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Summary record of the 1128th meeting

Topic:
Law of the non-navigational uses of international watercourses

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articles shall not by itself imply recognition by the sending State of the host State or its government or by the host State of the sending State or its government.

44. Mr. ROSENNE said that article 116 *bis* contemplated not only the action of the sending State in sending a delegation, but also that of the host State in receiving that delegation, and the change proposed by Mr. Ushakov should be considered in that light.

45. Sir Humphrey WALDOCK said that the Working Group had envisaged article 116 *bis* as one of the general articles in the draft.

46. The CHAIRMAN suggested that the Commission approve article 116 *bis* provisionally.

*It was so agreed.*¹³

The meeting rose at 5.15 p.m.

¹³ For resumption of the discussion see 1135th meeting, para. 75.

1128th MEETING

Friday, 2 July 1971, at 11.40 a.m.

Chairman: Mr. Senjin TSURUOKA

Present: Mr. Alcívar, Mr. Bartoš, Mr. Castrén, Mr. Eus-thathiades, Mr. Rosenne, Mr. Ruda, Mr. Sette Câmara, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

General Assembly resolution 2669 (XXV) on progressive development and codification of the rules of international law relating to international watercourses

(ST/LEG/SER.B/12; A/5409, A/7991, A/8202;
A/RES/2669 (XXV); A/CN.4/244; A/CN.4/245)

[Item 6 of the agenda]

1. The CHAIRMAN invited the Commission to consider item 6 of the agenda. He reminded members that the legislative texts and treaty provisions referred to in the report on legal problems relating to the utilization and use of international rivers prepared by the Secretary-General (A/5409) in pursuance of resolution 1401 (XIV), had been collected and published *in extenso* by the Secretariat in a volume of the United Nations legislative Series (ST/LEG/SER.B/12).

2. As the Commission had insufficient time to go into details, he asked members to express their views primarily on the action to be taken having regard to General Assembly resolution 2669 (XXV).

3. Mr. RUDA said that throughout the world there was growing concern to prevent the decrease, both

absolute and relative, of the limited resources of drinking water. Practical measures had been taken at the national level, particularly in the industrialized countries, to safeguard water resources and at the international level many bilateral and regional agreements had been concluded to prevent disputes between neighbouring countries.

4. For example, at the beginning of June 1971, the countries of the River Plate basin—Argentina, Bolivia, Brazil, Paraguay and Uruguay—at a meeting of Ministers for Foreign Affairs at Asunción, had adopted a resolution declaring that the utilization of any international river forming the boundary between two States required prior bilateral agreement between the two riparian States concerned, and that where an international river crossed the territories of two or more States successively, each riparian State might make use of the waters according to its needs, provided that it did not cause any appreciable prejudice to any other State on the same river basin. The resolution then provided for the exchange of hydrological, meteorological and cartographic information, and finally declared that each riparian State would strive to ensure the best possible conditions for navigation in its own sector.

5. Later in the same month, Chile and Argentina had signed an important agreement on the subject of international watercourses: the Act of Santiago de Chile.

6. A large number of existing bilateral and multilateral treaties on the subject were reproduced in the volume of the United Nations Legislative Series already mentioned by the Chairman, entitled "Legislative texts and treaty provisions concerning the utilization of international rivers for other purposes than navigation", and much useful information on those treaties was to be found in the Secretary-General's report.

7. Notwithstanding that mass of documentation, the utilization of international watercourses remained largely governed by general principles and rules of customary law. The Institute of International Law and the International Law Association had attempted a systematic formulation of those rules, but their efforts were of a purely private character. The General Assembly, by its resolution 2669 (XXV), had now recommended that the Commission "should, as a first step, take up the study of the law of the non-navigational uses of international watercourses with a view to its progressive development and codification". The phrase "as a first step" was, as he saw it, linked with the reference to "non-navigational uses", the implication being that navigational uses would be considered at a later stage.

8. At the same time, the General Assembly had requested the Secretary-General to "continue the study initiated by the General Assembly in resolution 1401 (XIV) in order to prepare a supplementary report on the legal problems relating to the utilization and use of international watercourses". In his view, the Commission would be in a position to begin its own study of the question as soon as the Secretariat had completed the supplementary report requested by the General Assembly. For the time being, the only action which the Com-

mission could take was to include the topic on its general programme of work.

9. Mr. SETTE CÂMARA said that the recommendations in the two operative paragraphs of General Assembly resolution 2269 (XXV) should be reversed. The supplementary report called for in paragraph 2 was an essential preliminary, because the material available was not sufficient to enable the Commission to decide what course of action to take.

10. General Assembly resolution 1401 (XIV) had adopted a more cautious approach, since it had only recommended the initiation of preliminary studies to determine whether the subject was appropriate for codification. But up to the present only five States had supplied information to the Secretariat pursuant to that resolution. The action to be taken by the Secretariat, in accordance with paragraph 2 of resolution 2669 (XXV), to obtain supplementary information was therefore an indispensable first step for carrying out the recommendation in paragraph 1. The subject was a complex one, on which there were more than one hundred bilateral and other treaties in force between States. The Secretariat would have to digest the voluminous existing material in its supplementary report before the Commission could undertake the work of extracting from the fluid mass of State practice any valid rules of international law which might exist.

11. As indicated in the Secretariat working paper "Survey of international law", the view had been expressed during the fourteenth session of the General Assembly "that an attempt to codify the matter would be premature, and that it should be left to the Commission to decide whether the subject was an appropriate one for codification" (A/CN.4/245, para. 286). Since the adoption of resolution 1401 (XIV), twelve years had elapsed before the General Assembly had again expressed interest in the subject. Its renewed interest had been due to the adoption by the International Law Association, at its 52nd Conference in August 1966, of the "Helsinki Rules on the Uses of the Waters of International Rivers".¹ Those "rules" were no doubt a valuable piece of research, but they could only make a subsidiary contribution to the Commission's own work, since private research enjoyed an academic freedom which allowed Utopian ventures into fields which States were extremely wary of entering.

12. Paragraph 1 of General Assembly resolution 2269 (XXV) called on the Commission to "consider the practicability of taking the necessary action" on the "study of the law of the non-navigational uses of international watercourses with a view to its progressive development and codification", and to do so "in the light of its scheduled programme of work". Considering the shortage of time which had led the Commission to confine its work during the present session to the completion of the draft articles on relations between States and international organizations, he did not believe that it could

make any progress on the subject of international watercourses. The Commission had in fact been obliged to set aside the recommendations in General Assembly resolution 2634 (XXV) that it complete the first reading of draft articles on succession of States in respect of treaties, make progress in the consideration of succession of States in respect of matters other than treaties, and continue its work on State responsibility.

13. In those circumstances, the Commission could only examine the problem of international watercourses within the framework of its future programme of work. It would be premature even to appoint a working group to study the subject, since such a group could not do any useful work in the short time available before the end of the present session. It remained for the Secretary-General to prepare the supplementary report mentioned in paragraph 2 of resolution 2669 (XXV). The newly elected Commission would then decide, at a future session, what action should be taken on the subject.

14. Mr. USTOR said he greatly appreciated the initiative of the Government of Finland in proposing that the item "Progressive development and codification of the rules of international law relating to international watercourses" be placed on the agenda for the twenty-fifth session of the General Assembly (A/7991). The subject was connected with an important branch of the law, though it was not of the same importance to all countries. Certain island States like Ceylon had little or no interest in it, while at the other extreme were countries like his own—Hungary—95 per cent of whose watercourses were international in character and had their sources outside the national territory. International co-operation in the matter of the rules relating to such watercourses was essential to the latter countries.

15. Fortunately for Hungary, most of its neighbours were socialist countries with which it enjoyed the best possible relations, so that it was able to settle any problems by friendly negotiations. It also entertained very amicable relations with Austria, so that all questions of mutual interest could be settled by negotiation with that country as well.

16. The whole subject of international watercourses was one which naturally attracted great attention in academic and professional circles in Hungary. The Hungarian Lawyers' Association, for example, had set up a committee to study the subject, while the Hungarian water authorities maintained close contact with their counterparts in the neighbouring countries.

17. The rules of international law governing the non-navigational uses of international watercourses were founded on the basic principle of the duty of all States to co-operate with one another under the United Nations charter. The essential problem was how to translate that principle into concrete rules, which might be based on the old Roman law maxim, *Sic utere tuo ut alienum non laedas*.

18. He agreed that the Commission should now decide to place the item on its agenda, leaving it to the next session to decide on any further action.

¹ The International Law Association, *Report of the Fifty-second Conference*, p. 484.

19. Mr. YASSEEN said that the population explosion was making it increasingly necessary to regulate the use of watercourses for purposes other than navigation. The question had been raised on several occasions in the United Nations, and at the twenty-fifth session of the General Assembly the importance which States attached to it had been evident. True, some speakers had argued that there were few principles governing the matter and that the independence of the parties should be unrestricted. But the fact remained that there were many problems which had not been solved and the use of river basins, if it was not regulated, would finally lead to regrettable situations.

20. It was true that the language of the General Assembly resolution was not entirely direct, but having been present at the Sixth Committee's meetings he could say that the General Assembly's intention had been that the question should be examined by the International Law Commission. If the Assembly had not said so expressly, that was because it had not wished to interfere with the Commission's general programme of work or with the priority given to certain important topics such as State responsibility and the succession of States and governments.

21. The method of work to be adopted was, of course, determined by the Commission's Statute. With regard to the use of private work, the General Assembly had not wished to mention certain studies in preference to others, but had recommended that the Commission should derive all the information it needed from all studies, both public and private, which had been made so far.

22. The Commission could not ignore the General Assembly's recommendation, but as the term of office of its members was soon to expire all it could do at present, out of consideration for the new members who would succeed them, was to place the item on its agenda. It would be for the new Commission to decide what place the topic should be given in the programme of work and to take appropriate steps for its consideration.

23. Mr. BARTOŠ said that he too belonged to a country in which transport was largely by river—a country which, being crossed by the Danube, was familiar with the problems mentioned by Mr. Ustor, and whose geographical situation was such that some of its other rivers served as waterway links between neighbouring countries and the sea. He was thus in a position to say that there was a real need for the question of international watercourses to be thoroughly studied and codified by a body such as the International Law Commission.

24. There were certainly a number of régimes in existence governing navigation on international rivers, including the Napoleonic "equality of the flag" régime. Later, the colonial system had appeared, which was based on the 1885 *Acte de navigation du Congo*³ and dominated by imperialist ideas. After the First World War efforts had been made to perfect and regulate inter-

national administration and to secure the participation of the great non-riparian States. Today, international navigation and international administration were two related questions which required further regulation.

25. After the Second World War had come a régime of democratization, with equality of flags for navigation rights, but the right of administration reserved to the riparian States alone—for example, the 1948 Belgrade Convention on the Danube.⁴

26. The question of the development of water power and of the transmission of hydro-electric power to States other than riparian States had gone far beyond the scope of the Geneva Convention of 1923;⁴ and there were also other problems to be settled, such as the problems of acquired rights inherited from the colonial régimes in certain African and Asian countries.

27. The bilateral agreements concluded between riparian States were no doubt in conformity with democratic principles, but the question to be answered was whether navigation on international watercourses should be prohibited, or whether it should be permitted under certain international conditions not prejudicial to the interests of the riparian States. The subject was more extensive than some States would admit, and it should therefore be codified so as to define the principles governing the navigation and use of international watercourses, particularly lakes, which were a frequent source of disputes, not only between riparian States, but also between them and other States which made use, for industrial and agricultural purposes, of hydraulic power from watercourses passing through the lakes.

28. It was also necessary to consider the new aspects of the question as they appeared from current practice and in the light of modern technical developments, such as drought prevention, with which Israel had achieved striking successes, and the diversion of the sea into the interior of a country—a possibility which jurists had never yet considered.

29. As the interests of States differed widely, a study of that kind could only be undertaken by the International Law Commission as part of a universal codification. For the time being, however, the Commission could only place the item on its agenda, giving it the same priority as the topics at present under examination, and request the Secretary-General to continue his studies and provide the Commission with all the information it required for codification of the topic. When the new members were elected, the Commission should appoint a special rapporteur without delay—and perhaps set up a working group—give the special rapporteur a general plan of work and make sure that the study of the topic was completed before the expiry of its term of office. It could not be hoped that the draft prepared would solve all the problems of all countries, but it would state general principles which might satisfy States and serve as a basis for future conventions.

³ See *British and Foreign State Papers*, vol. LXXVI, p. 12.

⁴ United Nations, *Treaty Series*, vol. 33, p. 197.

⁴ League of Nations, *Treaty Series*, vol. XXXVI, p. 77.

30. Mr. ROSENNE said that his views were similar to those expressed by Mr. Sette Câmara. In the light of the discussion in the Sixth Committee, he did not think it was necessary for the Commission to take any substantive action on General Assembly resolution 2669 (XXV) at its present session, although that was, of course, without prejudice to any decision which might be taken by the Commission at a future session.

31. As Mr. Sette Câmara had pointed out, the order of paragraphs 1 and 2 of the resolution should really be reversed, since what had been intended by the General Assembly was that the Secretary-General should be asked to prepare a supplementary report before the Commission could take any substantive action on the topic. The Sixth Committee had been fully aware that the Commission was in process of reconsidering and revising its entire long-term programme of work; it had also been aware of the fact that the terms of office of the Commission's members would expire in 1971 and that it was not customary to expect the Commission to take up new topics under those conditions.

32. He himself had not detected any strong current of feeling in the Sixth Committee in favour of haste in the matter. For example, in paragraph 290 of the Working Paper prepared by the Secretary-General in the light of the decision of the Commission to review its programme of work (A/CN.4/245), it was stated that "During the discussions in the Sixth Committee a variety of views were put forward as to the desirability and feasibility of the progressive development and codification of the law on this topic at the present time, in particular on the question whether the subject was suitable for treatment in a general convention". He wished to draw particular attention to footnote 13 to that paragraph, which read: "It may also be noted that, as part of the material prepared for the first session (22 February-5 March 1971) of the Committee on Natural Resources, the Secretary-General issued a report entitled 'Natural resources development and policies, including environmental considerations', containing an addendum 'Issues of international resources development', E/C.7/2/Add.6".

33. In his opinion, that showed that the Commission could not possibly proceed in isolation, but must co-ordinate its work with many other activities undertaken under the auspices of the United Nations and the specialized agencies, including those of the forthcoming Stockholm Conference.

34. He did not think that either the Sixth Committee or the General Assembly had, in resolution 2669 (XXV), manifested any desire to interfere with the Commission's complete freedom to determine the priority of its current topics and of those on its long-term programme of work. It would therefore be sufficient for the Commission to include in the report on its present session a paragraph to the effect that the topic recommended to it in General Assembly resolution 2669 (XXV) would be considered within the framework of its long-term programme of work.

35. He had an open mind as to whether any action

at all should be taken by the Commission on the substance of the question, and if so what kind of action.

36. Mr. CASTRÉN said he was grateful to those members who had stressed the importance of his country's request concerning the development and codification of the law relating to international watercourses. The importance of the subject had been generally recognized by the General Assembly; it covered both watercourses which formed the boundary between States and those which crossed the territory of two or more States. In both cases, a joint interest of several States could arise simply from the fact that activities in one State had favourable or unfavourable effects on the water which flowed into one or more other States.

37. In the Sixth Committee, several delegations had emphasized the urgency of the matter. Since 1959, when the problem had first been discussed in the General Assembly on the proposal of Bolivia, various studies had been made by private bodies. Notable among them were those of the International Law Association, which had led to the adoption of the Helsinki rules, and those of the Institute of International Law, which had adopted a resolution on the subject almost unanimously at its Salzburg session in 1961.⁵

38. There was thus clearly a need to codify the rules relating to international watercourses. Apart from the many bilateral treaties and other regional rules, there were only two general conventions. But although the practice of States was not uniform, there were rules which were sufficiently general to lend themselves to codification.

39. The urgency of the question was also clear from the terms of the draft resolution submitted by India in the Sixth Committee,⁶ even clearer in fact than from the text which had become General Assembly resolution 2669 (XXV). As to the paragraph which had been inserted in the report of the Sixth Committee to the effect that "intergovernmental and non-governmental studies on the subject, especially those which are of a recent date, should be taken into account by the International Law Commission" (A/CN.4/244, para. 4), it had been adopted in the Sixth Committee without objection. In the plenary Assembly, the Sixth Committee's report had been adopted by 89 votes to 1, with 7 abstentions, and although resolution 2669 (XXV) admittedly contained only a recommendation to the International Law Commission, it was customary to act on such recommendations.

40. As Mr. Sette Câmara had observed, the question of international watercourses was very complex. Nevertheless, it seemed that the studies made by private bodies, and especially the Helsinki rules, would provide a useful basis for work on the subject.

41. As to the priority to be given to the topic, according to paragraph 1 of resolution 2669 (XXV) the Commis-

⁵ See *Annuaire de l'Institut de droit international*, 1961, vol. 49, tome II, p. 381.

⁶ A/C.6/L.814.

sion should "as a first step" take up its study and consider "the practicability of taking the necessary action as soon as the Commission deems it appropriate". Although the Commission's programme of work was very heavy, the question of international watercourses should be added to it, without being assigned any particular priority for the time being. It could be dealt with in conjunction with other topics already being studied, such as State responsibility and the succession of States. It did not seem necessary to wait for the discussion on the Commission's long-term programme, since the General Assembly's recommendation expressly stated that the study should be taken up "as a first step". A special rapporteur could be appointed, either at the Commission's present session or at its next session.

42. With regard to the role of the Secretariat, he would like to know whether supplementary documentation was being prepared and whether the Secretariat intended to request information from governments. Close collaboration between the Secretariat and the special rapporteur, when appointed, should make it unnecessary to set up a working group.

43. Mr. USHAKOV said he associated himself with the tributes paid to the Government of Finland, which had brought the question of international watercourses before the General Assembly. The action taken by Finland had resulted in a resolution adopted by a large majority, both in the Sixth Committee and in the plenary Assembly. The related problem of international rivers had long been on the General Assembly's agenda.

44. In his view, the question of international watercourses should be placed on the agenda for the Commission's next session. That would not prejudice the priority which the Commission might assign, at its next session, to the topic recommended to it by the General Assembly.

45. With regard to documentation, he wished to congratulate the Secretariat on the study (A/5409) it had undertaken in pursuance of General Assembly resolution 1401 (XIV). It was now necessary to complete that documentation, and the Commission should therefore invite the Secretariat to request governments to furnish supplementary information on their practice.

46. Mr. MOVCHAN (Secretary to the Commission) said there were one or two points he would like to clarify. First, in the voting on resolution 2669 (XXV) there had been eight abstentions in the Sixth Committee, while in the General Assembly there had been seven abstentions and one vote against.

47. Next, Mr. Castrén had suggested the appointment of a special rapporteur for the topic of international watercourses. It was, however, the practice of the Commission not to have more than four special rapporteurs working at the same time, partly because of the difficulties inherent in the codification process and partly because of the financial aspect.

48. Lastly, he could assure Mr. Castrén and Mr. Ushakov that the Secretariat would do its best to prepare the material requested by them, but in view of the need

to await the replies of governments, it might take a long time.

49. Mr. RUDA said he hoped that, when the Secretariat had prepared its supplementary report, it would be published in printed form, together with a new edition, also in printed form, of the three volumes of the Secretary-General's report (A/5409). He suggested that the latter report, prepared by the Secretary-General pursuant to General Assembly resolution 1401 (XIV), should also be printed in the *Yearbook of the International Law Commission*.

50. Mr. MOVCHAN (Secretary to the Commission) said that the three volumes of the Secretary-General's report had been issued some years ago and that the United Nations was reluctant to re-issue material which had been published already. Moreover, the report had been issued in English, French and Spanish only, and, in view of a subsequent decision, if it were reissued it would now have to appear in Russian also. He would inquire into the situation, however, and report to the Commission later.

51. Mr. ROSENNE proposed that the Commission include a passage in its report recommending that the material in question be published in the *Yearbook*.

52. The CHAIRMAN, summarizing the discussion, said that apart from some minor differences of opinion, it appeared to be the general view that the Commission should place the question of international watercourses on its programme of work, but reserve the decision on what practical action was to be taken at forthcoming sessions. As suggested by Mr. Ushakov, the Commission might invite the Secretariat to approach governments.

53. Mr. ROSENNE said that what the General Assembly had wished the Secretariat to do was clearly indicated in paragraph 2 (a) of resolution 2669 (XXV). He did not think that at the present stage the Commission should concern itself with the way in which the Secretariat should carry out that mandate.

54. Mr. MOVCHAN (Secretary to the Commission) said that paragraph 2 (a) also referred to resolution 1401 (XIV), in which the General Assembly had requested the Secretary-General to prepare a report containing "information provided by Member States regarding their laws and legislation in force in the matter". He did not see how the Secretariat could provide a new, supplementary report without asking States to provide new, supplementary information.

55. Mr. ROSENNE said that how the Secretariat conducted its inquiry was its own business and the Commission should not express any opinion on the matter.

56. Mr. USHAKOV suggested that the Commission, in its report, should also request the Secretary-General to ask governments to provide supplementary information.

57. The CHAIRMAN said that the Commission appeared to be in agreement on the course to be followed. He requested the Secretariat to prepare a suitable paragraph for the Commission's report.

58. Mr. CASTRÉN said he thought the Commission should show its interest in the question of international watercourses by at least placing it on its general programme of work and, if possible, on the agenda for its next session. It should also indicate that it considered it desirable to consult governments.

The meeting rose at 1.20 p.m.

1129th MEETING

Monday, 5 July 1971, at 3.10 p.m.

Chairman: Mr Senjin TSURUOKA

Present: Mr. Ago, Mr. Alcívar, Mr. Bartoš, Mr. Bedjaoui, Mr. Castrén, Mr. El-Erian, Mr. Elias, Mr. Eustathiades, Mr. Kearney, Mr. Reuter, Mr. Rosenne, Mr. Ruda, Mr. Sette Câmara, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Question of treaties concluded between States and international organizations or between two or more international organizations

(A/CN.4/250; A/CN.4/L.161 and Add.1 and 2)

[Item 5 of the agenda]

1. The CHAIRMAN invited the Commission to consider item 5 of the agenda. It now had before it the report of the Sub-Committee, set up at the previous session, on treaties concluded between States and international organizations or between two or more international organizations (A/CN.4/250). He called on the Chairman of the Sub-Committee to introduce the report.
2. Mr. REUTER (Chairman of the Sub-Committee) said that the Sub-Committee had held two meetings during the present session. In accordance with the decisions taken by the Commission at its previous session,¹ it had had before it a working paper by the Secretariat containing a short bibliography, an historical survey of the question and a preliminary list of the relevant treaties published in the United Nations *Treaty Series* (A/CN.4/L.161 and Add.1 and 2); a questionnaire prepared by the Chairman of the Sub-Committee; members' replies to that questionnaire; and an introduction prepared by the Chairman of the Sub-Committee.
3. Examination of that material had shown the Sub-Committee to be agreed on several points. In the first

place, the Commission itself and the Vienna Conference on the Law of Treaties had thought of including treaties concluded by international organizations in the general study of international treaties, but had finally decided against doing so, partly no doubt because of drafting difficulties, but mainly, it appeared, because of their uncertainty about a problem whose full extent they could not gauge. It had been generally accepted in the Sub-Committee that the future study should be confined to a certain number of points, and in particular that the question of unwritten agreements as such should not be taken up directly, for the same reasons as had led the Commission and the Vienna Conference on the Law of Treaties to leave them aside in dealing with treaties between States, though that would not preclude appropriate consideration of the element of tacit consent as part of the general law of treaties.

4. In addition, the Sub-Committee had thought it advisable to observe the same discretion as the Vienna Convention in regard to questions concerning international responsibility, State succession and the outbreak of hostilities.

5. With regard to the general method to be recommended to the Commission, the members of the Sub-Committee had agreed that the Vienna Convention on the Law of Treaties provided a model for identifying general problems of treaty law and should be taken as a basis, at least in the preliminary exploration of the subject. That did not mean that the Commission would have to confine itself to borrowing the solutions adopted by the Vienna Conference; it must be recognized from the outset that the subject-matter was difficult, that it raised unexpected problems and that the Commission would have to try to identify those elements which distinguished the rules applicable to treaties between States from those applicable to treaties to which international organizations were parties.

6. The Sub-Committee had considered it too early to discuss certain substantive problems raised in the questionnaire, for instance the question of who could be a third party in relation to a treaty concluded by an international organization. Hence those problems were not discussed in the report.

7. With regard to the question what international organizations the study should include, the general opinion in the Sub-Committee had been in favour of establishing rules applicable to all international inter-governmental organizations, though it had fully realized the considerable difficulties that would involve with regard to information and hence the time that would be required; if the future study had to be limited, it would be because of the time factor, rather than anything else.

8. The very title of the subject was already based on a distinction between kinds of treaty. Although it was only a way of describing the subject-matter of the study, it nevertheless raised the question whether a classification of treaties would be desirable. The Sub-Committee had agreed, in general, that the spirit of the Vienna Convention should be followed and that, leaving aside unnecessarily theoretical considerations, an attempt

¹ See *Yearbook of the International Law Commission, 1970*, vol. II, document A/8010/Rev.1, chapter V, para. 89.