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A/CN.4/SR.1809

Summary record of the 1809th meeting

Topic:
Other topics

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Paragraph 25

43. Following a proposal by Mr. BALANDA to delete the last phrase of paragraph 25, Mr. YANKOV (Special Rapporteur) suggested that the words "in accordance with" should be replaced by "taking into consideration".

It was so agreed.

Paragraph 25, as amended, was adopted.

The meeting rose at 1.05 p.m.

1809th MEETING

Wednesday, 20 July 1983, at 3.30 p.m.

Chairman: Mr. Laurel B. FRANCIS

Present: Mr. Balanda, Mr. Barboza, Mr. Calero Rodrigues, Mr. Díaz González, Mr. El Rasheed Mohamed Ahmed, Mr. Evensen, Mr. Flitan, Mr. Jacovides, Mr. Koroma, Mr. Laclea Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ni, Mr. Njenga, Mr. Ogiso, Mr. Quentin-Baxter, Mr. Riphagen, Sir Ian Sinclair, Mr. Stavropoulos, Mr. Sucharitkul, Mr. Thiam, Mr. Ushakov, Mr. Yankov.

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

CHAPTER V. Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (continued) (A/CN.4/L.358 and Add.1 and Add.1/Corr.1)

B. Consideration of the topic at the present session (concluded) (A/CN.4/L.358)

Paragraphs 26 to 29

Paragraphs 26 to 29 were adopted.

Paragraph 30

1. Mr. BALANDA said that paragraph 30 appeared to duplicate the third sentence of paragraph 29.

2. Mr. FLITAN suggested that the second part of the paragraph, reading "there were a number of drafting and other comments specific to each draft article", should be retained, since it did not duplicate the third sentence of paragraph 29.

3. Mr. McCAFFREY said that he would be reluctant to see paragraph 30 deleted since, in his view, it did not duplicate the statement made in the third sentence of paragraph 29 but drew a separate conclusion.

4. Mr. MAHIOU said that, if paragraph 30 were deleted, it would be necessary to renumber all the subsequent paragraphs. Perhaps the Special Rapporteur could include the third sentence of paragraph 29 in paragraph 30, making the appropriate adjustments.

5. Mr. YANKOV (Special Rapporteur) said that the difficulty stemmed from the difference between the English and French texts of paragraph 30. In the French text there was no equivalent of the word "Besides", which linked paragraphs 29 and 30 and meant that paragraph 30 served as an introduction to paragraph 31. He therefore suggested that the French text should be brought into line with the English.

6. The CHAIRMAN suggested that the Secretariat should be asked to make the necessary changes in the French text.

It was so agreed.

Paragraph 30 was adopted on that understanding.

Paragraph 31

Paragraph 31 was adopted.

Paragraph 32

7. Mr. BALANDA suggested that the words *ne suscitait pas* in the first sentence of the French text should be replaced by *n'a pas suscité*, in order to bring the French text into line with the Spanish.

It was so agreed.

Paragraph 32, as amended, was adopted.

Paragraph 33

8. Mr. BALANDA suggested that the expression *n'éprouvait, de même, pas de difficulté* in the first sentence of the French text should be replaced by *n'a pas éprouvé non plus de difficulté*, in order to bring it into line with the Spanish text.

It was so agreed.

Paragraph 33, as amended, was adopted.

Paragraphs 34 to 44

Paragraphs 34 to 44 were adopted.

Paragraph 45

9. Mr. McCAFFREY pointed out that the word "damages" meant monetary compensation, whereas "damage" in the singular meant injury. Since the intent in paragraph 45 was to refer to injury arising from an accident, he proposed that the word "damages" should be amended to read "damage".

It was so agreed.

Paragraph 45, as amended, was adopted.

Paragraph 46

10. Mr. McCAFFREY, noting that the second and third sentences dealt with two separate matters, proposed that the words "In that connection", at the beginning of the third sentence, should be deleted and that, in the same sentence, the word "also" should be added after the words "some members". He further proposed that, in the fourth sentence, the expression "the regulations governing due process" should be replaced by "the requirements of due process", since something of a higher status than a regulation was involved.

It was so agreed.

Paragraph 46, as amended, was adopted.

Paragraphs 47 to 51

Paragraphs 47 to 51 were adopted.

Paragraph 52

11. In response to an observation by Mr. McCaffrey concerning the first sentence, Mr. KOROMA proposed that the expression "enough distinction" should be replaced by "a clear distinction".

It was so agreed.

Paragraph 52, as amended, was adopted.

Paragraph 53

12. Mr. YANKOV (Special Rapporteur) said that the last phrase in the fourth sentence was inaccurate, since draft articles 40, 41 and 42 dealt with miscellaneous provisions and not with final clauses. He therefore suggested that the words "the final clauses" should be replaced by "some miscellaneous provisions relating to the obligations of the transit State in the case of *force majeure*; non-recognition of States or Governments or absence of diplomatic or consular relations; and the relation of these draft articles to other conventions and international agreements".

It was so agreed.

Paragraph 53, as amended, was adopted.

Paragraphs 54 to 56

Paragraphs 54 to 56 were adopted.

Section B, as amended, was adopted.

CHAPTER IX. Other decisions and conclusions of the Commission
(A/CN.4/L.362 and Add. 1 and 2)

B. Co-operation with other bodies (A/CN.4/L.362)

13. The CHAIRMAN said that the report on the statement that was to be made by the Observer for the Arab Commission for International Law would be incorporated later.

Section B was adopted.

14. In reply to a question put by Sir Ian SINCLAIR, the CHAIRMAN said that an account of the Secretary-General's visit to the Commission and the statement he had made would be included in the Commission's report.

C. Date and place of the thirty-sixth session (A/CN.4/L.362)

15. The CHAIRMAN said that the dates of the Commission's thirty-sixth session would be filled in later.

D. Representation at the thirty-eighth session of the General Assembly (A/CN.4/L.362)

Section D was adopted.

E. Gilberto Amado Memorial Lecture (A/CN.4/L.362/Add.1)

Section E was adopted.

F. International Law Seminar (A/CN.4/L.362/Add.1)

Section F was adopted.

The meeting rose at 4.30 p.m.

1810th MEETING

Thursday, 21 July 1983, at 10.05 a.m.

Chairman: Mr. Laurel B. FRANCIS

Present: Mr. Balanda, Mr. Barboza, Mr. Calero Rodrigues, Mr. Díaz González, Mr. El Rasheed Mohamed Ahmed, Mr. Evensen, Mr. Flitan, Mr. Jacovides, Mr. Koroma, Mr. Laclea Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ni, Mr. Njenga, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Stavropoulos, Mr. Sucharitkul, Mr. Thiam, Mr. Ushakov, Mr. Yankov.

Co-operation with other bodies (concluded)*

[Agenda item 9]

STATEMENT BY THE OBSERVER FOR THE ARAB COMMISSION FOR INTERNATIONAL LAW

1. The CHAIRMAN invited Mr. El Baccouche, Observer for the Arab Commission for International Law, to address the Commission.

2. Mr. EL BACCOUCHE (Observer for the Arab Commission for International Law), expressed appreciation for the work of the International Law Commission at its current session, which would be welcomed by the international community with the utmost gratitude.

3. The Arab Commission for International Law was one of the technical advisory committees of the Council of the League of Arab States. Its function was identical to that of the International Law Commission but the States of which it was comprised belonged to a geographical region which, of course, had special features. In that region the codification and progressive development of international law were marked by a series of conflicts which had an effect both on international relations and on the rules of international law. The International Law Commission, for its part, should lay the foundations for a new rule of law that guaranteed justice and progress, and should reject those rules that legitimized war, aggression, the bondage of nations and the taking of territories by force. There were a number of conditions favouring effective co-operation between the two commissions. In general, the role of regional bodies such as the Arab Commission for International Law should be strengthened in the interests of peace and development.

4. The Arab Commission for International Law had been entrusted by the Council of the League of Arab States with the task of following the work of the International Law Commission and had appointed a Special Rapporteur for the purpose; several of the topics on the Commission's agenda were under consideration by the Arab Commission.

* Resumed from the 1801st meeting.