

Document:-  
**A/CN.4/SR.2148**

**Summary record of the 2148th meeting**

Topic:  
**Other topics**

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## Paragraph (6)

87. Mr. TOMUSCHAT said that it would be necessary to review the tense of the verbs used in the third sentence. He also suggested that the phrase "although that word is used in the relevant text . . . referred to above", in the last sentence, should be deleted.

*It was so agreed.*

88. Mr. McCAFFREY said that, in view of the principle of the sovereign equality of States, the words "unequal States", at the end of the penultimate sentence, seemed rather inappropriate.

89. Mr. NJENGA suggested that those words be replaced by "States of unequal power".

*It was so agreed.*

*Paragraph (6), as amended, was approved.*

## Paragraph (7)

90. Mr. McCAFFREY said he regretted that paragraph (7) did not explain the reason for the safeguard clause contained in paragraph 2 of article 14.

91. Mr. BARSEGOV said that, in his view, the explanations given in paragraph (7) were clear enough.

92. Mr. EIRIKSSON said he thought that, at the end of paragraph (7), a reference should be added to paragraph (4) of the commentary to article 15 (Colonial domination and other forms of alien domination) concerning the words "as enshrined in the Charter of the United Nations", which were also used in article 14.

*It was so agreed.*

*Paragraph (7), as amended, was approved.*

*The commentary to article 14, as amended, was approved.*

*Commentary to article 15 (Colonial domination and other forms of alien domination)*

## Paragraph (1)

93. Mr. McCAFFREY recalled that, at the 2145th meeting (para. 55), a suggestion had been made to use the formula "Article . . . is modelled on" rather than the wording used at the beginning of paragraph (1), namely "Two . . . texts served as sources for . . .".

94. Mr. TOMUSCHAT said that reference should be made to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, which the General Assembly had adopted by consensus.

95. Mr. BENNOUNA (Rapporteur) said he agreed with Mr. McCaffrey that a draft article adopted on first reading, namely article 19 of part 1 of the draft articles on State responsibility, could not be placed on the same footing as the Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>3</sup> Article 19 could not serve as a "source" for article 15. Reference should also be made to General Assembly resolution 1541 (XV) of 15 December 1960 on the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 (e) of the Charter, as well as to the Declaration on Principles of International

Law concerning Friendly Relations and Co-operation among States. He therefore proposed the following amended text for paragraph (1):

"For article 15, the Commission drew inspiration from General Assembly resolutions 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, in particular paragraph 1 of that Declaration; 1541 (XV) of 15 December 1960 on the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 (e) of the Charter; and 2625 (XXV) of 24 October 1970, annexed to which is the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The Commission also took into account its work on State responsibility, and in particular article 19, paragraph 3 (b), of part 1 of the draft articles on that topic."

96. Mr. THIAM (Special Rapporteur) said that he endorsed the amendment by the Rapporteur and would even suggest that the reference to article 19 could be deleted.

97. Mr. YANKOV said that he supported the text proposed by the Rapporteur, but thought that the reference to article 19 served a purpose because it explained the meaning of some of the terms used in article 15.

*The Rapporteur's amendment was adopted.*

*Paragraph (1), as amended, was approved.*

*The meeting rose at 1.05 p.m.*

## 2148th MEETING

*Friday, 21 July 1989, at 3.05 p.m.*

*Chairman: Mr. Bernhard GRAEFRATH*

*Present: Mr. Arangio-Ruiz, Mr. Barboza, Mr. Barsegov, Mr. Beesley, Mr. Bennouna, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Eiriksson, Mr. Francis, Mr. Jacovides, Mr. Mahiou, Mr. McCaffrey, Mr. Njenga, Mr. Ogiso, Mr. Pawlak, Mr. Sreenivasa Rao, Mr. Razafindralambo, Mr. Roucouas, Mr. Sepúlveda Gutiérrez, Mr. Shi, Mr. Solari Tudela, Mr. Thiam, Mr. Tomuschat, Mr. Yankov.*

### **Draft report of the Commission on the work of its forty-first session (concluded)**

**CHAPTER III. Draft Code of Crimes against the Peace and Security of Mankind (concluded) (A/CN.4/L.436 and Add.1-3)**

**C. Draft articles on the draft Code of Crimes against the Peace and Security of Mankind (concluded) (A/CN.4/L.436/Add.3)**

**SUBSECTION 2 (Texts of draft articles 13, 14 and 15, with commentaries thereto, provisionally adopted by the Commission at its forty-first session) (concluded)**

<sup>3</sup> General Assembly resolution 1514 (XV) of 14 December 1960.

*Commentary to article 15 (Colonial domination and other forms of alien domination) (concluded)*

Paragraph (2)

1. Mr. BENNOUNA (Rapporteur) proposed, in response to a point raised by Mr. BARBOZA, that the following sentence should be added to paragraph (2): "The expression 'by force' means the utilization of military coercion or of the threat of such coercion."

*Paragraph (2) was approved.*

Paragraph (3)

2. Mr. BARSEGOV said that the interpretation given to the phrase "any other form of alien domination", as used in article 15, was too narrow. It was intended to refer to much more than just "new forms of colonialism". He would therefore suggest that the words "or any other form of colonial exploitation" be inserted after the word "neo-colonialism" in the first sentence of paragraph (3).

3. Mr. THIAM (Special Rapporteur) said that he endorsed the proposal made by Mr. Barsegov.

4. Mr. McCAFFREY said he had been under the impression that the Drafting Committee had rejected the idea of including any reference to new forms of colonialism or neo-colonialism, because of the indeterminate nature of those concepts. The last sentence of paragraph (3) left the door wide open to characterizing almost anything as alien domination—cutting off economic aid, for example. He also thought it had been decided that the *nullum crimen, nulla poena sine lege* principle was to be applied, and that only the most serious crimes would be dealt with in the code. He would favour the deletion of paragraph (3) in its entirety.

5. Mr. TOMUSCHAT agreed that paragraph (3) should be deleted. He, too, recalled that the Drafting Committee had rejected a broad interpretation of article 15 and that it had determined that neo-colonialism was not a term of art and that the article should focus on foreign occupation.

6. Mr. DÍAZ GONZÁLEZ said that he could not agree to the deletion of paragraph (3). There was no question that colonialism and neo-colonialism still existed, and that those phenomena were grave crimes.

7. Mr. EIRIKSSON said that he would be able to accept deletion of some, but not all, of the material in paragraph (3). The explanation that the phrase "alien domination" was meant to be a shorthand expression for the phrase "subjection of peoples to alien subjugation, domination and exploitation" used in paragraph 1 of General Assembly resolution 1514 (XV), and that it included the phenomenon of foreign occupation, was useful and should be retained.

8. Mr. BENNOUNA (Rapporteur) said that, although neo-colonialism did still exist, it was not a technical legal term and therefore should not be used in the commentary to article 15. He also had the impression that two entirely separate issues were being mixed together in paragraph (3): forms of colonial domination, and permanent sovereignty over natural resources. He would suggest that the part of the first sentence after the words "any other form of alien domination" should be replaced by the phrase "refers to foreign occupation of the territory of a State and any other infringement of the right of each State freely to choose its political, economic and social system".

9. Mr. THIAM (Special Rapporteur) said that he could not endorse the proposal made by the Rapporteur. Although the Drafting Committee had decided not to use the word "neo-colonialism" in the text of article 15, it had not necessarily ruled out using it in the commentary. Article 15 referred quite properly not only to alien domination, but also to the exploitation of natural resources contrary to the sovereign will of a people. Economic domination was one of the new forms of colonialism and that was exactly what the article referred to.

10. Mr. CALERO RODRIGUES said that he disagreed with the Special Rapporteur. Article 15 referred to alien domination that was contrary to the right of peoples to self-determination. The commentary failed to make that clear, however, and he was not convinced that the reference in paragraph (3) to General Assembly resolution 1803 (XVII) on permanent sovereignty over natural resources was relevant. Certainly, economic domination was to be deplored but, unless it was carried out in a way that was contrary to the right of peoples to self-determination, it should not be considered a crime under the code.

11. Mr. BARBOZA said that he endorsed the statements made by the Rapporteur and Mr. Calero Rodrigues. Acts should be considered crimes under article 15 only if they involved denial of the right to self-determination. A key concept of relevance to article 15, namely the notion of maintenance of domination by force, had not been defined in the commentary and the omission should be rectified.

12. Mr. ARANGIO-RUIZ said he agreed that neo-colonialism existed but that the term was not a technical, legal one. In drafting article 15 and the commentary, the Commission had to walk a tightrope between protecting the interests of the developing countries and creating obstacles to sorely needed international co-operation.

13. Mr. McCAFFREY said that his understanding of article 15 was exactly the same as that of Mr. Calero Rodrigues. He would suggest that the second part of the first sentence of paragraph (3) be deleted and that the first part be combined with the third sentence. The second sentence would then follow, and the fourth sentence would be deleted. The amended paragraph (3) would read:

"The second part of the article, reading 'any other form of alien domination', is based on the formulation of paragraph 1 of General Assembly resolution 1514 (XV) mentioned above, which refers to 'The subjection of peoples to alien subjugation, domination and exploitation': article 15 uses a shorter form of words which does not reduce its scope. It was also understood in the Commission that the words 'alien domination' included the phenomenon of foreign occupation."

14. Mr. BARSEGOV said that paragraph (2) of the commentary covered the subject of colonialism and, if a reference to neo-colonialism was to be introduced anywhere, it should be there. Paragraph (3), on the other hand, referred to something entirely different: "any other form of alien domination", in other words phenomena that were not colonialism *per se* but constituted violations of the right to self-determination. He would therefore suggest that the beginning of paragraph (3) be amended to read: "The second part of the article, reading 'any other form of alien domination', refers to all known forms of alien domination that violate the right of peoples to self-determination." The

passage cited by Mr. Eiriksson, namely the reference to alien subjugation, domination and exploitation, could then be incorporated. The last sentence of the paragraph, taken from the last sentence as it now stood, would read: "Moreover, this formulation has the advantage of taking into account all forms of domination and precludes possible restrictive interpretations."

15. Mr. THIAM (Special Rapporteur) said that economic domination was a modern reality and should be mentioned in the commentary.

16. Mr. BEESLEY said that the problem with economic domination was similar to that of the definition of aggression: it was quite clear what it was in practice, but it was difficult to define it at the abstract level, because it was a shifting concept.

17. Mr. CALERO RODRIGUES suggested that the Rapporteur should draft a new text for paragraph (3), incorporating the points raised during the discussion.

*It was so agreed.*

18. Mr. BENNOUNA (Rapporteur) proposed that paragraph (3) should be reworded as follows:

"The second part of the article, reading 'any other form of alien domination', is directly inspired by paragraph 1 of General Assembly resolution 1514 (XV). It refers to any foreign occupation and any deprivation of the right of every people to choose freely its political, economic and social system, in violation of the right of peoples to self-determination as enshrined in the Charter of the United Nations. Some members considered that this included the exploitation of the natural resources and wealth of peoples in violation of General Assembly resolution 1803 (XVII) of 14 December 1962 on permanent sovereignty over natural resources."

19. Mr. EIRIKSSON said that the original reference to alien domination was important and could be incorporated in the text proposed by the Rapporteur without difficulty. Moreover, the phrase "any deprivation of the right of every people to choose freely its political, economic and social system" was unnecessary and would make the paragraph unduly cumbersome. It would suffice to refer to the right of peoples to self-determination.

20. Mr. BARSEGOV proposed that the words "annexation, enslavement and all other forms of domination known to international law" should be added after the words "foreign occupation" in the second sentence of the text proposed by the Rapporteur.

21. Mr. YANKOV, agreeing with Mr. Eiriksson and Mr. Barsegov, proposed that the words "or alien domination" should be added after the word "occupation".

22. Mr. CALERO RODRIGUES said that, while he would have no objection to Mr. Barsegov's proposal, he did not think it would introduce any new element, since annexation was covered by the phrase "any deprivation of the right of every people to choose freely its political, economic and social system", as well as by other crimes under the code, including aggression.

23. Mr. McCAFFREY said that, while he, too, did not object to adding the word "annexation", he would point out that it was already covered by paragraph 4 (a) of article 12 (Aggression), provisionally adopted by the Commission at

its previous session,<sup>1</sup> which referred to military occupation and annexation.

24. Mr. BARSEGOV said he none the less thought that it was important to refer to annexation in the commentary to article 15.

25. Mr. PAWLAK proposed that the second sentence of the text proposed by the Rapporteur should include a reference to new forms of colonialism.

26. Mr. THIAM (Special Rapporteur) said that he saw no reason why a reference to new forms of colonialism should not be included in the commentary, as opposed to the text of the article itself.

27. Mr. CALERO RODRIGUES said that it might be useful to explain why a shortened form of the phrase "subjection of peoples to alien subjugation, domination and exploitation" had been used, particularly since the amended text proposed for paragraph (3) stated at the outset that the second part of article 15 was based mainly on General Assembly resolution 1514 (XV).

28. Mr. McCAFFREY reiterated that he would have the strongest objections to retaining the last sentence of the original paragraph (3), and in particular the phrase "whatever form they may take, and precludes possible restrictive interpretations".

29. The CHAIRMAN suggested that the Commission should approve paragraph (3) as amended by the Rapporteur (para. 18 above), with further amendments to take account of the views expressed by Mr. Barsegov, Mr. Calero Rodrigues, Mr. Eiriksson, Mr. McCaffrey and Mr. Pawlak.

*It was so agreed.*

*Paragraph (3), as amended, was approved.*

Paragraph (4)

30. Mr. EIRIKSSON suggested that the words "It was also pointed out", at the beginning of the last sentence, should be replaced by "The view was expressed".

*It was so agreed.*

31. Mr. TOMUSCHAT said that he took issue with the entire paragraph, which implied that the right to self-determination had been a legal principle even before the Charter of the United Nations had come into force: that was simply not true, although he would agree that it had been a political principle, and had been since the French Revolution.

32. Mr. DÍAZ GONZÁLEZ said that, as far as he was concerned, there was no question whatsoever that the right to self-determination was an inalienable right of peoples.

33. Mr. BEESLEY suggested that the words "had come into being with", in the first sentence, should be replaced by "had not existed prior to".

*It was so agreed.*

34. Mr. EIRIKSSON, supported by Mr. McCAFFREY, said that the second sentence was redundant and should be deleted.

35. Mr. PAWLAK said that he opposed that proposal: even if the second sentence repeated what was stated in the first, namely that the right to self-determination had existed

<sup>1</sup> Yearbook . . . 1988, vol. II (Part Two), p. 72.

before the adoption of the Charter, there was no harm in repeating such an important historical fact.

36. Mr. YANKOV said that there seemed to be a certain amount of confusion between the legal principle or tenet of the right of peoples to self-determination, which had long been acknowledged, and the objective right of peoples to self-determination, which had been recognized as a rule of law only at a certain point in political and social development. Those involved in the work on the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations<sup>2</sup> knew that some Western countries, particularly members of NATO, had taken the view that self-determination was not a legal principle. Similarly, General Assembly resolution 1514 (XV), containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, had been considered by those countries as not being in line with international law, for it would reveal colonial Powers to have been violating the law. No one could question the inherent right of peoples to self-determination: the problem was that that right had not been universally recognized as a legal rule at the time of the Charter, and had still not been acknowledged as such everywhere in the world.

37. Mr. BEESLEY said that, while he did not disagree with Mr. Yankov as to the principles outlined, he certainly did disagree with regard to the examples cited in support of those principles.

38. Mr. FRANCIS said that the right to self-determination was unquestionably a legal right.

39. Mr. ARANGIO-RUIZ, associating himself with Mr. Yankov's remarks, said that some countries had undoubtedly been uncertain about their positions throughout the negotiations with respect to General Assembly resolution 2625 (XXV).

40. Mr. CALERO RODRIGUES observed that the Commission was not required to deny or affirm the right to self-determination but simply to explain what the expression "as enshrined in the Charter of the United Nations" meant in the context of article 15.

41. Mr. EIRIKSSON said that the last part of the second sentence of paragraph (4), which implied a legal interpretation of the Charter, was unnecessary.

42. The CHAIRMAN suggested, in the light of the comments made, that the second sentence of paragraph (4) should be amended to read: "Several members stressed that this right had existed before the adoption of the Charter, which had simply recognized and confirmed it."

*It was so agreed.*

*Paragraph (4), as amended, was approved.*

*The commentary to article 15, as amended, was approved.*

43. Mr. THIAM (Special Rapporteur) proposed that, in order to establish a link between the crime committed and the author of the crime, a footnote relating to articles 13, 14 and 15 should be added at the end of the heading of subsection 2, reading:

"Unlike what was done in paragraph 1 of article 12 (Aggression), articles 13, 14 and 15 are, at this stage,

confined to the definition of the acts constituting the crimes set forth in the articles. The question of the attribution of those crimes to individuals will be dealt with later in the framework of a general provision."

*It was so agreed.*

*Section C.2, as amended, was adopted.*

*Chapter III of the draft report, as amended, was adopted.*

#### CHAPTER IV. *State responsibility (A/CN.4/L.437)*

##### A. Introduction

Paragraphs 1 to 7

*Paragraphs 1 to 7 were adopted.*

*Section A was adopted.*

##### B. Consideration of the topic at the present session

Paragraphs 8 to 28

*Paragraphs 8 to 28 were adopted with minor drafting changes.*

Paragraph 29

44. Mr. ARANGIO-RUIZ (Special Rapporteur) said that, in the first sentence, the words "qualified as crimes" should be inserted between the words "wrongful acts" and "could be dealt with", and the words "lists of wrongful acts" should be replaced by "lists of crimes". The second sentence should be deleted.

*Paragraph 29, as amended, was adopted.*

Paragraph 30

*Paragraph 30 was adopted.*

Paragraph 31

45. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the word "or", between the words "wrongful act" and "cessation" in the first sentence, should be replaced by "as", and that the words "rules concerning the" should be inserted before the word "procedural" in the second sentence.

*Paragraph 31, as amended, was adopted.*

Paragraph 32

46. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the word "only", between the words "Part Three" and "to the rules" in the first sentence, should be deleted, as should the words "there were" and "which" in the second sentence.

*Paragraph 32, as amended, was adopted.*

Paragraph 33

*Paragraph 33 was adopted.*

Paragraph 34

47. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the word "rightly", in the second sentence, should be deleted, and the word "This", at the beginning of the fifth sentence, should be replaced by "It was pointed out by this member that such an".

*Paragraph 34, as amended, was adopted.*

Paragraph 35

48. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the words "elementary common sense suggested", in the second sentence, should be replaced by "he believed".

*Paragraph 35, as amended, was adopted.*

<sup>2</sup> General Assembly resolution 2625 (XXV) of 24 October 1970, annex.

Paragraphs 36 to 40

*Paragraphs 36 to 40 were adopted.*

Paragraph 41

49. Mr. BARBOZA proposed that the part of the paragraph following the second sentence should be replaced by the following text:

“Considering cessation as compliance with the primary obligation would blur the distinction, which had first been used by the Commission in the present topic, between primary and secondary rules, and would base the consequences of the violation on two different grounds. It would also be wrong because, even if cessation were intended to restore the situation prevailing before the breach of the obligation, it required from the author State a conduct different from that imposed by the original obligation. Even if that conduct were the same, it would have a completely different meaning. Cessation was, then, a legal consequence of the breach of the primary obligation, and as such it seemed to be one of the components of reparation.”

50. Mr. ARANGIO-RUIZ (Special Rapporteur) said that he accepted that amendment, with some reservations.

*Mr. Barboza's amendment was adopted.*

*Paragraph 41, as amended, was adopted.*

Paragraphs 42 to 48

*Paragraphs 42 to 48 were adopted.*

Paragraph 49

51. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the words “It was noted that” should be inserted at the beginning of the last sentence.

*Paragraph 49, as amended, was adopted.*

Paragraph 50

*Paragraph 50 was adopted.*

Paragraph 51

52. Mr. ARANGIO-RUIZ (Special Rapporteur), referring to the first sentence, said that the word “situation” should be replaced by “obligation” and the word “formal” should be deleted. The positions of the second and third sentences should be reversed.

*Paragraph 51, as amended, was adopted.*

Paragraphs 52 to 58

*Paragraphs 52 to 58 were adopted.*

Paragraph 59

53. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the two bracketed phrases in the penultimate sentence should be deleted.

*Paragraph 59, as amended, was adopted.*

Paragraphs 60 and 61

*Paragraphs 60 and 61 were adopted with minor drafting changes.*

Paragraph 62

54. Mr. BARBOZA proposed that the following text should be inserted after the third sentence:

“One member expressed the view that restitution in kind and cessation should be carefully separated. The notion

of cessation being absorbed by, or telescoped into, restitution in kind should be expressly rejected, even in the extreme case where they happened at the same time. Accordingly an act might cease without restitution in kind occurring, and where it did occur both concepts were separable and should be separated.”

*It was so agreed.*

*Paragraph 62, as amended, was adopted.*

Paragraphs 63 to 71

*Paragraphs 63 to 71 were adopted with minor drafting changes.*

Paragraph 72

55. Mr. PAWLAK remarked that the expression “the environment within which aliens had to live”, in the third sentence, called for some clarification.

56. Mr. ARANGIO-RUIZ (Special Rapporteur) proposed that the word “social” should be inserted before the word “environment” in that expression. In addition, the words “In the view of this member” should be inserted at the beginning of the third sentence.

*It was so agreed.*

*Paragraph 72, as amended, was adopted.*

Paragraph 73

*Paragraph 73 was adopted with a minor drafting change.*

Paragraph 74

57. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the last part of the first sentence should be amended to read: “. . . although it might be possible to take account of the level of economic development of the offending State”.

*Paragraph 74, as amended, was adopted.*

Paragraphs 75 to 81

*Paragraphs 75 to 81 were adopted.*

Paragraph 82

58. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the word “rightly”, at the end of the first sentence, should be deleted.

*Paragraph 82, as amended, was adopted.*

Paragraph 83

59. Mr. ARANGIO-RUIZ (Special Rapporteur) said that the word “still” should be inserted before the words “remained the issues”, in the second sentence. The sixth sentence should be deleted.

*Paragraph 83, as amended, was adopted.*

Paragraphs 84 to 86

*Paragraphs 84 to 86 were adopted.*

*Section B, as amended, was adopted.*

**C. Texts of the draft articles of part 2 provisionally adopted so far by the Commission**

Paragraph 87

*Paragraph 87 was adopted.*

*Section C was adopted.*

60. Mr. EIRIKSSON asked whether the Special Rapporteur had any specific questions to address to the Sixth Committee in accordance with paragraph 5 (c) of General Assembly resolution 43/169 of 9 December 1988.

61. Mr. ARANGIO-RUIZ (Special Rapporteur) said that he had given the matter much thought and had come to the conclusion that it would be more appropriate to formulate specific questions at the end of the Commission's next session, at which time his second report on the topic (A/CN.4/425 and Add.1) would have been considered.

62. Mr. CALERO RODRIGUES, noting that the Commission had complied with the General Assembly's request in connection with only one topic, namely the law of the non-navigational uses of international watercourses, said that he did not know how the General Assembly would receive such a response.

63. The CHAIRMAN recalled that all the special rapporteurs had been asked to formulate specific questions to be addressed to the Sixth Committee, without, however, a great deal of success.

*Chapter IV of the draft report, as amended, was adopted.*

**CHAPTER VIII. Relations between States and international organizations (second part of the topic) (A/CN.4/L.441)**

64. Mr. DÍAZ GONZÁLEZ (Special Rapporteur) indicated some corrections to the French text of paragraphs 25, 26, 34 and 35.

**A. Introduction**

Paragraphs 1 to 17

*Paragraphs 1 to 17 were adopted.*

*Section A was adopted.*

**B. Consideration of the topic at the present session**

Paragraphs 18 to 21

*Paragraphs 18 to 21 were adopted.*

Paragraph 22

65. Mr. YANKOV suggested that the word "ecological" should be inserted in an appropriate place in the list of problems in the last sentence.

*It was so agreed.*

66. Mr. BENNOUNA (Rapporteur) said that the last sentence of the French text should be brought into line with the English.

*Paragraph 22, as amended, was adopted.*

Paragraphs 23 to 28

*Paragraphs 23 to 28 were adopted.*

Paragraph 29

67. Mr. BENNOUNA (Rapporteur) said that a footnote should be added giving the particulars of the advisory opinion of the ICJ of 11 April 1949.

*Paragraph 29, as amended, was adopted.*

Paragraphs 30 to 40

*Paragraphs 30 to 40 were adopted.*

*Section B, as amended, was adopted.*

*Chapter VIII of the draft report, as amended, was adopted.*

68. In reply to a point raised by Mr. NJENGA, the CHAIRMAN said that, in introducing the Commission's report in the Sixth Committee, he would emphasize that chapter VIII was intended for information only, the Commission having been unable to consider the topic at its forty-first session due to lack of time.

*The draft report of the Commission on the work of its forty-first session as a whole, as amended, was adopted.*

**Closure of the session**

69. After an exchange of congratulations and thanks, the CHAIRMAN declared the forty-first session of the International Law Commission closed.

*The meeting rose at 6.40 p.m.*