Document:-
A/CN.4/SR.1608

Summary record of the 1608th meeting

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

Extract from the Yearbook of the International Law Commission:-
1980, vol. I

than the water was used for floating timber. He saw no reason why the Commission should not regulate both the use of a watercourse and the use of its water, provided that it clearly established the necessary physical and legal distinction. In that connexion, he stressed that a lake was not a watercourse, since its water did not flow.

46. With regard to the wording of draft article 1, he did not think that flood control was a problem related to the use of a watercourse or its water. The problem of floods was independent of the use of a river as such. The same was true of erosion, sedimentation and salt water intrusion, which was a more general case of pollution. In principle, those problems did not derive from the use of the water or the watercourse as such.

47. In addition to the system concept, consideration should be given to the concept of an international river basin, which might give rise to considerable difficulties if it was broadly defined and included groundwater and perhaps even the glaciers feeding a river. Under such a definition an entirely national river, flowing in the territory of a single State, might become an international river. In reality, the concept of an international watercourse presupposed that its water flowed through the territory of a number of States. It was essential that the Commission should define the concept of an international watercourse as the basis for its work.

The meeting rose at 5.55 p.m.

1608th MEETING

Tuesday, 10 June 1980, at 10.10 a.m.

Chairman: Mr. C. W. PINTO

Members present: Mr. Barboza, Mr. Calle y Calle, Mr. Castañeda, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

The law of the non-navigational uses of international watercourses (*continued*) (A/CN.4/332 and Add.1)

[Item 4 of the agenda]

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR[1] (*continued*)

1. Mr. SUCHARITKUL said that he was cautiously optimistic about the law of the non-navigational uses of international watercourses, because constant progress was being made on its codification and progressive development. In pursuing that objective, the Commission would have to take account of a number of important scientific, technical and geographical factors and of the need for a workable definition of the scope of the topic. The Special Rapporteur could take heart from the fact that work on the progressive development of the law of the sea was also proceeding quite slowly.

2. In attempting to delimit the scope of the topic, the Commission would have to come to grips with the difficulty of choosing between broad and narrow definitions of basic concepts, such as water itself (which could be taken as a single unit or seen in terms of its many characteristics) and international watercourses (which could be seen either as pipelines or in terms of their content). It would also be necessary to take account of other, intermediate concepts, such as that of drainage basins (which included all surface and underground water within the geographical limits of a watershed and involved problems of pollution control and environmental protection) and of valleys (like the Tennessee Valley). Attention should also be given to the concept of river systems—which had been introduced in draft article 1 and would provide a good starting point for the Commission's discussions—and further thought would have to be given to the use of the word "*réseau*" in the French text, because its meaning was broader than that of the word "system"; it might be rendered in English by the word "network".

3. He agreed with Mr. Evensen (1607th meeting) that paragraph 1 of draft article 1 should be expanded to include references to irrigation, energy, fisheries, pollution, conservation, agriculture and industry. Further historical and geographical details might also be included in the commentary to explain more clearly some of the problems associated with international watercourse systems, in particular, erosion and salt water intrusion.

4. Although he had no objection to draft article 2, he thought it might take some time to become accustomed to the term "system State", which he hoped the Special Rapporteur would define more clearly.

5. In draft article 4, paragraph 1, the Special Rapporteur had provided that the future articles could be supplemented by system agreements designed to fill gaps in the main framework agreement. Paragraph 2 provided that such system agreements could be entered into either with respect to an entire international watercourse system or with respect to any part thereof. In his opinion, that paragraph should also take account of the needs of countries such as those in the region of the Mekong Basin. In 1957, four lower riparian countries of that region, namely, Thailand, the Lao People's Democratic Republic, Democratic Kampuchea and the Socialist Republic of Viet Nam, had established the Committee for co-ordination of investi-

[1] For the text of articles 1 to 7 submitted by the Special Rapporteur, see 1607th meeting, para. 1.

gations of the Lower Mekong basin,[2] which should, if it was to cover the entire Mekong watercourse system, also include as members Burma, China, India and Nepal. Under draft article 4, lower riparian States should be allowed to enter into agreements for the co-ordination of their research and projects. Moreover, the fact that upper riparian countries did not take part in such agreements should not prevent lower riparian countries from functioning as an economic unit, as the members of the Mekong Committee had continued to do in the 1960s despite diplomatic difficulties between Thailand and what was then known as Cambodia.

6. Draft article 5 provided for an entitlement to participate in negotiations, similar to that embodied in draft article 4. The question that had arisen during the Commission's discussion of draft article 5 at its thirty-first session[3] was whether an obligation to negotiate existed as a corollary to the obligation of States to settle their disputes by peaceful means. Although he thought that, for practical reasons, the obligation to negotiate should exist, he was not sure that negotiations would lead to any positive results. If such an obligation did exist, it should, moreover, apply to all system States, if only because they all had an interest in the international watercourse concerned and had to bear in mind the principle that its water was a resource they all shared.

7. He had supported the draft articles on data collection and exchange at the previous session[4] and would also support draft article 6.

8. Draft article 7 embodied the principle that water was a shared natural resource. That principle, which might seem relatively new, had in fact been affirmed, *inter alia*, by the Charter of Economic Rights and Duties of States,[5] in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,[6] at the Asian-African Conference held at Bandung in 1955, and in the practice of States. In that connexion, he agreed with the Special Rapporteur that treaties between States should be taken as definite evidence of the existence of customs and practices which might pave the way for more constructive participation by countries in the just and equitable sharing of the world's natural resources. Such sharing was what the Commission should be aiming to promote as it formulated new legal rules on the non-navigational uses of international watercourses. Given time and patience, he was sure that the concept of shared natural resources would inevitably be accepted.

9. Mr. CALLE Y CALLE said that the Special Rapporteur was to be commended for the efforts he had made to formulate rules of international fluvial law in the light of the contemporary practice of States and the action taken by the international community in other forums dealing with problems relating to water, which was the main subject of the current study, and the features of which should be clearly defined for the benefit of all States. In his opinion, the Commission was being too cautious in its approach to the law of international watercourses, the study of which had been requested by the General Assembly twenty years previously and which was now ripe for codification. The Commission should therefore complete its general discussion of the topic and go straight on to consider the draft articles submitted by the Special Rapporteur.

10. The wording of draft article 1, paragraph 1, was a distinct improvement on that of the corresponding provision submitted at the thirty-first session.[7] With the reference it now made to the "uses of the water of international watercourse systems", it would enable the Commission to keep up with all the developments taking place in work on water uses, pollution and ecology. The same paragraph also referred to "problems associated with international watercourse systems". Some of those problems resulted from the use of the waters of such systems, while others resulted from their misuse. The solution of those problems would obviously require the co-operation of States. Paragraph 2 referred to the interaction between the traditional use of international watercourses for navigation and other uses affecting or affected by navigation. He believed that the future draft articles should take account of that interaction and therefore supported paragraph 2, the wording of which might nevertheless be given further consideration by the Drafting Committee.

11. He agreed with Mr. Reuter (1607th meeting) that draft article 2 contained a key term, namely, "system State", that would enable the Commission easily to formulate other rules relating to the law of international watercourses.

12. Although it had been placed in square brackets, draft article 3 was an important provision, because it would define the terms used in the draft as a whole, thus determining what was meant by an "international watercourse system" and whether such a system comprised boundary waters, river basins, drainage basins, including surface and ground water, or some combination of those categories of water.

[2] *Legislative texts and treaty provisions concerning the utilization of international rivers for other purposes than navigation* (United Nations publication, Sales No. 63.V.4), p. 267.

[3] Reproduced in *Yearbook ... 1979*, vol. II (Part One), document A/CN.4/320, para. 2.

[4] See *Yearbook ... 1979*, vol. I, p. 111, 1554th meeting, para. 50.

[5] General Assembly resolution 3281 (XXIX).

[6] General Assembly resolution 2625 (XXV), Annex.

[7] Reproduced in *Yearbook ... 1979*, vol. II (Part One), document A/CN.4/320, para. 2.

13. Draft article 4, paragraph 1, provided that the general principles enunciated in the draft as a whole could be supplemented by one or more system agreements relating to an international watercourse system. If the needs of the system so required, States could thus adopt provisions that did not necessarily correspond to the general principles of international law embodied in the draft articles. The point being made in that paragraph would, however, be clearer if it was amended to read: "These articles shall be supplemented ... by one or more agreements between system States".

14. Paragraph 2 of article 4 was a logical extension of paragraph 1. The words "are respected therein" should, however, be replaced by the words "are not affected thereby", since, although the States parties to a system agreement were equal, the extent of their participation in the system might not be the same. The participation of some States might, for example, be quite insignificant. It would then be only fair that they should be allowed only a very small share of the water resources. In that connexion, he drew attention to the Treaty for Amazonian Co-operation of 1978 (see A/CN.4/322 and Add.1, para. 206), the parties to which were not only the States through whose territories the waters of the Amazon flowed, but also States like Suriname, through whose territory the Amazon did not flow, but which had features similar to those of the main system States, and Guyana, one of whose borders with Brazil was formed by a tributary of the Amazon. It was, in his opinion, quite inconceivable that the use of the waters of the Amazon by a country such as Peru, in whose territory the Amazon rose, should depend on equal participation in a system agreement by countries such as Suriname or Guyana. Peru did, of course, have the obligation not to cause permanent damage to the waters of the Amazon that might affect the use of such waters by other parties to the treaty.

15. Draft article 5 met an obvious need, since each major river system comprised a number of smaller systems, and regions covered by the same system could present a variety of different features. Paragraph 2, however, called for some clarification, for, as drafted, it seemed to provide for the negotiation and conclusion of an agreement that was already in being.

16. With regard to the use of the term "to an appreciable extent" in paragraph 2, he thought the main point was to bear in mind that a right of redress existed only where substantial damage, as opposed to minor inconvenience, had been suffered as a consequence of the use of the waters of an international watercourse by another State. Since the early times of Roman law, it had always been recognized that, where the needs of the other State were overriding, certain damage could not be prohibited. Thus, only when the damage was substantial would the rules governing agreement, consultation, reparation and compensation come into play.

17. He would speak on draft article 6 later in the discussion.

18. Draft article 7 provided that the water of an international watercourse system should be treated as a shared natural resource. In other words, such water was to be enjoyed and used jointly by the States concerned as partners in a sort of common heritage. While he endorsed the underlying idea of the draft article, he considered that the statement to the effect that the principle of permanent sovereignty over natural resources did not apply to shared natural resources (*ibid.*, para. 148) was somewhat categorical. If a State had sovereignty over a resource, the fact that that resource was shared did not deprive the State of its sovereignty or transmute its permanent sovereignty into some kind of transitory sovereignty. So long as States existed as a social phenomenon, water could not alter the character of a State through which it flowed. In his view, therefore, it was necessary to specify whether the "system" was regarded as a material concept or as a means of organizing the watercourse.

19. Mr. VEROSTA noted that, according to the Special Rapporteur, in paragraph 26 of his report, the Sixth Committee of the General Assembly had indicated that "the Commission should begin its work by seeking to produce a set of legal principles which would be generally applicable to the use of the water of international watercourses for purposes other than navigation". The Sixth Committee had not, however, indicated the methods to be adopted by the Commission for identifying those legal principles, which were necessarily very abstract. In his view, therefore, the Commission and the Special Rapporteur were free to choose their own methods, but if they were not to remain in the vague area of general legal principles they should seek to establish the existing rules of international customary law on the various non-navigational uses of international watercourses. The Sixth Committee had not ruled out such an approach since, in its view—again, according to the Special Rapporteur—the Commission should also consider whether there were "substantial grounds supporting work upon specific uses rather than upon the uses of water in general".

20. He fully endorsed the statement in the first sentence of paragraph 30 of the report regarding the method to be adopted in drafting general principles, and could not agree that it had any serious drawbacks. Indeed, it was the involvement in disputes over detail, referred to in the third sentence of the paragraph, that would enable the Commission to arrive at general rules on the basis of State practice and would perhaps point the way to a more substantive text.

21. He would therefore reiterate the request he had made at the Commission's thirty-first session, namely, that the Special Rapporteur should analyse at least one of the non-navigational uses of international watercourses. For example, hydroelectric power plants had long been a feature of international watercourses, and

States had not waited for any umbrella agreement before constructing them. A comparison of the relevant international treaties might reveal an international standard already applied in State practice, on the basis of which the Special Rapporteur and the Commission could determine the existing rules of international customary law on the matter. That study would, in turn, provide certain indications as to the manner in which the necessary legal principles should be formulated, thereby enabling the Commission to contribute to the progressive development of international law and to comply with the wishes of the Sixth Committee.

22. Mr. QUENTIN-BAXTER said that, in preparing the draft articles, the Special Rapporteur had examined elements of international jurisprudence and had rightly called in aid general principles of law, while leaving many of the specific matters to be dealt with under subordinate agreements. One of the difficulties with which the Special Rapporteur was faced stemmed from the fact that, in the area with which the Commission was concerned, the interests were polarized between the upstream and downstream States, whereas in most subjects affecting the use of the physical environment, and in transfrontier problems, there was a certain balance: States knew that in some cases they might be disadvantageously affected because they had to take account of another State's interest, but that in other cases the position would be reversed. That balance of advantage could even be seen in the use of international rivers for navigational purposes, since the countries bordering on the river system granted each other mutual easements or rights over the use of their respective territories.

23. In that connexion, reference had already been made to a gathering of non-governmental experts at which a certain relationship had been noted between the view that the experts took of the equities and their actual position, depending on whether their countries were upstream or downstream users. That kind of problem was, however, almost inevitable and despite all the emphasis placed on good neighbourliness and interdependence by such international instruments as the Final Communiqué of the Asian-African Conference (Bandung),[8] the Charter on the Economic Rights and Duties of States and the Declaration of the United Nations Conference on the Human Environment,[9] there was an obvious gap in thinking on the degree of consultation required and the point at which the freedom of a sovereign State ended and its duty to consider its neighbours began.

24. In the absence of a fuller treatment of those questions, the Special Rapporteur had looked to the way in which States had actually behaved and, in his study, had accorded the first place to the physical situation as it related to water and its uses. His enquiry had therefore necessarily focused on the ways in which States had resolved the related and analogous problems, and the wealth of State practice which had thus evolved would have to be systematized to bring it to bear directly on the way in which the Commission carried out its task. In the past, it had sometimes been the political pressures that arose out of given situations that had led to solutions. It would, for example, have been quite unacceptable for a State which commanded an international strait providing the only ingress to or egress from a closed sea to take the position that, because the area in question fell within its territorial sovereignty, the other States directly affected had no legal interest. Although throughout history such situations had been dealt with in a variety of ways, much had depended on the relative power and influence of the parties. That perhaps was an indication of the need for draft articles that did not deal in general terms with the nature of rights and obligations, but specialized in a particular area. However, it was not possible to deal in detail with all the situations that arose, and States would therefore have to be encouraged—if not required—to seek in good faith to resolve their differences at the specific level.

25. It seemed to him that, as the notion of law in the world community developed, the mere advantages and inequalities of political situations should not dictate the answers. In drafting the articles, therefore, the aim should be to give careful consideration to the particular situations of sovereign States, while at the same time providing them with some valid precepts that would set the scene for more detailed negotiations and leave no room for a return to the outmoded Harmon doctrine. The Special Rapporteur, having dramatically evoked the world's total dependence on the finite supply of water and its total vulnerability to misuse of that resource, and having also appealed to such jurisprudence and perceptions of general principles of law as existed to justify the notion of international co-operation, should now concentrate on the development of viable principles which took account of the actual needs.

26. With regard to the definition of an international watercourse, he thought the Commission's inability to accept Mr. Kearney's larger view of the matter had perhaps been due to its perception of the inchoate state of practice and of international thinking. Now, however, it had a slightly clearer idea of what was involved. It was a question not of stipulating that anything excluded from the definition was outside the law, but simply of determining the practical ways of solving an infinite variety of problems.

27. Mr. Ushakov, commenting at the previous meeting on draft article 1, had questioned the advisability of placing all the emphasis on the use of water rather than on the use of the watercourse, which

[8] See Indonesia, Ministry of Foreign Affairs, *Asian-African Conference Bulletin, No. 9* (Djakarta, 1955), p. 2.

[9] *Report of the United Nations Conference on the Human Environment, Stockholm, 5–16 June 1972* (United Nations publication, Sales No. E.73.II.A.14), Part One, chap. I.

underlined the fact that there were different layers of interest. Perhaps the Commission should be talking in terms not of the use of water, but of the various aspects of the use of water. In a sense, Mr. Ushakov had been saying that certain uses of water were consumptive, whereas others left the quantity of water unchanged. Water used for the purpose of power development could still be delivered in the same quantity to the downstream State, and if a particular use had no effect on the downstream State, there was not the slightest reason to impair the freedom of the upstream State to do as it wished. Again, in the case of river basins which, though located within the territory of one State, drew supplies through underground flow or seepage from another State, the actual uses of the river might have no interest for that other State, since it was merely contributing something efferent to the river.

28. When drafting a definition, it was essential to ensure that those directly interested in a given problem dictated the solution to that problem. To that end, the Commission should seek to identify the areas in which there might be different groupings of interest. There were perhaps three such areas, relating respectively to consumptive uses of water, non-consumptive uses which affected the quality of the water delivered, and various circumstances having an important environmental effect, such as some phenomena which predisposed the whole region to flooding or drought.

29. The draft should also be flexible enough not to oblige a group of States in whose territory a river basin was situated to maintain that any measure taken in regard to the watercourse in question had to be decided by a majority vote of those States. Very often, it would be advisable for the States primarily concerned first to consider what would be in their interests, and then negotiate with those States which were only secondarily affected. The Commission should therefore be careful to avoid any provision under which only the States directly affected would be entitled to take part in negotiations. Such States should rather be encouraged to refer to certain general criteria that would enable them to solve their problems in some order of priority.

30. He agreed entirely that the Commission should not cast doubt on the validity of the general principles which limited the right of a sovereign State so to use its own resources as to do substantial harm to other States. In that connexion, the head of the Hungarian delegation to the High-Level Meeting within the Framework of the ECE on the Protection of the Environment (Geneva, November 1979) had stated that 95 per cent of the surface water in his country had its origin outside Hungarian borders. A statistic of that kind was so startling that it set at rest any question deriving from the Harmon doctrine. The problem facing the Commission, however, lay within a more contained area and related as much to diplomacy as to law. Specifically, it concerned the way in which the articles should be drafted in order to ensure that negotiations were not disturbed by the presence of those who had no real interest in a given matter, while not excluding from consideration a State which might be able to show that it did have such an interest. In providing for those two elements, the practice developed by States themselves would be of considerable assistance.

31. The Special Rapporteur had rendered a great service and would certainly continue to do so. He should be left in no doubt about the Commission's confidence in the value of his task and its recognition of the need for a positive solution.

32. Mr. BARBOZA said that, despite the wide measure of support in the Sixth Committee for the Commission's work on the topic, a minority of States had adopted a negative attitude. The Commission, however, had a mandate to fulfil and should now proceed to do so in the hope that some common ground of agreement with those States would be found.

33. Several criticisms had been voiced as to the method to be adopted by the Commission. It had been said that the Commission was exploring new ground, that only a few of the draft articles had been submitted and that it was therefore difficult to judge the full scope of the work, and that the subject had not even been properly defined as relating either to rivers or to the river basin or, again to the drainage basin. He would deal in turn with those points in an effort to dispel what seemed to him to be a negative approach.

34. In the first place, the subject itself was not new, but it had acquired a new dimension since, under traditional international law, the uses of water had been limited and watercourses had therefore been of lesser interest than was the case today. The final Act of the Congress of Vienna (1815), for example, dealt mainly with navigation, which was the main use of rivers at the time, since the other domestic uses did not present any particular problem for States. All that had changed. The world population had increased dramatically and continued to do so, particularly in the developing countries. Industrial development had expanded, with a corresponding increase in the industrial uses of water, and pollution, unknown in earlier times, had also increased. There had been a proliferation of non-navigational uses, and as the availability of combustible fossils had declined, the needs in terms of power had risen and, consequently, so had the demand for watercourses to produce it. Above all, more water was needed for irrigation in order to meet the world's food requirements. There had, however, been no increase in water resources, and in some instances they were even being depleted by pollution and misuse of water. The world had become aware that the supply of natural resources was not unlimited, and conscious of the idea that shared natural resources should be shared fairly. The Commission therefore had a duty to provide adequate international legislation with a view to solving those problems; in so doing, it should not overlook the progressive development of international law.

35. There had been warnings against undue reliance on technical data, but such data were a feature of the times. In that connexion, it seemed to him that the principles set forth by the United Nations Conference on the Law of the Sea held at Geneva in 1958 had not foreseen the rapidity of technological progress. For example, the extension of the continental shelf had been defined by reference to the possibilities of exploration and exploitation, but that definition had become obsolete and without meaning now that the sea-bed could be exploited at any depth. On the other hand, at the time nobody had even considered having an exclusive economic zone, and when the Latin American countries, among others, had broached the idea at the Conference they had not been taken seriously; yet that idea was now fully accepted because of the increasing dependency of riparian populations on the resources of the sea. What had happened at the 1958 Conference on the Law of the Sea might well happen again if the Commission did not adopt a bold approach along the lines proposed by the Special Rapporteur.

The meeting rose at 1.05 p.m.

1609th MEETING

Wednesday, 11 June 1980, at 10.15 a.m.

Chairman: Mr. C. W. PINTO

Members present: Mr. Barboza, Mr. Calle y Calle, Mr. Castañeda, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

The law of the non-navigational uses of international watercourses (*continued*) (A/CN.4/332 and Add.1)

[Item 4 of the agenda]

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR[1] (*continued*)

1. Mr. BARBOZA, continuing the statement he had began at the previous meeting, said that the second point on which the Special Rapporteur's method had been criticized was that the scope of the rules to be drafted had not been determined. His own view was that that criticism was not justified.

2. At the present stage, the Commission was dealing with general principles, and it should not overlook all that had been accomplished within the framework of the United Nations in respect of shared natural resources. For instance, the Charter of Economic Rights and Duties of States[2] was relevant to the topic, and it had also been considered at the United Nations Conference on Water. General Assembly resolution 3129 (XXVIII) dealt with co-operation in the field of the environment concerning natural resources shared by two or more States. A set of related principles had been drawn up by an intergovernmental working group of experts, and various non-governmental organizations and private bodies of high standing had also made contributions. All those instruments and bodies had recognized that water must be used equitably and in a reasonable manner; that co-operation must be established between the States belonging to a given watercourse system; that such States must not cause substantial damage to the other States of the system; and that machinery must be provided for the settlement of disputes. Thus the Commission was not working in a vacuum, since the waters of watercourses were considered to be a shared natural resource, and it could not be said that it was impossible to foresee the consequences of the rules it adopted. But if it was felt that in certain circumstances the consequences might be too far-reaching, then exceptions or restrictions should be provided for.

3. A point had been raised regarding the sovereignty of States over their natural resources. It was clear from the relevant General Assembly and Economic and Social Council resolutions that two kinds of relationships had to be considered: the relationship between a given natural resource and third States, and the relationship between the States which shared in that natural resource. In the latter case, it was not so much a question of sovereignty that was involved; what was needed was first to define the rights of the parties, since if one of them exceeded its rights on the pretext of sovereignty, the result could be a depletion of the resource to the detriment of the others—which could likewise invoke their sovereignty. On the other hand, the interests of States which shared in the natural resource should be protected in relation to third States.

4. The third point of criticism was that the object and purpose of the draft articles had not been defined. It was not the first time the Commission had deferred a definition until it had completed consideration of a set of draft articles, but in any event his view was that the definition should be drafted subsequently, in light of the principles to be adopted by the Commission and of the concept of shared natural resources. As he had already pointed out, it was important to bear in mind the need to provide for exceptions. In that connexion, reference had been made to the case of a watercourse which was located entirely within the territory of one State, but was fed by the underground waters of another State. Since, with advancing technology, it might soon be possible to deflect such waters or to use

[1] For the text of articles 1 to 7 submitted by the Special Rapporteur, see 1607th meeting, para. 1.

[2] General Assembly resolution 3281 (XXIX).