

Document:-
A/CN.4/SR.1581

Summary record of the 1581st meeting

Topic:
Other topics

Extract from the Yearbook of the International Law Commission:-
1979, vol. I

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

6. FUTURE WORK ON THE TOPIC

Paragraph 59

60. Mr. YANKOV proposed the insertion, in the last sentence, of the word “particularly” before the words “to developing countries”.

It was so decided.

Paragraph 59, as amended, was adopted.

Paragraphs 60–63

Paragraphs 60–63 were adopted.

Section B, as amended, was adopted.

Chapter V as a whole, as amended, was adopted.

The meeting rose at 1.10 p.m.

1581st MEETING

Wednesday, 1 August 1979, at 10.10 a.m.

Chairman: Mr. Milan ŠAHOVIĆ

Members present: Mr. Barboza, Mr. Calle y Calle, Mr. Dadzie, Mr. Díaz González, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Tabibi, Mr. Thiam, Mr. Ushakov, Sir Francis Vallat, Mr. Verosta, Mr. Yankov.

Also present: Mr. Ago.

Draft report of the Commission on the work of its thirty-first session (*continued*)

CHAPTER II. *Succession of States in respect of matters other than treaties* (A/CN.4/L.302 and Add.1–4)

B. *Draft articles on succession of States in respect of matters other than treaties* (A/CN.4/L.302/Add.1–3)

COMMENTARY TO THE INTRODUCTION TO PART I (A/CN.4/L.302/Add.1)

The commentary to the introduction to part I was approved.

ARTICLES 1–3 (A/CN.4/L.302/Add.1)

Commentary to article 1 (Scope of the present articles)

The commentary to article 1 was approved.

Commentary to article 2 (Use of terms)

The commentary to article 2 was approved.

Commentary to article 3 (Cases of succession of States covered by the present articles)

The commentary to article 3 was approved.

PART II (STATE PROPERTY)

ARTICLES 4–14 (A/CN.4/L.302/Add.2)

Commentary to article 4 (Scope of the articles in the present part)

The commentary to article 4 was approved.

Commentary to article 5 (State property)

The commentary to article 5 was approved.

Commentary to article 6 (Rights of the successor State to State property passing to it)

The commentary to article 6 was approved.

Commentary to article 7 (Date of the passing of State property)

The commentary to article 7 was approved.

Commentary to article 8 (Passing of State property without compensation)

The commentary to article 8 was approved.

Commentary to article 9 (Absence of effect of a succession of States on third party State property)

The commentary to article 9 was approved.

Commentary to the introduction to section 2 (Provisions relating to each type of succession of States)

The commentary to the introduction to section 2 was approved.

Commentary to article 10 (Transfer of part of the territory of a State)

The commentary to article 10 was approved.

Commentary to article 11 (Newly independent State)

The commentary to article 11 was approved.

Commentary to article 12 (Uniting of States)

The commentary to article 12 was approved.

Commentary to article 13 (Separation of part or parts of the territory of a State) and article 14 (Dissolution of a State)

Paragraph (6)

1. Mr. VEROSTA questioned the truth of the historical facts described in the first sentence of paragraph (6), and the advisability of referring to them as an example of the dissolution of a State.

2. Sir Francis VALLAT pointed out that when the Commission gave examples it was not bound by the way in which they were classified.

3. The CHAIRMAN suggested that a small group composed of Mr. Verosta, Sir Francis Vallat, the Chairman of the Drafting Committee and a representative of the Secretariat should convene after the meeting and try to improve the wording of the first sentence of paragraph (6).

It was so decided.

C. *Draft articles on succession of States in respect of matters other than treaties: addendum* (A/CN.4/L.302/Add.4)

INTRODUCTION AND GENERAL COMMENTARY

The introduction and general commentary were adopted.

Commentary to article A (State archives)

The commentary to article A was approved.

Commentary to article C (Newly independent State)

The commentary to article C was approved.

4. Mr. USHAKOV, noting that there was no article B, proposed that article C should be identified by the letter "B".

It was so decided.

Section C, as amended, was adopted.

CHAPTER III. State responsibility (A/CN.4/L.303 and Add.1-6)

A. Introduction (A/CN.4/L.303)

1. HISTORICAL REVIEW OF THE WORK

Subsection 1 was adopted.

2. SCOPE OF THE DRAFT

Subsection 2 was adopted.

3. GENERAL STRUCTURE OF THE DRAFT

Subsection 3 was adopted.

4. PROGRESS OF THE WORK

Paragraphs 13-15

Paragraphs 13-15 were adopted.

Paragraphs 16 and 17

5. Mr. RIPHAGEN asked whether his interpretation of paragraphs 16 and 17 as limiting the responsibility of the new Special Rapporteur for the topic to part II of the draft was correct.

6. The CHAIRMAN said he believed that the Commission intended the new Special Rapporteur to take responsibility for the whole of the draft.

7. He proposed that, to remove any doubt as to that intention, each sentence of the existing paragraph 17 should constitute a separate paragraph.

It was so decided.

Paragraph 16, and paragraph 17 as amended, were adopted.

Paragraph 18

Paragraph 18 was adopted.

Subsection 4, as amended, was adopted.

Section A, as amended, was adopted.

B. Draft articles on State responsibility (A/CN.4/L.303 and Add.1-6)

1. TEXT OF ALL THE DRAFT ARTICLES ADOPTED SO FAR BY THE COMMISSION (A/CN.4/L.303)

Subsection 1 was adopted.

CHAPTER VI. Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (A/CN.4/L.306 and A/CN.4/L.310)

8. The CHAIRMAN said that if there were no objections he would take it that the Commission adopted the proposal contained in document A/CN.4/L.306 to the effect that chapter VI of its report should comprise the report of the Working Group on the status of the diplomatic courier and the diplomatic bag not accom-

panied by diplomatic courier (A/CN.4/L.310), with the amendments to that report which the Commission had adopted at its 1580th meeting.

It was so decided.

Chapter VI was adopted.

CHAPTER IX. Other decisions and conclusions of the Commission (A/CN.4/L.309 and Add.1)

A. Relations between States and international organizations (second part of the topic) (A/CN.4/L.309)

9. Sir Francis VALLAT said it was regrettable that the Commission had not so far mentioned at any single point in its report the names of all the members it had appointed as special rapporteurs at the current session. Such a combined reference would be of assistance to readers of the report and would serve to show, by drawing attention to the number of special rapporteurs who had been appointed during the session, the importance that the Commission attached to the institution of special rapporteur.

10. Mr. VEROSTA suggested that a sentence be added to section A mentioning the appointment of two other special rapporteurs and the numbers of the paragraphs of the report in which details of those appointments were given.

It was so decided.

Section A, as amended, was adopted.

B. Programme and methods of work of the Commission (A/CN.4/L.309)

Paragraphs 2-13

Paragraphs 2-13 were adopted.

Paragraph 14

Paragraph 14 was adopted.

Section B was adopted.

Sections C-G (A/CN.4/L.309/Add.1)

11. Mr. ROMANOV (Secretary to the Commission) explained that the sections of chapter IX contained in document A/CN.4/L.309/Add.1 should be designated C to G, rather than B to F.

C. Relations with the International Court of Justice

Section C was adopted.

D. Co-operation with other bodies

1. INTER-AMERICAN JURIDICAL COMMITTEE

Paragraph 4

12. Mr. CALLE Y CALLE suggested that, as in the case of the observers for other bodies, the first reference to the Observer for the Inter-American Juridical Committee should include his full name.

It was so decided.

Paragraph 4, as amended, was adopted.

Paragraphs 5 and 6

Paragraphs 5 and 6 were adopted.

Subsection 1, as amended, was adopted.

2. ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

Subsection 2 was adopted.

3. EUROPEAN COMMITTEE ON LEGAL CO-OPERATION

Subsection 3 was adopted.

Section D, as amended, was adopted.

E. Date and place of the thirty-second session

Section E was adopted.

F. Representation at the thirty-fourth session of the General Assembly

Section F was adopted.

G. International Law Seminar

Paragraphs 17-21

Paragraphs 17-21 were adopted.

Paragraph 22

13. Mr. QUENTIN-BAXTER suggested that the words "free of charge" should be deleted from the first sentence, as being superfluous.

It was so decided.

Paragraph 22, as amended, was adopted.

Paragraph 23

Paragraph 23 was adopted.

Additional paragraph

14. The CHAIRMAN suggested that section G should be completed by the addition of a last paragraph expressing the Commission's gratitude to Mr. Raton, Director of the Seminar, and to his assistant, Mrs. Petit, for their work in organizing the Seminar.

It was so decided.

Section G, as amended, was adopted.

Chapter IX, as amended, was adopted.

The meeting rose at 11.35 a.m.

1582nd MEETING

Thursday, 2 August 1979, at 10.10 a.m.

Chairman: Mr. Milan ŠAHOVIĆ

Members present: Mr. Barboza, Mr. Calle y Calle, Mr. Dadzie, Mr. Díaz González, Mr. Pinto, Mr. Riphagen, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

Also present: Mr. Ago.

Draft report of the Commission on the work of its thirty-first session (*continued*)

CHAPTER II. *Succession of States in respect of matters other than treaties (continued)* (A/CN.4/L.302 and Add.1-4)

A. Introduction (A/CN.4/L.302)

1. HISTORICAL REVIEW OF THE WORK OF THE COMMISSION

Paragraphs 1-23

Paragraphs 1-23 were adopted.

Paragraph 24

1. The CHAIRMAN proposed the addition, at the end of paragraph 24, of the following sentence: "At its 1581st meeting, the Commission decided to change the designation of article C to article B."

It was so decided.

Paragraph 24, as amended, was adopted.

Paragraphs 25-29

Paragraphs 25-29 were adopted.

Subsection 1, as amended, was adopted.

2. GENERAL REMARKS CONCERNING THE DRAFT ARTICLES

Subsection 2 was adopted.

Section A, as amended, was adopted.

B. Draft articles on succession of States in respect of matters other than treaties (*continued*) (A/CN.4/L.302/Add1-3)

PART II (STATE PROPERTY) (*concluded*)

ARTICLES 4-14 (*concluded*) (A/CN.4/L.302/Add.2)

Commentary to article 13 (Separation of part or parts of the territory of a State) *and article 14* (Dissolution of a State) (*concluded*)

Paragraph (6) (*concluded*)

2. The CHAIRMAN reminded the Commission that at its previous meeting a working group had been appointed to review the wording of paragraph 6 of the commentary to articles 13 and 14. He invited the Chairman of the Drafting Committee to report on the group's conclusions.

3. Mr. RIPHAGEN (Chairman of the Drafting Committee) said that the working group was of the opinion that the reference to cases of dissolution of States should be omitted. It therefore proposed that the beginning of the first sentence of paragraph (6) should be amended to read: "An old example of State practice is to be found in the treaty of 19 April 1839 concerning the Netherlands and Belgium, article XV of which provided as follows:..." It further proposed that, in the second sentence of the paragraph, the words "upon the dissolution of the" should be replaced by "in the case of the".

It was so decided.

Paragraph (6) was approved.

The commentary to articles 13 and 14 was approved.

Part II, as amended, was adopted.

PART III (STATE DEBTS)

ARTICLES 15-23 (A/CN.4/L.302/Add.3)

Commentary to article 15 (Scope of the articles in the present part)

The commentary to article 15 was approved.

Commentary to article 16 (State debt)