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Summary record of the 1413th meeting

Topic:
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wholly satisfactory, stressing as they did the extent to which international law relating to matters of State responsibility had developed since the Second World War and the adoption of the United Nations Charter. Before the Second World War, State responsibility had been restricted to responsibility for damages; but now, wrongful acts by States could have far wider, and even global implications, rendering more compelling the need for the progressive development of international law.

Paragraphs (49) and (50) were approved.

**Chapter VI. OTHER DECISIONS AND CONCLUSIONS
OF THE COMMISSION**

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

15. The CHAIRMAN invited the Commission to consider sections A, D, E, F, G and H of chapter VI of its draft report (A/CN.4/L.250).

**A. QUESTIONS OF TREATIES CONCLUDED BETWEEN STATES
AND INTERNATIONAL ORGANIZATIONS OR BETWEEN
TWO OR MORE INTERNATIONAL ORGANIZATIONS**

16. Mr. BILGE said that the explanation "due to the lack of time", in the second sentence, should be expanded.

17. Sir Francis VALLAT suggested that the words in question should be replaced by the words "due to the time required for other items".

It was so agreed.

Section A, as amended, was approved.

**D. PUBLICATION OF A NEW REVISED EDITION OF THE
HANDBOOK *The work of the International Law
Commission.***

Section D was approved.

E. DATE AND PLACE OF THE TWENTY-NINTH SESSION

18. The CHAIRMAN said that the next session of the Commission would be held from 2 May to 22 July 1977. The blank spaces in section E should be filled in accordingly.

Section E, as thus completed, was approved.

**F. REPRESENTATION AT THE THIRTY-FIRST SESSION OF
THE GENERAL ASSEMBLY**

Section F was approved.

G. GILBERTO AMADO MEMORIAL LECTURE

Section G was approved.

H. INTERNATIONAL LAW SEMINAR

19. Mr. TABIBI said that a reference might be included in section H to the view expressed by a number of representatives in the Sixth Committee of the General Assembly,² and held by members of the Commission, that

the time had come for the very useful International Law Seminar programme to be financed out of the United Nations regular budget. As stated in paragraph 12 of section H, several selected candidates had been unable to attend the twelfth session of the Seminar for lack of funds.

20. Mr. USHAKOV observed that a proposal to finance the International Law Seminar out of the United Nations regular budget would have to be accompanied by a statement of financial implications.

21. Mr. REUTER said that it was not within the Commission's competence to do more than make a recommendation on the matter.

22. Mr. SETTE CÂMARA said that the inclusion of such a recommendation might lead voluntary contributors to withhold their support, pending a decision by the General Assembly.

23. The CHAIRMAN said he would raise the matter in his statement on behalf of the Commission to the Sixth Committee at the thirty-first session of the General Assembly. If the proposal was taken up, the Secretariat would submit the required statement of financial implications. At the same time, he would explore with other bodies, such as UNITAR, the possibility of obtaining funds from sources outside the regular budget.

Section H was approved.

The meeting rose at 12.45 p.m.

1413th MEETING

Friday, 23 July 1976, at 9.45 a.m.

Chairman: Mr. Abdullah EL-ERIAN

Members present: Mr. Ago, Mr. Bedjaoui, Mr. Calle y Calle, Mr. Hambro, Mr. Kearney, Mr. Njenga, Mr. Pinto, Mr. Ramangasoavina, Mr. Reuter, Mr. Rossides, Mr. Šahović, Mr. Sette Câmara, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Francis Vallat, Mr. Yasseen.

**Draft report of the Commission on the work
of its twenty-eighth session (concluded)**

**Chapter III. STATE RESPONSIBILITY (concluded)
(A/CN.4/L.247 and Add.1-8)**

1. The CHAIRMAN invited the Commission to complete its examination, paragraph by paragraph, of chapter III of its draft report.

B. DRAFT ARTICLES ON STATE RESPONSIBILITY (concluded)

2. *Introductory commentary to chapter III of the draft and text of articles 16 to 19, with commentaries thereto, adopted by the Commission at the present session (concluded)*

² See *Official Records of the General Assembly, Thirtieth Session, Annexes*, agenda item 108, document A/10393, para. 212.

*Commentary to article 18 [19]*¹ (International crimes and international delicts) (*concluded*) (A/CN.4/L.247, Add.7 and 8)

Paragraphs (51)-(60)

Paragraphs (51)-(60) were approved.

Paragraph (61)

2. Mr. ROSSIDES, referring to the last sentence, observed that the words “all the main components of the international community” gave the impression that, in the view of the Commission, it was necessary for States to be unanimous in recognizing an internationally wrongful act as an “international crime”. It should be made clear that the Commission did not have the rule of unanimity in mind, and he therefore suggested that the word “all” should be deleted.

3. Mr. AGO (Special Rapporteur) said he wished to reassure Mr. Rossides: the Commission had never considered that States must be unanimous in characterizing an internationally wrongful act as an international crime. The same explanations had been given regarding the concept of a “peremptory norm” at the United Nations Conference on the Law of Treaties. The words “all the main components of the international community” referred, not to States but to the main groups of States. The meaning was that an internationally wrongful act could not be characterized as an international crime unless all the main groups of States were in agreement. The word “all” was essential, since each main group of States must give its consent.

4. Mr. ROSSIDES reserved his position on that point.

Paragraph (61) was approved.

Paragraphs (62)-(65)

Paragraphs (62)-(65) were approved.

Paragraphs (66)-(69)

Paragraphs (66)-(69) were approved.

Paragraph (70)

5. Mr. ROSSIDES, referring to the second sentence, said that the expression “on a widespread scale” was incorrect. He suggested that it should be replaced by the words “massive, collective or systematic”.

6. The CHAIRMAN reminded the Commission that several members had expressed misgivings about that expression when the text of article 18 proposed by the Drafting Committee had been considered.² He suggested that the Commission should take note of Mr. Rossides’ reservations.

It was so agreed.

Paragraph (70) was approved.

Paragraph (71)

Paragraph (71) was approved.

Paragraph (72)

7. Mr. ROSSIDES, referring to the second sentence, proposed that the words “necessary and” should be inserted before the word “useful”.

It was so agreed.

8. Mr. ROSSIDES, referring to the last two sentences, said that the English term “international delict” appeared in legal dictionaries, including that of Earl Jowitt.³ A “delict” was assimilated to a “tort” in civil law. Moreover, the *actio ex delicto* existed in English law.

9. The CHAIRMAN pointed out that the point raised by Mr. Rossides had been discussed at length in the Commission; he suggested that Mr. Rossides’ reservation should be noted.

It was so agreed.

Paragraph (72), as amended, was approved.

Paragraph (73)

Paragraph (73) was approved.

The commentary to article 18 [19], as amended, was approved.

Section B of chapter III, as a whole, as amended, was approved.

Chapter III of the draft report, as a whole, as amended, was approved.

*Chapter IV. SUCCESSION OF STATES IN RESPECT OF MATTERS OTHER THAN TREATIES (concluded)**
(A/CN.4/L.248 and Add.1-4)

10. The CHAIRMAN invited the Commission to complete its examination, paragraph by paragraph, of section B of chapter IV of its draft report.

B. DRAFT ARTICLES ON SUCCESSION OF STATES IN RESPECT OF MATTERS OTHER THAN TREATIES (concluded)*
(A/CN.4/L.248 and Add.1-4)

2. *Introductory commentary to section 2 of Part I of the draft and text of articles 12 to 16 and of article 3, subparagraph (f), with commentaries thereto, adopted by the Commission at the present session (concluded)**
(A/CN.4/L.248/Add.1-4)

*Section 2. Provisions relating to each type of succession of States (concluded)**

Commentary to article 12 (Transfer of part of the territory of a State) (A/CN.4/L.248/Add.2)

Paragraphs (1)-(25)

Paragraphs (1)-(25) were approved.

¹ Figures in square brackets represent the numbers of the articles as they appear in the report.

² See above, 1402nd and 1403rd meetings.

³ W. A. Jowitt, *The Dictionary of English Law*, vols. I and II, (London, Sweet and Maxwell, 1959).

* Resumed from the 1411th meeting.

Paragraph (26)

11. Mr. BEDJAOUÏ (Special Rapporteur) proposed that paragraph (26) should be transferred to the commentary to article 13, as a new paragraph (19).

It was so agreed.

Paragraph (26) was approved on that understanding.

Paragraph (27)

Paragraph (27) was approved.

Paragraph (28)

12. Mr. KEARNEY said he wished to point out that the nations of the world were interdependent and that international economic independence was not possible.

Paragraph (28) was approved.

Paragraphs (29) and (30)

Paragraphs (29) and (30) were approved.

The commentary to article 12, as amended, was approved.

Commentary to article 13 (Newly independent States) and article 3 (Use of terms), subparagraph (f) ("newly independent State") (A/CN.4/L.248/Add.3)

Paragraphs (1)-(12)

Paragraphs (1)-(12) were approved.

Paragraph (13)

13. Sir Francis VALLAT said that, like other members of the Commission who had done so previously, he wished to enter a reservation regarding the phrase "connected with the activity of the predecessor State".

Paragraph (13) was approved.

Paragraphs (14)-(31)⁴

Paragraphs (14)-(31) were approved.

The commentary to article 13 and article 3 (f) was approved.

Commentary to article 14 (Uniting of States) (A/CN.4/L.248/Add.4)

Paragraphs (1)-(9)

Paragraphs (1)-(9) were approved.

The commentary to article 14 was approved.

Commentary to article 15 (Separation of part or parts of the territory of a State) and article 16 (Dissolution of a State) (A/CN.4/L.248/Add.4)

14. Mr. USHAKOV drew attention to the fact that, as a result of the addition of the words "or parts" to the title of article 15, the wording of paragraph 1 of that article would have to be brought into line with the wording of paragraph 1 of article 16, at a later stage of the work on the topic.

Paragraphs 1 to 19

Paragraphs 1 to 19 were approved.

The commentary to articles 15 and 16 was approved.

Section B of chapter IV, as a whole, as amended, was approved.

Chapter IV of the draft report, as a whole, as amended, was approved.

*Chapter VI. OTHER DECISIONS AND CONCLUSIONS
OF THE COMMISSION (concluded)*

(A/CN.4/L.250 and Add.1 and 2, and A/CN.4/L.252)

15. The CHAIRMAN invited the Commission to complete its examination, paragraph by paragraph, of chapter VI of its draft report.

B. PROGRAMME AND ORGANIZATION OF WORK (A/CN.4/L.250/Add.1 and A/CN.4/L.252)

Paragraphs 1-3

Paragraphs 1-3 were approved.

Paragraphs 4 and 9

16. The CHAIRMAN drew attention to the amendments to paragraphs 4 and 9 submitted by Mr. Kearney (A/CN.4/L.252). With regard to the amendment to paragraph 4, he noted that some members of the Commission had expressed support for the idea of establishing a Programme and Planning Committee on a permanent basis, but that others had thought it was too early to take a decision on the matter, which should be considered at the Commission's twenty-ninth session. He expressed the hope that the Commission would now be able to reach a consensus, and asked Mr. Kearney whether he would press for a vote on the amendments he had submitted.

17. Mr. KEARNEY said that it might seem unusual for the Chairman of a Planning Group to submit amendments to a report which supposedly contained a record of that Group's work but, in view of the circumstances, he could see no means of avoiding a discussion on the issue. Moreover, he could not take part in any consensus on that issue and wished to make it clear that he had not participated in preparing or approving the final text of the report on the work of the Planning Group contained in document A/CN.4/L.250/Add.1.

18. After the first two meetings of the Planning Group, substantial agreement had been reached on the positions the Group should take. Four of the five members had been in favour of establishing a Programme and Planning Committee on a permanent basis. Moreover, he had the impression that all the members of the Planning Group had been in favour of adopting a series of proposals for eliminating delay resulting from translation and terminology problems, along the lines of the amendment he had proposed to what had become paragraph 9 of document (A/CN.4/L.250/Add.1). Subsequently, it had been agreed that the draft report on the work of the Planning Group should be considered in that Group with a view to its inclusion in chapter VI of the Com-

⁴ See above, para. 11.

mission's report. He had agreed that the final meeting of the Planning Group should be combined with a meeting of the Enlarged Bureau in order to speed up the Commission's work. At that meeting, one member of the Planning Group had strongly objected to the establishment of a Programme and Planning Committee on a permanent basis, and, again in order to speed up the Commission's work, the Enlarged Bureau had decided that such a Committee should not be established on a permanent basis at the present session. Shortly after that decision had been taken, he had had to leave the meeting to prepare the draft report on the law of the non-navigational uses of the international watercourses. Thus he had taken no part in the drafting of document A/CN.4/L.250/Add.1.

19. He had been inclined not to raise the issue of the establishment of a permanent Programme and Planning Committee at the present meeting, but, in view of what had happened at the combined meeting of the Planning Group and the Enlarged Bureau, had come to the conclusion that a matter of principle was involved. In proposing the establishment of a Programme and Planning Committee, he had had several considerations in mind. The first was the fact that it was far more efficient for planning activities to be carried out by a permanent committee than by the Enlarged Bureau. Such a committee should not be drawn solely from the members of the Enlarged Bureau which was, in general, composed of the members of the Commission with long periods of service. In his opinion, the members of the Programme and Planning Committee should have different levels of experience, and thus provide a means of generating new ideas for the Commission. In addition, the Programme and Planning Committee would not report to the Enlarged Bureau, but direct to the Commission, which would be a far more open and democratic procedure. As matters now stood, it was unfair for the members of the Commission who were not members of the Enlarged Bureau not to be allowed to know what the Planning Group had decided. That seemed to be an undemocratic and short-sighted approach for a body such as the International Law Commission.

20. He had been concerned for some time about the Commission's tendency to submerge differences of opinion only so that it might complete its work on time. That was a good system to follow up to a point, but he knew that in the Drafting Committee, for example, opposition by a member had sometimes led to the adoption, by the Commission as a whole, of decisions on which there was substantial disagreement or a majority view to the contrary.

21. He was not objecting to any member strongly urging his own point of view as to the law or a method of organization which that member considered right. What caused him concern was the Commission's practice of agreeing, because of the pressure of time, to formulations it considered second best, rather than insisting on the best. For all those reasons, he considered that a vote should be taken on the amendments he had proposed to paragraphs 4 and 9.

22. Mr. USHAKOV said he wished to make it clear that he in no way objected to the Planning Group.

Indeed, he had firmly supported the proposal to set up the Group and had participated actively in its work. It was he, for instance, who had proposed that the Commission should plan its work up to the conclusion of its five-year term of office ending in 1981. The Planning Group performed extremely useful work and should certainly be reconvened at future sessions of the Commission.

23. Mr. NJENGA said that the consensus method was an excellent method of work, which had been used to good effect in the General Assembly and at various United Nations conferences, as well as in the Commission itself. But when the absence of consensus became tantamount to a veto, the procedure was counterproductive. The proposals covered by Mr. Kearney's amendments had commanded the support of the great majority of the members of the Planning Group, yet they had emerged in quite a different form in the draft text of section B of chapter VI. He found it very difficult to endorse the present wording of that section as contained in document A/CN.4/L.250/Add.1.

24. At the thirtieth session of the General Assembly, nearly all the representatives in the Sixth Committee who had spoken on the matter had welcomed the establishment of a Planning Group as a means of expediting the Commission's work.⁵ In view of that general support, and of the convincing arguments advanced by Mr. Kearney, it seemed desirable to place the Group on a permanent footing.

25. Paragraph 9 of section B, while referring to the idea of establishing an advance review system, made no mention of how that idea could be put into practice. The text proposed by Mr. Kearney, on the other hand, was highly specific on that point and gave teeth to the proposal regarding terminological harmonization. He fully supported the two amendments proposed by Mr. Kearney.

26. Mr. HAMBRO said that he would support both amendments if they were put to the vote. He agreed with Mr. Njenga that the absence of a consensus must not be allowed to become a veto. It happened too often that the Commission as a whole deferred to the wishes of one or two of its members. A more desirable procedure would be for the Commission to take a majority decision, leaving individual members the option of expressing their dissent. If the Commission were always to adopt the principle of consensus, it would always adopt the principle of the lowest common denominator.

27. Sir Francis VALLAT said that, while he sympathized with much of what had been said by Mr. Kearney, who had raised a number of important points, he did not believe it possible for the Commission, at the present late stage of its session, to give Mr. Kearney's proposals the thorough consideration they warranted. In the circumstances, it seemed necessary to postpone a final decision. Accordingly, and on the basis of consultations with other members of the Commission, he wished formally to propose that the first sentence of paragraph 4

⁵ See *Official Records of the General Assembly, Thirtieth Session Annexes*, agenda item 108, document A/10393, para. 197.

should be replaced by the following text: "The Commission considered whether it would be desirable to establish the Group as a permanent committee. There was substantial support for this position, but as it would require adjustment in the activities of other groups, it was decided to leave the matter to be studied further and a final decision to be taken by the newly constituted Commission at its 1977 session."

28. As to paragraph 9, he proposed that the first sentence of the text in document A/CN.4/L.250/Add.1 should be retained; that the second sentence of that text should be amended to read "The Commission, owing to lack of time, decided to consider the proposals of the Planning Group at its next session"; and that the full text of Mr. Kearney's amendment to paragraph 9 (A/CN.4/L.252) should be inserted between those two sentences. In making that proposal, he did not wish to imply that the Planning Group's suggestions had been either approved or rejected, but merely to put them forward as a matter of record.

29. Mr. PINTO said that, although he fully agreed with the remarks made by Mr. Njenga and, by implication, with the ideas expressed by Mr. Kearney, the proposals made by Sir Francis Vallat constituted a very happy compromise to which he could subscribe. He was, however, rather at a loss to understand what was meant by the phrase "adjustment in the activities of other groups" in the proposed amendment to paragraph 4.

30. Sir Francis VALLAT said that the suggestions made by Mr. Kearney seemed clearly to imply that the proposed Planning Committee would report direct to the Commission. By implication, the relationship between that Committee, the Enlarged Bureau and the Commission would be involved. That was a matter requiring further reflection.

31. Mr. CALLE Y CALLE suggested that, out of respect for the newly constituted Commission, the word "final" should be omitted from the text of the amendment to paragraph 4 proposed by Sir Francis Vallat.

32. As to paragraph 9, he thought that Special Rapporteurs were sufficiently knowledgeable and cultured to deal with matters of terminology themselves, and that the Commission wasted very little time on purely terminological questions.

33. Sir Francis VALLAT said he had no objection to deleting the word "final" from the text of his amendment to paragraph 4, but he appealed to members of the Commission to refrain from redrafting a text which was generally acceptable.

34. Mr. ROSSIDES endorsed that appeal.

35. Mr. KEARNEY said that he was quite willing to accept the proposals made by Sir Francis Vallat.

36. Mr. USHAKOV said that he could accept the texts for paragraphs 4 and 9 proposed by Sir Francis Vallat.

37. With regard to paragraph 9, he wished to emphasize that, in principle, he supported Mr. Kearney's proposals concerning the institution of a system of terminological review. He had, however, a number of reservations on points of detail, in particular on paragraph 4 of Mr.

Kearney's amendment, which appeared to involve a question of substance, not merely a matter of terminology.

38. The CHAIRMAN said that, if there was no objection, he would take it that the Commission approved the texts for paragraphs 4 and 9 proposed by Sir Francis Vallat, subject to the deletion of the word "final" in the text relating to the latter paragraph.

It was so agreed.

Paragraphs 4 and 9, as amended, were approved.

Paragraphs 5-8 and 10-11

Paragraphs 5-8 and 10-11 were approved.

Paragraphs 12 and 13

39. The CHAIRMAN introduced the text of the recommendations adopted by the Enlarged Bureau at its meeting held on 22 July 1976, which had been distributed to members of the Commission. The question of the seat of the Commission had been considered by the Enlarged Bureau, and he had informed the Bureau of his private talks with members of the Commission. He had expressed a reservation regarding the technical aspect of the matter, pointing out that the Commission was not seized of it by any official document. The Enlarged Bureau, however, had decided to recommend the Commission to include a paragraph in its report on the work of the present session, reiterating the position it had taken in 1974 and expressing the hope that no change in its arrangements or methods of work would be introduced without prior consultations with the Commission. The text adopted by the Enlarged Bureau for inclusion in section B as paragraphs 12 and 13, read:

12. The Commission also decided to reaffirm the conclusions it reached at its twenty-sixth session in 1974 in connexion with the report of the Joint Inspection Unit, including those reached on the seat of the Commission, which read as follows:

209. As to the seat of the Commission, the General Assembly in 1955 expressly amended article 12 of the Commission's Statute to provide that the Commission was to sit at the United Nations Office at Geneva. This decision of the General Assembly was not taken lightly but after a thorough examination of all aspects of the matter and on the basis of the requirements of the Commission's work. The basic assumption on which this decision of the Assembly was taken remains as valid today as it was in 1955. The United Nations Office at Geneva affords the best possible conditions for the Commission's work. The Palais des Nations has an exceptionally specialized library, originally constituted in the days of the League of Nations and including collections of works and periodicals going back for several decades. This is an absolutely indispensable working instrument both for the special rapporteurs—some of whom come to Geneva at their own expense between sessions expressly to prepare their work—and for the members of the Commission in general. The translators, revisers, interpreters, précis-writers and others of the staff of the Palais des Nations have, over the years, become familiar with the Commission's work. They are acquainted with the 25 years of accumulated precedent resulting from the work of the Commission. Besides, Geneva is the most suitable place for the work of a body such as the Commission which is called upon to solve legal problems in a quiet and studious atmosphere. Geneva is also the meeting-place of the International Law Seminar, organized annually by the United Nations Office at Geneva, which is closely linked with the Commission's sessions: members of the Commission give lectures to the Seminar and the participants

have the opportunity of attending the Commission's meetings—an arrangement which constitutes one of the salient features of the Seminar.

210. Another important factor to be borne in mind is that the members of the Commission, a body which is not in permanent session, are persons working in the academic and diplomatic fields with professional responsibilities outside the Commission, as required by their respective Governments or professions, a fact which enables the Commission to proceed with its work not in an ivory tower but in close touch with the realities of international life. Many of the members have made permanent arrangements to be present in Geneva and during the Commission's sessions. For instance, several members have been appointed permanent representatives in Geneva or have made Geneva one of the main centres of their activities. In this connexion, it should be recalled that, as already indicated, the members of the Commission being elected by the General Assembly in their personal capacity, cannot be replaced by alternates or advisers. If the seat of the Commission were transferred outside Geneva it would be extremely difficult for many members to attend meetings of the Commission, and this would negate one of the basic principles of the Statute of the Commission, namely to ensure the presence in the Commission of the most qualified representatives of the main forms of civilization and principal legal systems of the world. . . .⁶

13. Recalling that the procedures and organizational patterns of the Commission, as set forth in the Commission's Statute approved by the General Assembly and as evolved in practice, were conceived and determined bearing essentially in mind the very special nature of the task performed by the Commission and its needs, the Commission expressed confidence that no modifications of such procedures or patterns would be made without its having an opportunity to express its views thereon.

40. Mr. USTOR said that, as an outgoing member of the Commission, he did not think it would be appropriate for him to dissent from a decision concerning the Commission's future. He hoped, however, that members would understand him if he pointed out that Hungary was particularly interested in having as many United Nations bodies as possible at Vienna, in its immediate neighbourhood. As he had said in the Enlarged Bureau, it would be very pleasant for him personally to have to drive only 260 kilometres instead of 1,300 kilometres to attend a session of the Commission, if only as a listener.

41. The CHAIRMAN said that, in his capacity as a member of the Commission, he wished to reserve his position on the technical point that the Commission was not seized of any official document relating to its seat, so that it was not appropriate for it to take any decision on the matter.

Paragraphs 12 and 13 were approved.

Section B as a whole, as amended, was approved.

C. CO-OPERATION WITH OTHER BODIES (A/CN.4/L.250/Add.2)

Section C was approved.

Chapter VI of the draft report, as a whole, as amended, was approved.

Chapter V. THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (A/CN.4/L.249 and Add.1)

42. The CHAIRMAN invited the Commission to consider, paragraph by paragraph, chapter V of its draft report.

Paragraphs 1-42

Paragraphs 1-42 were approved.

Paragraph 43

43. Mr. USHAKOV said that it was not the Commission's task to discuss the replies of States to the questionnaire. He would prefer it to be recorded only that the Commission had discussed the Special Rapporteur's first report.

44. Mr. SETTE CÂMARA said it should be borne in mind that the preparation of the questionnaire addressed to States was the first stage of the Commission's work on the topic and that the replies to it would determine the future course of that work. It therefore seemed to him essential to say that the Commission had discussed the replies of States to the questionnaire it had itself prepared.

45. Mr. KEARNEY (Special Rapporteur) suggested saying that the Commission had discussed the question of the law of the non-navigational uses of international watercourses.

It was so agreed.

Paragraph 43, as amended, was approved.

Paragraphs 44-52

Paragraphs 44-52 were approved.

Paragraph 53

46. Sir Francis VALLAT suggested that the words "to the particular aspects of every river", at the end of the first sentence, should be replaced by "to all rivers".

It was so agreed.

Paragraph 53, as amended, was approved.

Paragraphs 54-58

Paragraphs 54-58 were approved.

Paragraph 59

47. Mr. KEARNEY (Special Rapporteur) suggested that the words "as wide as possible", in the last sentence, should be replaced by the words "as widely acceptable as possible".

It was so agreed.

Paragraph 59, as amended, was approved.

Paragraph 60

48. Mr. SETTE CÂMARA said that, in his view, the first sentence went much too far in referring to the exercise of sovereignty over natural resources in general. He therefore suggested that the latter part of the sentence, beginning with the words "to establish", should be deleted, and that the first part should be linked with the next sentence so as to read:

⁶ Yearbook... 1974, vol. II (Part One), p. 310, document A/9610/Rev.1, paras. 209 and 210.

"It would be necessary, in elaborating legal rules for water use, to explore such concepts as . . .".

It was so agreed.

Paragraph 60, as amended, was approved.

Paragraph 61

49. Mr. SETTE CÂMARA said he thought it was too soon to propose the establishment of a Committee of Experts. He suggested that the last sentence should refer solely to expertise.

50. Mr. TABIBI said that he was in favour of retaining the last sentence unchanged, since the law of the non-navigational uses of international watercourses was a highly technical subject and the Commission would not be able to accomplish its task without seeking advice from a Committee of Experts.

51. Mr. KEARNEY (Special Rapporteur) pointed out that 18 States had expressed support for the establishment of a Committee of Experts and none had opposed it. He was, however, prepared to agree to the words "the establishment of a Committee of Experts" being replaced by the words "securing technical advice".

It was so agreed.

Paragraph 61, as amended, was approved.

Chapter V of the draft report, as a whole, as amended, was approved.

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

Closure of the session

52. Mr. AGO congratulated the Chairman on the outstanding ability with which he had performed his duties. Under his Chairmanship, the Commission had completed an unprecedented amount of work during the present session. He also congratulated the other members of the Bureau, the members of the Drafting Committee and the Secretariat. Lastly, he wished to pay a tribute to four eminent members of the Commission—Mr. Kearney, Mr. Tammes, Mr. Ustor and Mr. Yasseen—who were not standing for re-election and who, through their participation in the Commission's work, had made an outstanding contribution to the codification and progressive development of international law.

53. Mr. SETTE CÂMARA, Mr. USHAKOV and Mr. ROSSIDES associated themselves with the congratulations extended by Mr. Ago.

54. Mr. KEARNEY, Mr. USTOR and Mr. YASSEEN also congratulated the Chairman and the other members of the Bureau and thanked all the members of the Commission who had wished them well on the occasion of their departure.

55. The CHAIRMAN, after thanking the members of the Bureau and the Drafting Committee, and the Secretariat staff, declared the twenty-eighth session of the International Law Commission closed.

The meeting rose at 1.30 p.m.
