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Summary record of the 1563rd meeting

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time of succession in the capital of the metropolitan country, either because they had always been preserved there or because the authorities of that country had moved them there shortly before the succession. In any case, they were located far from the successor State and it would be difficult to transfer them to it. That was why he had proposed that the successor State be given a right of access to those archives and an opportunity to obtain copies. In the event of the transfer of a part of the territory of a State, it was obvious that the archives of sovereignty would not be in that part of the territory, which was often quite small, but in the capital of the predecessor State. Hence it would not be reasonable to require that archives of that kind, which constituted a collection that should not be split up, should be handed over to the successor State in their original form. In cases of decolonization, archives of sovereignty were generally not located in the colony but had been removed by the administering Power, and it would be difficult to secure their return to the successor States; that State should be satisfied to have access to them. Practice showed that even States created by the dissolution of a State accepted that the State among them in whose territory the capital of the predecessor State was situated should retain the archives of sovereignty in their entirety, each successor State having access to them and being entitled to reproduce them or to obtain other political archives in compensation. In draft article A he had therefore attempted to find a compromise solution that would satisfy the requirements of each type of succession.

The meeting rose at 1.5 p.m.

1563rd MEETING

Friday, 29 June 1979, at 10.10 a.m.

Chairman: Mr. Milan ŠAHOVIĆ

Members present: Mr. Barboza, Mr. Bedjaoui, Mr. Dadzie, Mr. Díaz González, Mr. Francis, Mr. Njenga, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat.

Tribute to the memory of Mr. Constantin Th. Eustathiades, former member of the Commission

1. The CHAIRMAN announced the death of Mr. Constantin Th. Eustathiades, who had been a member of the Commission from 1967 to 1971, and who had distinguished himself not only in the Commission but also in the Sixth Committee of the General Assembly, on which he had represented Greece for many years. Mr. Eustathiades had also contributed to the development of modern international law by his scholarly works. A telegram of condolences would be sent to Mr. Eustathiades' family on behalf of the Commission.

On the proposal of the Chairman, the members of the Commission observed a minute's silence in tribute to the memory of Mr. Constantin Th. Eustathiades.

Succession of States in respect of matters other than treaties (*continued*) (A/CN.4/322 and Corr.1 and Add.1 and 2)

[Item 3 of the agenda]

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR (*continued*)

ARTICLE A (Transfer of State archives)[1] (*concluded*)

2. Mr. BEDJAOUI (Special Rapporteur) said it was gratifying that Sir Francis Vallat (1562nd meeting) had drawn attention to the need to take account of two principles: the place of accumulation of archives, which was generally the capital of the predecessor State, and the unity of archival collections. Archives thus accumulated, which were usually archives of sovereignty, constituted a collection that should not be affected by a succession of States. It was out of respect for those principles that he had proposed that, for certain types of succession, archives deemed essential to the successor State should simply be reproduced. In that connexion, it should be noted that not only the dismantling of such a collection but also any improper additions made to it by the predecessor State were harmful. During the "suspect" period, the predecessor State should therefore refrain from swelling its archival collection improperly and, if necessary, return any additions improperly made.

3. Sir Francis Vallat had also pointed out that the physical transfer of archives was not always an easy matter. For his own part, he had never recommended the transfer of all archives, but simply of those that the predecessor State had improperly added to its collection. It was obvious that archives formed part of the heritage of mankind and that their importance to the international community outweighed the respective interests of the predecessor and successor States. Every country possessed archives on other countries and could assist anyone in writing world history. As Sir Francis Vallat had also remarked, it was important to preserve archives and to prevent their destruction. Finally, with regard to State security, Sir Francis had reiterated the concern he himself had expressed, namely, that a State, for reasons of national security, might be unable to transfer archives, either the originals or copies.

[1] For text, see 1560th meeting, para. 1.

4. With regard to the UNESCO experts who had for many years been studying problems relating to archives (basing their work, *inter alia,* on his earlier reports), it should be emphasized that they were expecting the Commission to give them guidance by elaborating general but clear legal principles.

5. All members who had spoken on draft article A had referred to various articles that had already been adopted, more particularly articles 5, 9 and 13.[2] Some had called for the deletion of article 9, which set forth the general principle of the passing of State property, while others had wondered whether article 5, which contained the definition of State property, was applicable to archives. Article 9 was currently before the Drafting Committee, and he stressed that the articles relating to archives, or at least the parts that the Commission would preserve, were intended to add a little colour to the draft. The definition contained in article 5, which the Commission had had great difficulty in drafting, in fact encompassed archives, since it dealt with property, rights and interests. Archives were unquestionably movable property belonging to the State. Over and above their value as a heritage, they represented incorporeal property, which was covered by the terms "rights" and "interests". In addition, in its commentaries to articles 1 to 25, the Commission had more than once referred to archives, considering them to be property within the definition given in article 5. By devoting draft article 11 to the passing of debts owed to the State, the Commission had gone so far as to consider the incorporeal property represented by such debts as falling within the definition of State property. That definition covered both property that had a market value, such as a collection of jewels, and property which, like archives, also had an intellectual, cultural or historical value.

6. Some members had drawn a distinction between works of art and archives, as private property. However, it had not been his intention to deal with archives solely as elements of the cultural heritage of nations, but simply to indicate the context in which archives should be considered, since they represented something both less and more than a cultural heritage. They formed part of the cultural heritage only if they had an historical or a cultural value; they went beyond the framework of that heritage in so far as there were administrative archives that were used in administering the population of the territory to which the succession related. For that reason, it was essential to consider all aspects of the question of archives, since archives constituted movable property of vital importance to a nation. He did not intend to revert to the relationship between archives and works of art, since the latter, as State property, were governed by draft articles 1 to 25.

7. Several members had raised the question of private archives. In his view, such archives concerned the Commission only indirectly. It was sometimes difficult to determine the relationship between private archives and State papers. As Mr. Ushakov (1561st meeting) had pointed out, private papers or those of certain public institutions could be likened to State papers by reason of the control the State exercised over them. Mr. Reuter (*ibid.*) had even referred to purely private papers, namely, family records which, with the passage of time, had become papers of historical importance to the French State, and which the latter was at pains to prevent from being lost. Letters by sovereigns, even if they did not contain thoughts on public matters, were of historical importance and, as such, were generally protected by internal law. Only by reference to the internal law of the predecessor State was it possible to establish whether such letters constituted private property, possibly placed under the control of the State, or whether they had become State property. As for any letters by Emir Abdel-Kader that might have referred to political matters, they clearly belonged to the addressee; if they had been addressed to the French Government, they were the property of the French Government. It should be noted in that connexion that the French Government had been willing to open its archival collections to the Algerian Government to enable it to make reproductions of any archives that might be of interest to it.

8. In short, reference to the internal law of the predecessor State seemed inevitable, and the definition contained in article 5 should therefore prove satisfactory. If that was not the view of the Commission, a specific definition of archives would have to be given. But even then, reference would have to be made to internal law, so that, contrary to what Mr. Reuter thought, the definition formulated by the Commission would not be an international legal definition.

9. Many members of the Commission had referred to old or recent cases of decolonization that had presented problems concerning archives. Mr. Reuter had emphasized the possible injury to a nation's soul. If it was true, as an African statesman had said, that Africa had a memory but was without malice, then to deprive African countries of their archives was to deprive them of their memory. Moreover, colonization was not a phenomenon peculiar to the nineteenth and twentieth centuries; mankind must accept it as a fact of history. Mr. Díaz González (*ibid.*) had vigorously defended the presence of Latin American archives in Seville, which showed that time, in the end, was the great healer. In that connexion, however, he wished for his own part to make it clear that he had never intended to reopen a dispute among the Latin American heirs about the common heritage in Seville. On the contrary, it was his view that historical archives formed part of the common heritage of mankind. It followed from all those considerations that it was essential to draft provisions on succession to State archives, particularly for cases of decolonization.

10. Three trends had emerged in the course of the debate. Some members, like Mr. Ushakov (*ibid.*), had taken the view that it was not possible, for the time being, to draft a general article such as article A; they

[2] See 1560th meeting, foot-note 1.

would prefer to approach the question of archives from the particular standpoint of each type of succession. In Mr. Reuter's opinion (*ibid.*), only one or two general articles should be drafted to cover the two aspects of the question, namely, transfer of archives and treatment of archives of common interest. That approach would emphasize two points with which he had dealt himself: restitution and co-operation. Lastly, Mr. Riphagen (*ibid.*) had advocated a general article like article A, and a single specific article dealing with the case of decolonization, which raised problems for whose solution the international community required guidelines. Personally, he would have preferred the Commission to decide in favour of a general article and five specific articles; however, given the lack of time, he was prepared to endorse the approach suggested by Mr. Riphagen. The Commission would then be in a position to submit a complete set of draft articles to the General Assembly, at its thirty-fourth session. Moreover, as Mr. Riphagen had pointed out, the cases covered by articles B and E were perhaps not so very different. If the Commission adopted that course, it could refer draft article A to the Drafting Committee and would then have only draft article C to consider.

11. Article A should incorporate certain elements. First, it should be specified that States had an obligation to negotiate in good faith to reach a satisfactory outcome, an obligation that had already been emphasized by the Commission in other contexts. The accent should then be placed on agreement by the parties, which was essential if such a complex problem as that of archives was to be resolved. The principle of the passing of archives could be enunciated for the cases in which it unquestionably applied—for instance, when archives, and particularly administrative archives, were already in the territory to which the succession of States related. If such archives had been removed, they could be claimed for the purpose of ensuring the viability of the territory. The same was true of State papers dating from before the time at which the predecessor State had begun to exercise its sovereignty over the territory in question. In that connexion, Mr. Pinto (*ibid.*) and Mr. Njenga (1562nd meeting) had referred to the case where several successions of States had occurred before decolonization. As for archives that had been removed during the "suspect" period, they were dealt with in draft article A by the words "that relate exclusively or principally to the territory", a formula that corresponded to the concept of property connected with the activity of the predecessor State in regard to the territory and that was embodied in the articles on State property.

12. A provision on papers of common interest should also be included, not in order to establish a guardianship of State papers but to specify to what extent, having due regard for the indivisibility of archival collections, reproduction of originals in the archives should be envisaged. In proposing that interested third States should have a right of access to State archives, he had been thinking of administrative rather than political archives. He had in mind the case where a part of the population of a territory to which the succession of States related were to leave and to settle in a third State. To administer those new inhabitants, the third State might need to have access to the administrative archives concerning them. In the purely political sphere, a third State might also wish to have access to certain archives. For instance, two former colonies anxious to settle a frontier problem peacefully had addressed a joint request for access to certain archives to the French Government, which had agreed to the request. In a particularly serious dispute, however, a State so approached might well be less amenable.

13. Mr. TSURUOKA wished to dispel the misunderstandings that seemed to have arisen in connexion with his statement at the previous meeting. During the period preceding the conclusion, in 1953, of an agreement between the United States of America and Japan, the international status of the Amami Islands had been governed by article 3 of the Treaty of Peace with Japan.[3] Under the terms of that provision, the United States had had the right to exercise over that territory and its inhabitants all powers of administration, legislation and jurisdiction. In accordance with article I of the 1953 agreement, the United States had relinquished in favour of Japan all rights and interests under article 3 of the Treaty of Peace, Japan thus assuming full responsibility and authority for the exercise of powers of administration, legislation and jurisdiction over the territory and inhabitants of the Amami Islands. It was on the basis of those provisions that he had taken the view that the case was one of succession of States, in keeping with the definition of the expression "succession of States" contained in article 3 (*a*) of the draft. Before the 1953 agreement, the competent United States authorities had for instance issued passports to the inhabitants of the Amami Islands, or ensured the international protection of such inhabitants as fished on the high seas, and had thus assumed responsibility for the international relations of the territory. That responsibility had reverted to Japan under the 1953 agreement. It had therefore been appropriate to speak of a succession of States. Moreover, article 6 of the Treaty of Peace had contained a provision on the occupation, to the effect that all occupation forces of the Allied Powers should be withdrawn from Japan as soon as possible after the entry into force of the Treaty, with a reservation concerning the stationing or retention of foreign armed forces in Japanese territory under agreements concluded between one or more of the Allied Powers and Japan. The stationing of United States forces after the entry into force of the Treaty of Peace had taken place under a security agreement concluded between the United States and Japan had therefore not constituted military occupation.

14. He had referred to the cultural co-operation agreement concluded between the Republic of Korea

[3] United Nations, *Treaty Series*, vol. 136, p. 45.

and Japan simply to demonstrate that, when a succession of States occurred, the States concerned could settle their disputes concerning works of art and other objects of historical or cultural value not by a treaty coming within the context of the succession of States but by a treaty on cultural co-operation.

15. Mr. USHAKOV considered that archives were documents that could not be regarded as State property. Neither an individual's birth certificate nor even the text of a treaty concluded between two States was State property. In his eleventh report, in connexion with the definition of archives, the Special Rapporteur referred to an agreement concluded on 23 December 1950 between Italy and Yugoslavia in which, for example, "documents concerning certain categories of property" were regarded as archives (A/CN.4/322 and Corr.1 and Add.1 and 2, para. 23). It was therefore clear that documents constituting archives could not be included in the general concept of State property. In principle, archives consisted of documents that were not, strictly speaking, property. It followed that they did not come under the definition in article 5. Furthermore, at the beginning of the section of his report concerning the definition of archives, the Special Rapporteur had stated that, for the purposes of the draft articles, he had decided to limit the content of the concept of archives to "the documentary material constituted by State intitutions in the course of their activities and deliberately preserved by them" (*ibid.*, para. 8). The difference between property and documentary material could hardly be more marked.

16. Consequently he was of the opinion that the part of the draft articles dealing with State property did not cover archives considered as documents. A separate part of the draft should be set aside for succession to State archives. Like part I of the draft, concerning succession to State property, the new part could contain a section 1 entitled "General provisions", and the articles making up the section could be modelled on articles 4 *et seq.* of the draft.

17. In addition, the Commission could draft general articles concerning State archives along the following lines:

> "The predecessor and successor States should co-operate by permitting and encouraging both mutual access to their State archives and appropriate reproduction thereof, duly certified where necessary, for the legitimate needs of the administration or the exercise of the power of jurisdiction and other legitimate interests of the said States."

and

> "The predecessor and successor States, in fulfilling their obligations concerning the passing of State archives under the articles of this part, shall as far as possible take into consideration the need to preserve the integrity of archives and other requirements arising from the specific nature of archives."

18. Mr. BEDJAOUI (Special Rapporteur) considered that State archives were not merely documents, as Mr. Ushakov had stated, but also State property, since they belonged to the State. State archives were not solely of documentary value. They could have a cultural value and also a market value, as in the case of the parchments returned by Denmark to Iceland, whose value had been estimated at 600 million Swiss francs. They might also serve to establish ownership of certain property. Again, they might have administrative or evidentiary funcions.

19. In the case of archives, he did not think it necessary that a series of general provisions should be adopted, as in the case of State property. The Commission should trust the Drafting Committee and refer draft articles A and C to it. Later on, it might be possible to add a definition and some specific articles; for the moment, however, it would be wiser to deal only with articles A and C.

20. The CHAIRMAN said that if there were no objections he would take it that the Commission decided to refer draft article A to the Drafting Committee.

It was so decided.[4]

ARTICLE C (Newly independent States)

21. The CHAIRMAN invited the Special Rapporteur to introduce draft article C (A/CN.4/322 and Corr.1 and Add.1 and 2, para. 181), which read:

Article C. Newly independent States

1. Where the successor State is a newly independent State:

(*a*) archives of all kinds which belonged to the territory prior to its dependence and which became the archives of the administering State, and

(*b*) administrative and technical archives connected with the activity of the predecessor State in regard to the territory to which the State succession relates,

shall pass to the successor State.

2. The successor State shall undertake, for the purposes of the predecessor State, and at the latter's request and expense, any necessary reproduction of the archives that pass to it.

3. Succession to archives other than those referred to in paragraph 1 and concerning the territory to which the State succession relates shall be determined by agreement between the predecessor State and the successor State in such a manner that each of the two States benefits liberally and equitably from such archives.

4. Where a newly independent State is formed from two or more dependent territories, the passing of the archives of the predecessor States to the newly independent State shall be determined in accordance with the provisions of paragraphs 1 to 3 above.

5. Where a dependent territory becomes part of the territory of a State other than the State which was responsible for its international relations, the passing of the archives of the predecessor State to the successor State shall be determined in accordance with the provisions of paragraphs 1 to 3 above.

6. Agreements concluded between the predecessor State and the successor State in regard to archives shall not infringe the right of every people to information about its history and cultural heritage.

[4] For consideration of the text proposed by the Drafting Committee, see 1570th meeting, paras. 3–14 and 36–40.

22. Mr. BEDJAOUI (Special Rapporteur) said that draft article C envisaged the case where a newly independent State appeared on the international scene as a result of decolonization. In that case, the problem of succession to archives was particularly acute.

23. Mr. Díaz González (1561st meeting) had pointed out that, when the countries of Latin America had acceded to independence, Spain had not left them any archives and they had had to reconstitute their own collections. Now, however, a new phenomenon had occurred, namely, the stand taken by newly independent countries, which were claiming the right to their archives. UNESCO's work in that area showed that the problem of archives had to be settled on the basis of three major principles: the right to development, the right to information and the right to national and cultural identity. The problem of succession to State archives fell within the context of that threefold right.

24. In his opinion, the successor State should obtain not only the administrative archives needed for the administration of its territory but also the historical and cultural archives that related exclusively to its territory. It was necessary to enunciate as equitable a rule as possible, a rule which, while respecting the legitimate needs of the newly independent countries, opened the way to co-operation between those countries and the former administering Powers. At the same time, a newly independent State should be enabled to recover its national heritage and the former colonial Power should be enabled to ease the moral and material difficulties that might have accompanied its withdrawal from the territory.

25. There were four categories of archives: political archives of the colonial period, precolonial archives, archives established outside the territory to which the succession of States related, and administrative archives.

26. Some had taken the view that political archives of the colonial period should not pass to the newly independent State, since they were connected with the *imperium* and *dominium* of the administering Power. In that connexion, he had referred in his report to the proceedings of the sixth international round-table conference on archives, from which it was apparent that the conference had taken the view that "sovereignty collections ... concerning essentially the relations between the metropolitan country and its representatives in the territory... fall within the jurisdication of the metropolitan country, whose history they directly concern".[5] Personally, he considered that view exaggerated, in that the exception made to the principle of transfer for archives connected with *imperium,* which was at issue, related less to the principle of ownership than to considerations of expediency and policy. Admittedly, it was important to prevent the publication of archives that might jeopardize good relations between the predecessor State and the successor State, but it was also necessary to preserve the viability of the newly independent State. After all, certain political archives of the colonial period, such as those relating to the demarcation of frontiers or the conclusion of a treaty applying to the territory, were also of interest to the newly independent State—sometimes even of prime importance in cases of conflict or dispute with a third State. Consequently, if the newly independent State could not reasonably require the immediate and complete restitution of archives connected with the *imperium* and *dominium* of the former colonial Power, it should at least have access to those archives and obtain copies of them—and in any case at least by virtue of the same right as any private individual, since such archives were opened to the public after a certain period of time. Indeed, if the archives in question were connected with the history of the colonial Power, they were obviously even more closely connected with the history of the territory that had become independent.

27. That point of view was confirmed by State practice, for example by the agreement on cultural co-operation concluded in 1976 between the Netherlands and Indonesia,[6] and by the positive attitude taken by France, which had planned to deliver to Algeria the originals, microfilms or photocopies, depending on the nature of the document, of historical archives connected with the colonization of Algeria, on the grounds that such a procedure was entirely in keeping with the current practice of co-operation among historians.

28. That approach was also encouraged by doctrine. In his report, he had quoted Charles Rousseau, who had said, in connexion with the colonial archives concerning Cambodia, that "the logical solution would be the return of all items concerning the history of Cambodia during the period in which France assumed international responsibility for its affairs (1863-1953)".[7] He had also mentioned the recommendation of the symposium on African archives and history held at Dakar in 1965, that "wherever transfers have infringed the principles of the territoriality of archives and the indivisibility of collections, the situation will be remedied by restitution or by other appropriate measures".[8]

29. Consequently, political archives of the colonial period could not be wholly excluded from succession of States, and a newly independent State should be given an opportunity to obtain the originals or copies of the documents that concerned it—for example documents pertaining to the demarcation of its frontiers or the application to its territory of treaties concluded on its behalf by the Administering Power. The hesitation of newly independent States in notifying their succession to certain treaties was sometimes due to their uncertainty about the earlier application of

[5] See A/CN.4/322 and Corr.1 and Add.1 and 2, para. 149.

[6] *Ibid.*, para. 157.

[7] *Ibid.*, para. 159.

[8] *Ibid.*, para. 160.

those treaties to their territory or about the actual content of those instruments, of which they had found no trace in the archives left in the territory by the colonial Power.

30. Precolonial historical archives and cultural archives proper to the territory should unquestionably revert in their entirety to the newly independent State, for here it was a question not of property belonging to the predecessor State but of property proper to the territory. That principle should be firmly and immediately applied and should not admit of any exception. It was confirmed by doctrine—more particularly by the proceedings of the sixth international round-table conference on archives, which had expressed the opinion that "the metropolitan country should return to States that achieve independence ... the archives which antedate the colonial régime", for those archives "are without question the property of the territory".[9] It was also confirmed by State practice: for example by the 1947 Treaty of Peace between Italy and Ethiopia, by the 1950 Franco-Vietnamese agreement on archives and by the partial settlement of the Franco-Algerian dispute concerning precolonial historical archives.[10]

31. He pointed out that article 13, paragraph 1, which the Commission had already adopted, provided that, when the successor State was a newly independent State,

> If immovable and movable property, having belonged to an independent State which existed in the territory before the territory became dependent, became State property of the administering State during the period of dependence, it shall pass to the newly independent State.

That principle was valid in the case of precolonial historical archives, which were State property.

32. With regard to archives established outside the newly independent territory but relating to that territory, he had found no examples of that type of succession apart from the case of the India Office library, which had not been settled.[11]

33. As for administrative archives, they should undeniably revert to the newly independent State, since they were indispensable for the administration of its territory. Thus the sixth international round-table conference on archives had stated that the former administering Powers had "the duty to hand over all documents which facilitate the continuity of the administrative work and the preservation of the interests of the local populations".[12] The General Assembly had confirmed the same principle in the case of the decolonization of Libya (resolution 388 (V), of 15 December 1950) and in the case of Eritrea (resolution 530 (VI), of 29 January 1952). The problem of the administrative archives concerning Algeria had also been resolved in conformity with that principle.

34. In conclusion, he considered that the problem of archives was vital for newly independent States and should not be settled on the basis of the location of the archives, in other words, by assigning the archives to the State that held them at the time of the succession of States, for that would encourage the removal of archives on the eve of the territory's independence. The problem should be settled by direct agreement between the two States concerned, on the basis of the need for co-operation between the predecessor State and the successor State, which should together seek solutions satisfactory to each. One solution was to enable each State to obtain reproductions of any archives of which it had not received the originals.

35. The archives proper to the territory to which the succession of States related should necessarily revert, in their entirety and in their original form, to the newly independent State, in conformity with the twofold principle of "origin" and "connexion" applied by archival scholarship. "Archives proper to the territory to which the succession of States related" were to be understood as meaning, first, pre-colonial historical archives and, secondly, archives of a purely administrative or technical nature that had been kept in the territory until its independence and that were often termed "local" archives.

36. Political archives of the colonial period, or "archives of sovereignty", should be opened to the successor State in the same way as they were opened to the public by the predecessor State.

37. Lastly, it was essential to take account of the concerns of the newly independent States without losing sight of the interests or fears of the former administering Powers.

The meeting rose at 1 p.m.

1564th MEETING

Monday, 2 July 1979, at 3.10 p.m.

Chairman: Mr. Milan ŠAHOVIĆ

Members present: Mr. Barboza, Mr. Bedjaoui, Mr. Dadzie, Mr. Díaz González, Mr. Francis, Mr. Njenga, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat.

Succession of States in respect of matters other than treaties (*continued*) (A/CN.4/322 and Corr.1 and Add.1 and 2, A/CN.4/L.298)

[Item 3 of the agenda]

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR (*continued*)

[9] *Ibid.*, para. 165.

[10] *Ibid.*, paras. 166–168.

[11] *Ibid.*, para. 173.

[12] *Ibid.*, para. 174.