Document:-

A/CN.4/SR.1174

Summary record of the 1174th meeting

Topic:

Succession of States with respect to treaties

Extract from the Yearbook of the International Law Commission:-

1972, vol. I

or standing, and the same was true of such designations as the "Overseas Provinces of Portugal"; the Charter only recognized the existence of "non-self-governing territories" administered on behalf of the international community; it was the duty of the administering powers to lead those territories towards self-government. The process of decolonization constituted the application of the principle of self-determination laid down by international law.

83. A trust territory, or a non-self-governing territory, had two of the elements of the State: a territory and a population. All that was required for it to be a State was the establishment of a government of its own.

84. With regard to the so-called "associated States", he had serious doubts as to whether their status was in conformity with the provisions of the Declaration on the granting of independence to colonial countries and peoples, embodied in General Assembly resolution 1514 (XV)[14] which constituted the Magna Carta of decolonization. Admittedly the concept of "free association" with another State was mentioned in the annex to resolution 1541 (XV),[15] but he seriously doubted whether that concept could be reconciled with the basic provisions of resolution 1514 (XV).

85. He thanked the Special Rapporteur for submitting the problem to the Commission but could not support the retention of article 18.

86. Mr. QUENTIN-BAXTER said it was natural that the rule suggested by state practice should have an emphasis upon the past. It was a question whether that practice was outmoded by the passing of the colonial era. There had, however, been cases concerning protected States before the Permanent Court of International Justice, and it was appropriate that a provision on the subject should be placed before the Commission.

87. He himself was more concerned with the case of the associated State; it received only a brief mention in the commentary because there was little practice, but it might well be the problem of the future. A case in point was that of the Cook Islands, which had established a precedent in the practice of the United Nations. The history of that case required some clarification of the terminological categories mentioned by other speakers in connexion with United Nations practice.

88. In accordance with the Charter, a plebiscite had been held in the Cook Islands, which endorsed their choice to become a State in free association with New Zealand. It was an associated State, not a non-self-governing territory, and still less a colonial territory. A clear decision had been taken by the United Nations General Assembly to release the Cook Islands from any colonial status. The practical implications of its free association with New Zealand were that New Zealand remained responsible for the external affairs of the Cook Islands, and that Cook Islanders retained New Zealand citizenship—thereby extending considerably the area in which they were free to live and work.

89. The Cook Islands were, however, completely self-governing. The New Zealand Parliament could not make laws for the Cook Islands any more than the United Kingdom Parliament could make laws for New Zealand. Though New Zealand exercised the treaty-making power on behalf of the Cook Islands, only the Cook Islands Government and legislature could take the steps necessary to give effect to treaty obligations within the Cook Islands. Thus, the treaty-making power could be exercised only at the behest of the Cook Islands authorities or with their full agreement.

90. The question of the status of the Cook Islands was also of regional importance. A small regional organization had now been established in the South Pacific which comprised Australia, New Zealand, Fiji, Tonga, Western Samoa, Nauru and the Cook Islands. The admission of the Cook Islands was a clear indication of its non-dependent status. No colonial territory could be admitted to the new organization because of its very nature.

91. The status which he had just described was not a legal fiction; it was perfectly real. Cases of that kind could perhaps be covered by means of the provisions on the subject of federations or unions rather than by means of provisions in the part of the draft at present under discussion. He had referred to the matter simply because there had only been a brief mention of associated States in the commentary and he had wished to draw attention to a case which was fully in accord with United Nations practice.

The meeting rose at 1 p.m.

1174th MEETING

Wednesday, 7 June 1972, at 10.10 a.m.

Chairman: Mr. Richard D. KEARNEY

Present: Mr. Ago, Mr. Alcívar, Mr. Bartoš, Mr. Bedjaoui, Mr. Bilge, Mr. El-Erian, Mr. Nagendra Singh, Mr. Quentin-Baxter, Mr. Ramangasoavina, Mr. Reuter, Mr. Sette Câmara, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Succession of States in respect of treaties

(A/CN.4/202; A/CN.4/214 and Add.1 and 2; A/CN.4/224 and Add.1; A/CN.4/249; A/CN.4/256)

[Item 1 (*a*) of the agenda]

(continued)

ARTICLE 18 (Former protected States, trusteeships and other dependencies) *(continued)*

1. The CHAIRMAN invited the Commission to continue its consideration of article 18 of the Special Rapporteur's draft (A/CN.4/256).

2. Mr. YASSEEN said that in view of the fact that the rules already approved by the Commission were much more general than had been thought at first sight and

[14] See *Official Records of the General Assembly, Fifteenth Session, Supplement No. 16*, p. 66.

[15] *Ibid.*, p. 29, Principles VI and VII.

applied to all the cases mentioned in article 18, and in view also of the explanations given in the commentary, it seemed that there was no need for article 18.

3. Like Mr. El-Erian, he thought there should be no mention in the draft of colonies, mandates or other anachronistic institutions at a time when the universal trend was towards decolonization;[1] associated States formed a separate category and should be dealt with under unions of States, since theirs was a régime that might be found again in the future.

4. The rules relating to protected States, in paragraph 2, served no purpose. Treaties concluded by the protected State before the establishment of the protectorate could be considered as treaties applicable to the territory during the protectorate, on which the State would be completely free to pronounce when it recovered its independence. As for treaties concluded on behalf of the protected State, it was an illusion to believe that that had been done with its free consent, since the protectorate or mandate régime had always been an instrument of exploitation and, it could even be said, of a certain form of colonization. There was thus no justification for adding a special rule for protected States.

5. Mr. BEDJAOUI said he understood the considerations that had prompted the Special Rapporteur to propose article 18. The preceding articles as a whole applied to situations where there was a legal link between the territory and the treaty effectively applied to the territory, on the basis of which the Commission had recognized a right of succession for the successor State.

6. Article 18 dealt with a new situation because, in addition to the legal link between the treaty and the territory, there was the question of the consent expressed before independence by the territory that was to become the successor State. The question now was whether that consent merely gave the right to notification, or whether it was possible to go further and consider the treaty as being in force *ipso jure*, without any need for notification. The Special Rapporteur proposed that the latter should be the case, subject to the reservations he had expressed in the commentary, but he himself did not share the Special Rapporteur's view.

7. Establishment of previous consent could take three forms: first, conclusion of a treaty before the establishment of the protectorate; secondly, delegation to the protecting State by the protected State, considered as a subject of international law even if its capacity to conclude treaties was exercised by the protecting State, of the power to represent it for the purpose of concluding treaties in its own name and by its own will; or thirdly, the association of dominions, or embryo States, which had progressively acquired varying degrees of autonomy, with the expression of consent given by the Power on which they depended. Those cases had led the Special Rapporteur to the conclusion that protectorate situations were different from those dealt with in the preceding articles, since the treaty had been effectively applied to the territory, and the previous consent expressed before independence by the successor State was perfect or near-perfect.

8. In the nearest case to perfect consent, the case where it had been given by treaty at the first achievement of independence, and thus before the establishment of the protectorate, the Special Rapporteur asked the twofold question, whether the protected State was really a new State and whether it was really a successor State.

9. According to the Special Rapporteur, it was not a new State and the preceding articles were therefore not applicable to it. Nor was it a successor State because it would be succeeding itself. Consequently, consent to be bound by a treaty expressed at the first achievement of independence should be sufficient to maintain the treaty in force. There would not even be any State succession. The treaty concluded at the time of the first independence would remain in force during the period of protectorate and continue in force during the second period of independence after the termination of the protectorate.

10. Even if that idea were correct—and he would demonstrate that it was not—its formulation in paragraph 2 (*a*) was ambiguous and had even been interpreted by some as suggesting, contrary to the Charter and the universal trend, that an independent State today could become a protected State tomorrow. The paragraph should have stated that "a treaty concluded by a protected State prior to its becoming a protectorate remains in force during the period of the protectorate and continues to bind the State when it again accedes to independence".

11. But the whole idea underlying article 18 was false because it was based on a legal fiction. There had never been a pure protectorate where the protecting Power solemnly respected the sovereignty of the protected State. Even the International Court of Justice itself, in the "Rights of Nationals of the United States of America in Morocco" case, after referring to the protected State as a sovereign State,[2] had been forced in the same opinion to qualify its statement considerably.

12. Consequently, before deciding that a treaty concluded prior to the establishment of the protectorate remained in force after the new independence, the question should be asked whether the treaty had been effectively applied during the protectorate and whether the protecting State had not applied the clean slate principle, particularly in the case of the so-called colonial protectorates. In point of fact, there had often been a twofold and genuine succession of States: one at the time of the establishment of the protectorate, and the other at the time of the second independence. The question whether the treaty remained applicable was thus pointless, since it had ceased to be applied during the period of the protectorate.

13. The case contemplated in paragraph 2 (*b*), that of a treaty concluded during the period of protectorate in the name and by the will of the protected State, was also a legal fiction. In reality, consultation with the protected

[1] See 1173rd meeting, para. 58.

[2] *I.C.J. Reports 1952*, p. 188.

State was illusory or non-existent. It was the problem of representation in international law, referred to at the previous meeting by Mr. Reuter.[3] There was, it was true, the example of Cambodia which, in the "Temple of Preah Vihear" Case, had contended against Thailand that France had represented her in concluding a friendship treaty in 1937,[4] preferring the idea of representation to that of succession. But that was the only time Cambodia had taken that line and it had been careful not to invoke the idea of representation for a number of other treaties.

14. It all confirmed the impression that article 18 served no purpose, because there was still the question of the validity of representation in international law. Even in cases of representation, there were situations in which a State could have valid reasons for considering the representation as void. Furthermore, there was no such thing as pure representation in the protectorate system. Between near-perfect representation, which did not exist, and the authoritarian extension pure and simple of a treaty by a protecting State to the protected State, there were many different degrees, and it would be very difficult to assign a definite value to the expression of consent by the protected State in any given situation of that kind.

15. But the crowning defect of article 18 was that it did not reflect practice. If the treaty remained *ipso jure* applicable to the former protected State which had become independent, how was it possible to explain the existence of such an extensive practice of notification of succession, even of accession, by former protected States such as Tunisia, Cambodia, Laos and Viet-Nam? Even the existence of devolution agreements showed that the continuance of the treaty was not taken for granted. In practice, protectorates had been treated as colonial territories; any purported representation was fictitious.

16. The Commission should therefore retain only paragraph 1 of article 18, under which former protected States, trusteeships and other dependent territories might be considered as new States for the purposes of succession in respect of treaties, so that the preceding articles would apply to them.

17. Especially the Commission should take into account the anti-colonial philosophy of the United Nations and the work of the Committee on Decolonization. The distinction originally established in the Charter between non-self-governing territories and the international trusteeship system had to a large extent been attenuated in practice. Today everything was described as either a colonial or a semi-colonial situation. The distinction drawn in article 18 between different categories of succession thus ran counter to the general trend both in the United Nations and in the whole world. Article 18 was consequently not in conformity with practice; it served no purpose because it was unsuitable for regulating former situations, some of which still persisted, and it was undesirable that it should be used to justify new or future situations of States falling under the protectorate system, like Sikkim or Bhutan.

18. The problem of representation in international law arose not in the case of protected States, mandates or trusteeships, or dominions, which were all survivals of colonial or semi-colonial situations condemned by the Charter, but perhaps more fruitfully in the case of unions or dismemberments of States. It also arose in the case of succession of international organizations to States, for example in the case of Namibia, and might arise more frequently in the future. The International Court of Justice's opinion of 21 June 1971 concerning the obligation to refrain from invoking or applying treaties concluded by South Africa in the name of Namibia[5] had not been based on the law of State succession, but nevertheless provided an interesting indication. But that was a question which belonged rather to the topic of succession between an international organization and a State, between international organizations, or between a State and an international organization.

19. The problem of treaties of a dispositive or territorial character, which according to the Special Rapporteur might justify a provision such as article 18, was one that arose for all new States, and not only for former protected or dependent States. A special provision for such treaties was therefore needed. Perhaps the idea of representation could be adopted there, but there were other principles supporting the idea of continuity for treaties of that kind which might be invoked.

20. Mr. TSURUOKA said that the question whether the cases dealt with in article 18 ought to be included in the draft or not should be considered from the standpoint both of substance and of form. So far as the substance was concerned, no one contested the right to self-determination of the political entities referred to in article 18; the question was, therefore, whether the preceding provisions were sufficient to guarantee them that right and to facilitate its application. He was not yet in a position to give a categorical answer to that question.

21. So far as the form was concerned, it was clear from the earlier discussions that the draft would probably comprise a first part, containing general provisions on the use of terms, the "clean slate" principle, the predominance of the successor State, succession to multilateral and bilateral treaties, and perhaps dispositive treaties; a second part, containing specific provisions concerning the different types of succession, and perhaps the case of protected and associated States; and lastly, final clauses. If that was so, the cases dealt with in article 18 should be considered. Since such cases still existed in the world today, it would be helpful to ascertain whether rules could be formulated to assist such countries to achieve the right to self-determination in the matter of succession in respect of treaties.

22. Mr. USHAKOV said that paragraphs 1 and 2 of article 18 raised two different questions. In paragraph 1, where it was clearly stated that former protected States, trusteeships and other dependent territories were in the

[3] See 1173rd meeting, para. 76.

[4] See *I.C.J. Pleadings 1962*, vol. I, pp. 165-6; vol. II, pp. 77-80.

[5] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970). Advisory Opinion: I.C.J. Reports 1971*, p. 58.

same situation as any other new State and were thus governed by the preceding articles, the question was whether there was any need for such a paragraph. Everything depended on the definition adopted for the expression "new State". If it was clear that it also covered the entities referred to in article 18, the paragraph was redundant; if not, it would have to be specified in a provision of that kind that they were covered by the draft. It was therefore too early to say whether paragraph 1 should or should not be deleted.

23. Paragraph 2 dealt with an exception. All the preceding articles had laid down the "clean slate" principle, coupled with the right of the former dependent territory to make known its will with regard to the treaty. Paragraph 2 provided that a protected State continued to be bound by a treaty in force with regard to its territory which had been concluded before the establishment of the protectorate. However, it was clear from paragraphs (16) to (22) of the commentary (A/CN.4/256) that the rule in paragraph 2 conflicted with the practice, since many former protected States had refused to consider themselves bound by treaties concluded in their name by the former protecting Power. It was the "clean slate" principle, coupled with the right of the former protected State to express its will either way with regard to the treaty, that seemed to be the prevailing practice.

24. Even accepting the hypothesis that the former protected State was bound by a previously concluded treaty, the wording of paragraph 2 was ambiguous. The treaties referred to in sub-paragraph (*a*) had in some cases been in existence for a very long time and there was a question whether, first, they still had any effect, and secondly, whether the third States also continued to be bound by them and had been bound by them during the period of the protectorate.

25. The question also arose whether paragraph 2 covered the case of non-colonial protectorates, in other words, entities whose legal situation was ill-defined, such as Liechtenstein, Monaco, Andorra or San Marino. A specific provision would be justified for those cases but not for colonial protectorates, which should be treated like any other former dependent territory to which the rules already approved by the Commission applied, even in cases where the protected State had become a party to the treaty "in its own name" and "by its own will", as provided in sub-paragraph (*b*), expressions which described situations more fictitious than real.

26. In short, paragraph 1 might be useful for making it clear that the expression "new State" covered all forms of colonial dependence and that the preceding articles were applicable to them; paragraph 2 could only cover the case of States whose situation was rather that of a non-colonial protectorate.

27. Mr. BILGE said that article 18 appeared to propose special rules, applicable only to protected States, but there was some doubt whether it was really a question of succession. According to the definition in paragraph 1 (*a*) of article 1, which had been accepted by the Commission for working purposes, succession meant "the replacement of one State by another in the sovereignty of territory or in the competence to conclude treaties with respect to territory".[6] In the case of genuine protectorates, protectorates of a non-colonial character, it was not possible to speak of replacement in the sovereignty or in the competence to conclude treaties, since on the one hand the protected State retained its sovereignty or its separate personality—as the International Court of Justice had confirmed—and, on the other, the protected State participated in the conclusion of the treaties relating to it. Furthermore, in referring to a treaty concluded "in its own name", it was more a question of representation than of succession. He therefore hesitated to reply in the affirmative to the question whether article 18 should be retained.

28. In addition, according to the commentary, non-colonial protectorates had "individual legal characteristics resulting from the special conditions under which they were created, and the stage of their development" (A/CN.4/256, para. 4). It seemed unlikely, therefore, that it was possible to elaborate a general system common to those States, particularly as, according to the International Court of Justice, there was no consistent practice that could be taken as a basis. He doubted therefore whether article 18 should be retained.

29. The situation of the former dependent territories referred to in article 18 could be settled by enlarging the definition of a "new State"; otherwise specific provisions were needed.

30. Mr. USTOR said the Commission was indebted to the Special Rapporteur for the rich commentary he had prepared for article 18. The conclusion drawn by the Special Rapporteur from his thorough examination of the practice was that no special rules were needed for cases of succession relating to former mandates, trusteeships and colonies or other States which had emerged from various forms of colonial status.

31. There appeared to be complete agreement in the Commission that paragraph 1 of article 18 could be dispensed with provided that in article 1, on the use of terms, the wording of paragraph 1 (*e*), defining the meaning of the term "new State", was altered so as to refer not to a territory which had "previously formed part" of an existing State, but to a territory which had been "previously under the sovereignty or administration" of an existing State. With that change of wording, the term "new State" would clearly cover former mandates, trusteeships and colonies, so that the rules set out in the draft would apply to them.

32. The main purpose, however, of article 18 was to establish, by means of paragraph 2, a different régime for protected States. The question therefore arose of determining the practical effect and utility of the two sets of provisions contained in sub-paragraphs (*a*) and (*b*) of that paragraph.

33. Paragraph 2 (*a*) stated that a treaty to which a State was a party prior to its becoming a protected State continued in force with respect to that State after the abolition of the protectorate and the attainment of independence. In order to determine the practical effect of

[6] See 1158th meeting, para. 4.

that provision, it was necessary to take stock of the protected States and of the treaties that might be covered by the provision in question.

34. The number of protected States was at present extremely small. Several cases of associated States were mentioned in the commentary and Mr. Ushakov had drawn attention to certain other special relationships. The concept of a protected State was clearly not a uniform one and many of the cases mentioned could be explained otherwise than by reference to that concept. At all events, it was perfectly clear that the number of situations in which paragraph 2 (*a*) could apply was very limited indeed, because protected States were a mere relic of the past. It was of course highly improbable that, under the United Nations, any new protectorates would ever be established, because such a measure would be at variance with the purposes and principles of the Charter.

35. Similarly, if an effort were made to search for treaties corresponding to the description given in paragraph 2 (*a*), it would be found that their number was extremely small. The Roman law maxim *de minimis non curat praetor* clearly applied in the present instance, and paragraph 2 (*a*) could safely be dispensed with.

36. The argument drawn from the very limited number of protected States in existence at present applied with equal force to paragraph 2 (*b*). There were perhaps cases in which it could be said that a treaty had been concluded with some measure of voluntary consent by the protected State, and in which the authorities of the protected State had been able to express their wishes during the conclusion of the treaty. Nevertheless, it was questionable whether it was desirable to establish a different régime for treaties concluded under such circumstances.

37. The practical effect of paragraph 2 (*b*) would be to give to the newly independent State, formerly a protected State, an additional right to maintain the treaties in question. Unfortunately, that advantage was offset by the fact that an additional burden was also imposed on the new State by making those treaties binding upon it. On balance, therefore, he inclined to the majority view that the retention of paragraph 2 (*b*) was not warranted.

38. Mr. NAGENDRA SINGH said that in its time the Indian sub-continent had probably contained the largest number of protected States in the world; there had, in fact, been approximately 600 such States, of which about fifty were now included in Pakistan. The problems of those States, however, had now been completely resolved, in both India and Pakistan, so he did not think that there was any need to include specific provisions concerning them in the present draft, especially in a colonial context.

39. It could be fairly assumed that the problem of former protected States, trusteeships and other dependencies no longer existed in a form that would call for codification; for that reason, he doubted whether it was really necessary to retain article 18. If any provisions were needed to cover the particular categories of succession referred to in article 18, the Special Rapporteur could perhaps include the provisions of paragraph 1 in his definition of a "new State".

40. There remained the problem of self-governing areas, but since those cases were very few and were rapidly diminishing, they too would not perhaps require separate treatment.

41. Mr. BARTOŠ said he agreed that, in principle, the Commission should not deal with any relic of colonialism or other form of dependency, since it was equally opposed to both. Nevertheless, there were good grounds for asking, as the Special Rapporteur had done, whether the problem of dependent territories should not be specifically dealt with in the draft, since despite the fact that the principle of the sovereign equality of States had been duly proclaimed, there were still in existence a number of territories having dependent status.

42. To take the case of the Principality of Monaco, France was not a true protector State but a friendly State with which Monaco had concluded a treaty by virtue of which France appointed the head of its Government and policed its territory, while for currency matters there was a monetary union. It followed that the Principality of Monaco was not a truly independent State but rather the disguised relic of a protectorate.

43. Again, in Andorra the executive power was exercised jointly by the President of the French Republic and a Spanish bishop, in virtue of a kind of international treaty concluded between France and a Spanish bishop in the age of absolutism. The executive power was therefore exercised independently of national sovereignty. Moreover, both France and Spain had the right to intervene to maintain the established régime.

44. Liechtenstein was an independent State but lacked treaty-making capacity and the right to maintain diplomatic relations; Switzerland represented it in its external economic relations. It was therefore clear that Liechtenstein too did not enjoy full independence.

45. And now, just at the very time when a number of Arab protectorates in the Persian Gulf had been declared independent, the protecting Power had allowed a third State to seize three small islands inhabited by Arabs. Some small islands in the English Channel had also demanded independence. Thus, although it was drafted in the past tense, article 18 could also apply to existing situations.

46. With regard to Mr. Ushakov's comments, it was essential to take into account the possibility that some treaties concluded during a protectorate might be important for the future of the territory after it had become independent; the "clean slate" principle, which he (Mr. Bartoš) supported, should not be invoked to prevent a State in that situation from availing itself of the rights accorded in the draft to new States. Paragraph 2 of article 18 should perhaps be redrafted to make that clear. That applied not only to protectorates, but also to mandates, trust territories and any other similar régime.

47. An example was the case of Namibia, which South Africa still intended to administer in accordance with the rules of the mandate. The question consequently arose what was to become of the treaties concluded since the establishment of the trusteeship on the termination of the mandate, and the present time, for South Africa had

entered into a number of international commitments on Namibia's behalf during that period. There was also the quadripartite treaty on the status of Berlin concluded by the former victorious Powers, which was binding on that territory. It was quite evident that the Special Rapporteur had had in mind all those situations in which the status of a territory had been settled by third Powers with no sovereign rights over the territory.

48. In a word, there were sufficient dependent territories in existence to warrant devoting a special article of the draft to them.

49. Mr. AGO said that article 18 as proposed by the Special Rapporteur was intended not as a definitive text but rather as a basis for discussion of the desirability of applying to certain special situations the rules already established in the draft, or providing separate rules for them.

50. The cases covered by article 18 were extremely varied. Although former trusteeship or dependent territories could, to a large extent, be assimilated to the newly independent States covered by articles 1 to 15, the same was not true of protected or associated States. He would therefore confine his comments to those two categories. Each case, moreover, had its own special features, and only by a process of generalization could the variegated forms actually found be reduced to categories.

51. The term "protectorate" had sometimes been applied to disguised colonies which had not been subjects of international law. However, according to the traditional idea, a protected State was a subject of international law which had rights and obligations at the international level and might even have treaty-making capacity, subject perhaps to a kind of veto by the protecting Power. When the Special Rapporteur had introduced the first articles of his draft, he had made it clear that this definition of "Succession of States" covered not only transfers of sovereignty, but also simple transfers of treaty-making capacity.[7] And it should be noted that the protecting Power, when representing the protected State in international relations and concluding international treaties on its behalf, often took the protected State's interests and wants into account.

52. Whatever the form of protection, he doubted whether the "clean slate" principle could be applied. Such situations did not, in fact, give rise to a true succession of States; it was more a question of the continuation of the existence of a State which had previously been placed under the protection of another State and had now recovered its full autonomy of decision in the matter of international relations. There were indeed cases, as mentioned in paragraph 2 (*a*), where the State had had a separate existence prior to the protectorate and had concluded treaties; such treaties might then remain in force both during and after the protectorate.

53. Nor did he think the "clean slate" principle could be applied to treaties concluded by the protector State on behalf of the protected State, especially if it had in some way obtained the latter's consent. Each situation should be considered separately, bearing in mind the rules proposed by the Special Rapporteur.

54. With regard to associated States, it would also be inadvisable to apply a rigid rule like the "clean slate" principle on the termination of an association which, far from being tainted by colonialism, had sometimes been entered into by mutual agreement. It would be quite unrealistic to assimilate all forms of association to colonial domination.

55. If the Commission felt that it did not have sufficient time to consider in detail all the situations which might arise, it should leave them aside. Personally he thought it would be better to review them all, provided appropriate rules were drawn up for each.

The meeting rose at 1 p.m.

[7] See 1155th meeting, para. 53.

1175th MEETING

Thursday, 8 June 1972, at 10.20 a.m.

Chairman: Mr. Richard D. KEARNEY

Present: Mr. Ago, Mr. Alcívar, Mr. Bartoš, Mr. Bilge, Mr. Castañeda, Mr. El-Erian, Mr. Nagendra Singh, Mr. Quentin-Baxter, Mr. Ramangasoavina, Mr. Reuter, Mr. Sette Câmara, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Co-operation with other bodies

[Item 8 of the agenda]

STATEMENT BY THE OBSERVER FOR THE INTER-AMERICAN JURIDICAL COMMITTEE

1. The CHAIRMAN invited Mr. Molina Orantes, Observer for the Inter-American Juridical Committee, to address the Commission.

2. Mr. MOLINA ORANTES (Observer for the Inter-American Juridical Committee) said that during the past year the Committee had held two regular sessions, at which it had commenced the study of a number of topics.

3. First, it had discussed the revision of various treaties of world-wide and regional scope, with a view to bringing them up to date. In order to facilitate that process at the regional level, the Organization of American States had entrusted the Committee with the preparatory work of analysing and evaluating a number of multilateral treaties in force between member States, in order to decide whether they were in need of revision. In the first part of that task, the Committee had studied various agreements of world-wide scope referred to in General Assembly resolution 2021 (XX), and had expressed its opinion about the approach which should be taken to each of them by the American States.