction which the Commission's work should take.

23. In the first place, he wished to make it clear that what Mr. Ago referred to as the continuity between the predecessor and the successor State [3] could not be continuity of the legal order of the predecessor State since, if there was no break, the problem solved itself. Sociology taught that there was always a transitional stage in succession. Certain things might be continued provisionally, but there was also the practice of *tabula rasa,* particularly in succession in respect of treaties. Mr. Ago's thesis could therefore be accepted only if it related to continuity of the international legal order. But in that case one should not speak of "continuity", which would imply the idea of succession. The successor State did not continue the sovereignty of its predecessor when sovereignty was manifested in international relations. There was no transfer, but a substitution of international competence. Consequently, the starting point should be that the successor State was a State, and, as such, was governed by general public international law. The question then arose whether, as a successor, it was governed by other additional rules belonging to a special branch of public international law, namely, the law of State succession.

24. If such rules existed, should they be regarded as increasing or diminishing the obligations of the successor State? Mr. Ago envisaged only the possibility of rules which would impose upon the successor State greater obligations than those of the predecessor State. It was acknowledged, however, that the most that could be asked of the successor State was to respect acquired rights inherited from the predecessor State, not to assume greater obligations concerning them. But if one stopped there, what would be the use of a special branch of public international law concerned with State succession? For if the successor State had the same obligations as any other State, all cases would merely be cases of responsibility, and the branch of the law concerned with responsibility would entirely absorb that dealing with succession. On the other hand, if it was asked whether the successor State, as a successor, did not have lesser obligations, there was every reason for having a branch of law on succession. It was reasonable to put that question, if only because the successor State had taken no part in creating the acquired rights which it was desired to impose on it. The question whether that State had lesser obligations was at the root of the whole matter of acquired rights. Respect for those rights, or their abolition, hinged on it. And if that hypothesis were adopted, in what context should it be studied?

25. It could not be studied in the context of responsibility, as envisaged by Mr. Ago; for the question whether there was a lesser obligation was a question of substantive rules which did not come within the sphere of responsibility as Mr. Ago had defined it. The matter could only be examined on the basis, for instance, of the idea that since the adoption by the General Assembly of resolution 1514 (XV), on the granting of independence to colonial countries and peoples, the responsibility of the colonial Power could not be invoked. But that would be going too far.

26. If that approach were adopted, a central, fundamental problem—the problem of the acquired rights of aliens—would be left aside, since it would belong neither to the theory of succession nor to that of responsibility. He had therefore thought fit to study it, in order to ensure that the two Special Rapporteurs did not overlook a problem which was the heart of the matter.

27. As to the direction the Commission's work should take in the future, it was true, as Mr. Tsuruoka had said, that the members of the Commission were not the legislators of the world, but too sharp a distinction should not be made between doctrinal studies, which should be excluded from the Commission's work, and pragmatism, which should be its sole guide. If the Commission—and that was its task—was to arrive at rules that would be generally applicable to the international community, which displayed such a variety of trends, it must take all those trends into account and avoid an unduly traditional approach. The process of decolonization had altered the whole question of State succession.

28. The discussion had shown that the theory of acquired rights was extremely vague and imprecise. That was why it was so controversial, and it would therefore be a mistake to accept it as a whole and in all cases. But it did not follow that it should be left aside. He intended to submit to the Commission at its next session, in 1970, two or three articles of a general character on acquired rights; they would not be characterized by "legal nihilism", as some had feared, but would reflect and express in words the evolution of law in the modern world and also, perhaps, the exceptions found under every rule. Some members of the Commission had proposed that it should take note of the report on acquired rights and the discussions on it and, at the next session, study articles dealing with individual items such as public property and public debts, taking into account the report, the discussions, the appropriate resolutions of the General Assembly, such as those on natural resources, and the legal and diplomatic practice, which was to be re-examined. Other members had proposed that the Commission should revert to the report on acquired rights later, either when it had made further progress in its work or when it had made a full study of the topic of State succession, and that the Special Rapporteur should then draft some articles on acquired rights to synthesize the discussion. In that way the thorny question of the acquired rights of aliens would be left aside and the Commission would confine itself to the study of succession.

29. He would like to set about the task quickly, since the discussion had shown that the question of acquired rights needed clearing up. As Special Rapporteur, he was quite prepared to begin with public property, since

[3] See 1007th meeting, para. 21.

both he and the Commission acknowledged that acquired rights were ill-defined and should not be invoked without caution against successor States, particularly newly independent States.

30. With regard to the work which the Secretariat could have been asked to undertake, the financial implications seemed to be very considerable; he would not insist on the work being done if the cost was really prohibitive or if questions of substance were involved. Nevertheless, the inquiry into certain aspects of the practice followed in State succession would be valuable, especially if the Secretariat took care to explain, in the note to be sent to governments, exactly what the Commission intended to do. As to the bibliography, it might include a summary which, without assessing the quality and scope of each work, would give an indication of its contents. It would, moreover, be better to engage two consultants for one year than one consultant for two years as provided for in the estimate of expenditure. The purpose of analysing the jurisprudence of international courts would be to determine whether the problem had been approached specifically from the standpoint of acquired rights or only incidentally.

31. Mr. EUSTATHIADES said he would prefer the Commission to move on to firmer ground than that of theoretical considerations. He noted that no member of the Commission, whether he rejected acquired rights outright or was in favour of giving them some recognition, seemed to wish that notion to be made a guiding principle in dealing with the topic of State succession. It was too early to say what place should be given to the idea. Instead of discussing at the outset various theses, often *a priori,* as to the theoretical basis of succession, it would be preferable to start by outlining all the actual rules on the subject. Only then would it be possible to see whether there should be a place for acquired rights in one connexion or another. The Commission's task would be no easier if some other basis were used, derived from human rights, for instance, or from the notion of unjustified enrichment.

32. He had proposed that in the course of his studies the Special Rapporteur should draw up a balance sheet to determine to what extent there was continuity or rupture of legal relations. What should be established was not whether there was genuine succession in theory—an idea which the Special Rapporteur rejected—but whether there was *de facto* succession in certain respects. The answer to that question would emerge from the Commission's future work. He therefore welcomed the fact that the Special Rapporteur had agreed, for the next session, to deal in specific terms with public property and public debts as part of the economic and financial aspects of State succession. The study of general notions such as that of acquired rights should be postponed until the end of the Commission's work on the topic.

33. An effort should also be made to eliminate from the Commission's discussions another *a priori* element, namely, statements of political position. That problem arose more especially in connexion with decolonization. Several speakers had proposed distinguishing between the different types of succession of States. It had also been suggested that distinctions should be made between types of succession not connected with decolonization. The Commission's work should thus make it possible to see how much difference there was between the traditional and the new solutions. The Commission would then be faced with a choice: either it could make a synthesis of the traditional and the new international law, or it could say that in some particular sphere, such as that of public property and public debts, there were certain special rules applicable to the birth of a State through decolonization. In any case, depoliticizing the debate meant abstaining from *a priori* positions and one-sided arguments, but it did not mean that the various socio-political phenomena should not to taken into consideration.

34. In making such a comparison, it would be better to leave aside matters that were not unquestionably linked with State succession, in particular, the treatment of aliens. For under traditional international law an alien might possibly enjoy more favourable treatment than nationals, whereas under the new law a trend towards equality seemed to be emerging. The Commission had not yet found the answer to that question. Nor was it a matter of excluding the problem of aliens *a priori* from the topic of State succession, any more than from that of responsibility. Only when the Commission's work was finished would it be possible to say whether aliens might come to have more rights than nationals and in what specific cases.

35. The Special Rapporteur need not tackle the problem of aliens rights in general, which might hold up the Commission's work, but he would see whether, in any particular sector of State succession, there were special rules relating to aliens. To proceed otherwise would oblige the Commission to base its work from the outset on considerations *de lege ferenda.* That would be putting the cart before the horse: before synthesizing codification and progressive development, it was necessary to have a thorough knowledge of the positive data of the material to be codified. Consequently, the Commission's next session should be devoted to the study of specific solutions.

36. Mr. CASTRÉN said the Commission should renew the instructions it had given the Special Rapporteur the previous year for the preparation of draft articles on the economic and financial aspects of State succession, beginning with public property and public debts. The draft should be based on the discussion that had taken place and should objectively reflect the opinions expressed. An equitable compromise should be sought between the interests of the successor State, the predecessor State and third States, without overlooking the interests of private persons who were nationals of those States. As hardly any generally accepted rules on the matters under consideration could be derived from the practice of States, the draft articles would inevitably contain rules based on the progressive development of international law.

37. Mr. RUDA, after thanking the Special Rappor-

teur for his impartial summing-up of the discussion, said he thought the Special Rapporteur should begin his work for the next session with the subjects of public property and public debts, as indicated in paragraph 79 of the Commission's report on the work of its last session [4], though he should not disregard the broader economic and financial problems referred to by Mr. Eustathiades.

38. With regard to the Commission's report to the General Assembly, he noted that Mr. Rosenne wished it to be brief and not to reveal the differences of opinion on acquired rights which had come to light during the discussion.[5] He believed, however, that it was the Commission's duty to inform the General Assembly of the full scope of the discussion, since it was bound to be of interest, particularly to the new States. He therefore suggested that the Commission's report should include a full section on the discussion concerning acquired rights and perhaps also a request for the views of Member States on that subject.

39. As to the work to be requested of the Secretariat, he shared Mr. Yasseen's view that the proposed bibliography on State succession should be simply a catalogue, and that it should be prepared by the United Nations Library service. He also agreed with Mr. Yasseen that the Secretariat's digest of the decision of international tribunals relating to State responsibility [6] should be brought up to date, but that no attempt should be made to analyse the decisions.

40. Mr. TABIBI said he was grateful to the Special Rapporteur for having put all the complex aspects of the problem before the Commission so clearly. He supported the Special Rapporteur's conclusions, although he differed from him in some respects concerning the procedure to be adopted. The Commission should endeavour to find common ground without resorting to a vote. As to the Special Rapporteur's general instructions, he thought he should have full freedom to draft his report as he saw fit.

41. He was sure that neither the Commission nor the Special Rapporteur would wish the Secretariat to engage in studies which might place a heavy financial burden on the United Nations. However, the estimates might be rather too high and it was usual, in United Nations practice, for the Secretariat to prepare documentation, both for the special rapporteurs of the Commission and for the Sixth Committee. He hoped, therefore, that within the limits of its budget the Codification Division would be able to do something along the lines requested. He would revert to that matter later at the closed meeting which the Chairman proposed to devote to it.

42. Mr. YASSEEN said he concluded from the discussion that it was the casuistic method, or study by types of succession, which would be best suited to the material. That seemed to be the view of the Commission, and the Special Rapporteur appeared to think it would be possible to propose some solutions for certain sections of his extensive subject. It was obvious that the Commission's efforts should be directed not only to codification, but also to the progressive development of international law on the topic.

43. As to the content of the work, since it was necessary to determine whether or not there could be continuity of legal relations, the answer had first to be sought in positive law. Far from stopping there, however, it was necessary to review the existing rules in the light of the new reality of international life. It was true that the Commission was not the legislature of the world, but under its Statute it was required to initiate the legislative process in the international community.

44. If no rules were found in positive law, the Commission would take the practice of States as a basis. Failing that, it would study any agreements which might have been concluded on the subject by States. It was a question of formulating, not principles of *jus cogens,* but residuary rules which States could accept if they were unable to reach agreement on other arrangements.

45. Mr. NAGENDRA SINGH said he wished to place on record his sincere appreciation and admiration of the monumental work accomplished by the Special Rapporteur in his report, and of his well-balanced summing-up of a particularly complicated and controversial debate. He agreed with Mr. Tabibi and Mr. Yasseen that the Special Rapporteur should be given all possible assistance by the Secretariat in preparing his next report on such a very important subject.

46. Mr. BEDJAOUI (Special Rapporteur) said he fully agreed that the report to the General Assembly should be sufficiently full. Moreover, it was not so much a matter of recording the differences of opinion which had come to light, as of showing the interest and importance of the topic by presenting the different positions taken.

47. That would have a twofold advantage: first, it would enable the Sixth Committee to provide, through its debates, a first instalment of the information expected from the inquiry to be addressed to Member States; and secondly, it would change the level of the debate, so that those whose function was to deal in politics could be made aware that, at the legal level, there were some very serious problems concerning acquired rights, and it would thus not be necessary to revert to the same discussion at the next session when dealing with public property and public debts.

48. Mr. ROSENNE, pointing out that he had been the first to raise the question of the Commission's report to the General Assembly, said that, in view of the statements made by his colleagues and the Special Rapporteur, he had no objection to the inclusion of a full summary of everything which had been said in the debate.

49. Mr. TABIBI said that since the General Assembly would examine the Commission's summary records, it would in any case be useless to try to conceal what had

[4] *Yearbook of the International Law Commission, 1968,* vol. II.

[5] See 1007th meeting, para. 12.

[6] See *Yearbook of the International Law Commission, 1964,* vol. II, p. 132.

been said during the debate. The subject of acquired rights was a highly political one and it was important that the Special Rapporteur, in particular, should know the political reactions of the delegations to the General Assembly.

50. Mr. AGO said he would not like the Commission to give the impression that it was asking for instructions from the General Assembly because of differences of opinion among its members. The Commission was sovereign in its study of the topic. It was normal that it should report on the progress of its work. On the other hand, if it wished to bring its task to a successful conclusion, it must retain full freedom of action.

51. Mr. BEDJAOUI (Special Rapporteur) said he had no wish to induce the General Assembly to tie the Commission's hands regarding the problem of acquired rights. He only wanted the Commission to gain the maximun benefit from a debate that would bring out the existing trends. Moreover, he would not like the Commission to devote only two or three paragraphs to a topic which had required two weeks' discussion. The Commission's last report constituted a precedent: problems had been presented in it in such a way as to make for an interesting debate in the General Assembly.

52. Mr. YASSEEN said that there was no fundamental disagreement between members of the Commission on that point. It was simply a question of emphasis. For his part, he thought it necessary to give an adequate account of the main trends which had appeared, without, of course, going so far as a verbatim record.

53. The CHAIRMAN said he was sure that the General Rapporteur and the Special Rapporteur would be able to take account of the comments made by the members of the Commission.

54. He invited the Commission to take a decision on the following paragraph for inclusion in its report to the General Assembly:

> "The Commission thanked the Special Rapporteur for his second report on succession of States in respect of matters other than treaties and confirmed its decision to give that topic priority at its twenty-second regular session, in 1970. It requested the Special Rapporteur to prepare, for that session, a report containing draft articles on succession of States in respect of economic and financial matters, taking into account the comments made by members of the Commission on his second report at the twenty-first session."

55. Mr. USTOR said that in his opinion the text suggested by the Chairman should include some reference to public property and public debts, since the Special Rapporteur considered that his report should centre on those aspects of the topic.

56. Mr. RUDA said he feared that if the Commission gave priority to the Special Rapporteur's study it would be going back on the decision it had taken at the last session to give priority at its twenty-second session, in 1970, to the topic of State responsibility, as well as to that of succession in respect of matters other than treaties.[7] Since it appeared rather difficult to divide priority between those two subjects, he suggested that the Commission should defer its decision until later in the session.

57. Mr. TABIBI thought it would be better not to tie the Special Rapporteur down by making a specific reference to public property and public debts. He should be left free under his present instructions to draw his own conclusions from the discussion in the General Assembly.

58. He did not agree with Mr. Ago that the Commission was a sovereign body; on the contrary, it was a subsidiary organ of the General Assembly and as such was required to report to the General Assembly.

59. Mr. AGO referring to the question raised by Mr. Ruda, said it would be sufficient to omit any mention of priority. As to Mr. Tabibi's remarks, all he had meant to say was that the Commission was master of its subject and should retain full freedom of action in studying it.

60. The CHAIRMAN, speaking as a member of the Commission, said he was not in favour of further restricting the subject entrusted to the Special Rapporteur, since the succession of States in economic and financial matters was only part of a wider topic. As far as priority was concerned, the text proposed for the report was in conformity with the decisions taken by the Commission at its previous session. He thought that the Commission could take a provisional decision on that text, the wording of which could be reviewed during the discussion of the report.

61. Mr. TSURUOKA supported that proposal.

62. The CHAIRMAN said that, if there was no objection, he would take it that the Commission provisionally approved the text he had read out.

It was so agreed.

63. The CHAIRMAN warmly congratulated the Special Rapporteur and sincerely thanked him for the excellent work he had submitted to the Commission.

The meeting rose at 1.20 p.m.

---

[7] See *Yearbook of the International Law Commission, 1968*, vol. II, Report of the Commission to the General Assembly, para. 104.

1010th MEETING

Friday, 27 June 1969, at 10.55 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Mr. Yasseen.
