

Document:-
A/CN.4/SR.327

Summary record of the 327th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
1955 , vol. I

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91. He suggested that the French text of sub-paragraph 2 might be examined with a view to deciding whether the words *dans un but personnel* was an exact rendering of the words "for private ends".

92. Sir Gerald FITZMAURICE said that he could accept Mr. Krylov's proposal, but thought that the Commission should at its next session reconsider the wording of the first sentence in sub-paragraph 2 so as to find some better expression than "for private ends". The real antithesis which needed to be brought out was between authorized and unauthorized acts and acts committed in a public or in a private capacity. An act committed in a private capacity could have a political purpose but be unauthorized—as, for example, the seizure of a vessel by the member of an opposition party.

93. Mr. HSU supported Mr. Krylov's proposal.

Mr. Krylov's proposal to delete the second sentence in sub-paragraph 2 of the first paragraph of the comment was adopted by 5 votes to 3, with 3 abstentions.

94. Faris Bey el-KHOURI criticized the confusing manner in which sub-paragraphs 3, 4 and 5 had been drafted; it could be inferred from the present text that piracy was legal but only on the high seas.

95. The CHAIRMAN felt that the meaning was quite clear. Moreover, the form was customary in legal usage.

96. Mr. FRANÇOIS (Rapporteur) said that he would be unwilling to modify the text for the reasons given by the Chairman.

97. Mr. LIANG (Secretary to the Commission) suggested that sub-paragraph 3 required amendment since piracy could be committed only by individuals and not by vessels. It would be noted that the article itself referred to acts committed by the crew or passengers.

The comment to article 14 was adopted as amended.¹²

Article 15

The comment to article 15 was adopted.

Article 16

The comment to article 16 was adopted.

Article 17

The comment to article 17 was adopted.

Article 18

The comment to article 18 was adopted.

Article 19

The comment to article 19 was adopted.

Article 20

The comment to article 20 was adopted.

Article 21: Right of inspection

98. Mr. FRANÇOIS (Rapporteur) said that the words "right of visit" should be substituted for the words

"right of inspection" in the title of article 21 and in the comment.

99. Sir Gerald FITZMAURICE considered that, in the third paragraph of the comment, the first sentence, in which reference was made to severe penalties, did not accurately reflect the provision contained in the article itself and should be deleted. The article merely stated that if the suspicions proved unfounded, and provided the vessel boarded had not committed any acts to justify them, compensation would be made.

100. In the last sentence of the same paragraph the word "and" should be substituted for the words "or where" after the words "where suspicion proves unfounded".

101. Mr. EDMONDS observed that the comment should bring out that compensation must be adequate.

102. Mr. FRANÇOIS (Rapporteur) accepted Sir Gerald Fitzmaurice's second amendment. The word "or" was due to an error.

Sir Gerald Fitzmaurice's proposal for the deletion of the first sentence¹³ in the third paragraph of the comment was accepted.

In the same paragraph, it was also decided to replace the full stop after the word "action" by a comma and to delete the words "This applies".

103. Mr. ZOUREK considered that the last sentence in the comment should end at the words "to include such a provision" because other arguments in addition to that mentioned in the remainder of the sentence had been put forward.

104. Mr. FRANÇOIS (Rapporteur) considered that omission to be unnecessary because of the presence of the word "mainly".

The comment to article 21 was adopted as amended.

Further consideration of the Commission's draft report was adjourned.

The meeting rose at 6.10 p.m.

¹³ It read as follows: "If the suspicions prove to be unfounded, the penalties must be severe."

327th MEETING

Tuesday, 5 July 1955, at 9.30 a.m.

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¹² See *infra*, 330th meeting, para. 1.

Chairman : Mr. Jean SPIROPOULOS

Rapporteur : Mr. J. P. A. FRANÇOIS

Present :

Members : Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Mr. F. V. GARCÍA AMADOR, Mr. Shuhsi HSU, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. Carlos SALAMANCA, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. Jaroslav ZOUREK.

Secretariat : Mr. LIANG, Director of Codification Division, Office of Legal Affairs, Secretary to the Commission.

Draft report of the Commission covering the work of its seventh session (A/CN.4/L.59 and Add.1) (continued)

CHAPTER II: RÉGIME OF THE HIGH SEAS
A/CN.4/L.59/Add.1) (continued)

DRAFT ARTICLES CONCERNING THE HIGH SEAS (continued)

Article 22 : Right of pursuit

1. Sir Gerald FITZMAURICE said that at the appropriate moment he would ask for the insertion of a dissenting opinion concerning the question of the right of pursuit in the contiguous zone.

The comment to article 22 was adopted.

Article 23 : Pollution of the high seas

The comment to article 23 was adopted.

Article 24 : Right to fish

2. Mr. FRANÇOIS (Rapporteur) stated that the English of the article would have to be brought into line with the French, which had been modified in accordance with the Commission's decision at the second reading.¹

3. Sir Gerald FITZMAURICE suggested that the opening words might read : "All States have a right to claim..."

4. Mr. SANDSTRÖM observed that the repetition of the word "right" in one line would be inelegant and suggested that the English text might remain unchanged.

5. Mr. EDMONDS said it was unnecessary to use the word "claim" since the right to fish on the high seas was uncontested. He proposed that the article begin with the words : "Nationals of every State have the right to engage in fishing".

6. Mr. LIANG (Secretary to the Commission) observed that that was more or less the wording he had proposed during the discussion. The function of the State to protect its nationals against interference in the exercise of that right would be implicit. If Mr. Edmonds' wording were accepted, the words "subject to their treaty obligations" would also have to be changed.

7. Mr. KRYLOV said that although the question was purely a drafting one, the Commission should be consistent and should word article 24 in the same way as it had worded the other articles, in terms of the rights of States.

8. Mr. SALAMANCA observed that the Spanish text was very close to that proposed by Mr. Edmonds. Perhaps the French text could be regarded as the authentic one and the English modified accordingly.

9. Mr. EDMONDS hoped that the text submitted to governments would be as clear and precise as possible. The fact that the articles would be reviewed at the following session was no excuse for slipshod drafting.

10. Mr. FRANÇOIS (Rapporteur) said that although in his opinion the French text was not particularly satisfactory he believed that an exact equivalent must be found in English.

11. Sir Gerald FITZMAURICE wondered whether it was really necessary for the Commission to word article 24 in terms of the rights of States, as suggested by Mr. Krylov. That had not been done, for example, in article 6.

12. The CHAIRMAN, speaking in his personal capacity, said that although he agreed with Sir Gerald Fitzmaurice in principle, international treaties usually laid down the obligations of States from which the rights of individuals flowed indirectly.

13. Faris Bey el-KHOURI pointed out that individuals could not be parties to international litigation.

14. Mr. ZOUREK did not think Mr. Edmond's proposal was entirely a matter of drafting.

15. Mr. KRYLOV said that Mr. Edmonds' proposal would not entail reconsideration of the substance and would only affect the English text.

16. Mr. LIANG (Secretary to the Commission) felt that Mr. Edmonds' proposal would call for modification in the French and Spanish texts.

Mr. Edmonds' proposal was rejected by 8 votes to 4.

17. Mr. FRANÇOIS (Rapporteur) pointed out that the reference to the section dealing with conservation of the living resources of the high seas, both in the comment to article 24 and in the last paragraph of the introductory comment to that section, should be to articles 25 to 33.

The comment to article 24 was adopted as amended.

Articles 25-33 : Conservation of the living resources of the high seas

Introductory Comment

18. Mr. GARCÍA AMADOR proposed the insertion of the words "waste and" before the word "extermination" in the third paragraph of the introductory comment, so as to bring it into line with the wording used

¹ 321st meeting, paras. 17-48.

in the draft articles on fisheries adopted by the Commission at its fifth session.²

It was so agreed.

19. Replying to a point raised by Mr. EDMONDS, Mr. FRANÇOIS (Rapporteur) said that for the sake of clarity the words "as amended" should be inserted after the words "The draft articles" in the last paragraph of the introductory comment.

20. Mr. EDMONDS said that it was surely unnecessary to reproduce the draft articles on the conservation of the living resources of the high seas in an annex as well as in chapter II of the report itself. On the other hand it had been the Commission's understanding that Mr. García Amador's preamble to those draft articles would be reproduced in an annex.³

21. Mr. LIANG (Secretary to the Commission) said that in order to avoid confusion it was undesirable to annex the preamble and the draft articles to the report because it was the usual practice to reproduce the comments of governments in that manner. Moreover, as the draft articles apart from the preamble already appeared in chapter II, he agreed it would perhaps be an unnecessary waste of space in a report of relatively modest length to print them twice. A simple cross-reference might suffice. The draft report did not mention the Commission's decision to submit the draft articles on the conservation of the living resources of the high seas to the Food and Agriculture Organization of the United Nations (FAO) and all the bodies which had attended the International Technical Conference on the Conservation of the Living Resources of the Sea ("the Rome Conference"), inviting their comments.⁴ He suggested that a reference to that decision might be inserted in the introduction to chapter II.

22. Mr. FRANÇOIS (Rapporteur) agreed, but felt that it would be the Commission's wish to submit Mr. García Amador's preamble as well to FAO and the other organizations which had attended the Rome Conference for comment.

It was so agreed, and the Commission also decided to insert in the introduction to chapter II a statement to the effect that the whole set of new draft articles on the régime of the high seas was at the same time being submitted to governments for comment.⁵

23. Mr. GARCÍA AMADOR considered that the preamble and text of the draft articles on conservation of the living resources of the high seas must be printed together in the report. Clarity should not be sacrificed to the negligible saving made by not reproducing the text of the draft articles twice.

24. Mr. LIANG (Secretary to the Commission) said

² "Report of the International Law Commission covering the work of its fifth session" (A/2456), para. 94, in *Yearbook of the International Law Commission, 1953*, vol. II.

³ 323rd meeting, para. 67.

⁴ 321st meeting, para. 24.

⁵ It was inserted in para. 15 of the "Report" of the Commission.

that if the draft articles were to be reproduced twice on the ground that the preamble could hardly stand alone, they should, for the reason he had already given, form an appendix to chapter II, not an annex to the report as a whole.

It was so agreed.

25. Mr. GARCÍA AMADOR considered that it should be made clear in the introductory comment to articles 25-33 that the Rome Conference had been convened in accordance with General Assembly resolution 900 (IX) to study the scientific aspect of conservation alone and had not dealt with the juridical problems involved.

The introductory comment to articles 25-33 was adopted as amended.

Article 25

26. Mr. EDMONDS considered that article 25 should be included among those listed in article 31 because any differences arising under article 25 should also be submitted to arbitration. Article 28 should also be mentioned in article 31.

27. Mr. FRANÇOIS (Rapporteur) said that Mr. Edmonds had raised a point of substance. The Commission had rejected Mr. Scelle's view⁶ that States should always have the right to challenge conservation measures even if they had been promulgated unilaterally in an area being fished by the nationals of one State alone, and had agreed that recourse should only be had to arbitration when the nationals of more than one State were fishing in the area concerned. Even if the Commission decided to reopen the question, he would not support Mr. Edmonds.

28. Mr. SANDSTRÖM, agreeing with the Rapporteur, pointed out that article 27 dealt with differences concerning unilateral measures affecting nationals of other States.

29. Mr. EDMONDS observed in passing that disagreement might arise about whether the nationals of a second State were in fact engaged in fishing in a particular area.

30. Mr. KRYLOV agreed with Mr. Sandström as far as article 25 was concerned but supported Mr. Edmonds in thinking that article 28 should be added to the list in article 31.

31. Mr. FRANÇOIS (Rapporteur) said that reference to article 28 in article 31 had been omitted by an oversight. The text would be corrected.

32. Mr. ZOUREK asked whether he was to conclude from the Rapporteur's remarks that measures instituted under article 25 could not be challenged by another State even if they had not been based on appropriate scientific findings.

⁶ See *supra*, 300th meeting, paras. 87-88; 301st meeting; 302nd meeting, paras. 1-2.

33. Mr. FRANÇOIS (Rapporteur) replied that that conclusion was correct provided that article 30 was not applicable.

The comment to article 25 was adopted.

Article 26

34. Mr. EDMONDS said that there was an obvious inconsistency between the proviso "within a reasonable period of time" contained in articles 26, 27, 28 and 30 and the time-limit of three months laid down in article 31. That inconsistency might give rise to great procedural difficulties since a State might seek to delay arbitral proceedings on the ground that a reasonable period of time for reaching agreement had not elapsed.

35. Mr. FRANÇOIS (Rapporteur) observed that Mr. Edmonds had again raised an issue of substance which could not be discussed unless a motion for reconsideration were adopted by a two-thirds majority.

36. Mr. SANDSTRÖM contended that there was a very real difference between the two cases. It was perfectly reasonable to set a definite time-limit for the beginning of the arbitral proceedings but it was impossible to foresee how long negotiations would take between two States endeavouring to reach agreement.

37. Mr. KRYLOV said that at the next session he would support Mr. Edmonds in trying to persuade the Commission to extend the time-limit contained in article 31.

38. Mr. SALAMANCA considered that for the reasons given by Mr. Sandström the two provisions were not incompatible.

The comment to article 26 was adopted.

Article 27

39. Mr. EDMONDS observed that the article mentioned in the last sentence of the text of the article should be article 32.

40. Mr. FRANÇOIS (Rapporteur) undertook to rectify the error.

The comment to article 27 was adopted.

Article 28

41. In reply to a question raised by Mr. EDMONDS, Mr. LIANG (Secretary to the Commission) suggested that the word "claim" should be substituted for the word "pretend" in the last sentence of the English text of the comment.

It was so agreed.

The comment to article 28, as amended in the English text only, was adopted.

Article 29

42. Mr. EDMONDS pointed out that the last sentence of the text of the article itself should refer to article 32 and not article 31.

The comment to article 29 was adopted.

Article 30

The comment to article 30 was adopted.

Article 31

43. Mr. KRYLOV reaffirmed his whole-hearted opposition to article 31 because of the structure and functions of the arbitral commission.

44. Mr. ZOUREK said that he was unable to accept either article 31 or the comment thereto because he was opposed to the compulsory arbitration clause.

45. Mr. LIANG (Secretary to the Commission) suggested that the word "chose" should be substituted for the words "felt obliged to choose" in the penultimate sentence of the first paragraph of the comment.

It was so agreed.

46. Mr. EDMONDS, noting that article 28 had now been included in the list contained in article 31,⁷ said that he would not press for a similar reference to article 25 in view of the Special Rapporteur's remarks, though he still felt that there was no objection to submitting differences connected with the application of article 25 to arbitration.

47. Passing to the comment, he suggested that the expressions "too dilatory" and "unduly protracted" in the second and third paragraphs were not only imprecise; they actually held out a temptation to the parties to prolong the proceedings.

48. Mr. LIANG (Secretary to the Commission) suggested the deletion of the word "too" and the word "unduly" in the two instances.

The Secretary's suggestion was accepted.

The comment to article 31 was adopted as amended.

Article 32

49. In reply to a question by Mr. EDMONDS, Mr. LIANG (Secretary to the Commission) explained that the English text of article 32 had not been corrected in conformity with the decision reached by the Commission during the second reading of the draft articles.⁸ That mistake would be rectified in the final text.

50. Mr. GARCÍA AMADOR said that he had not reproduced the words "In arriving at its decisions" in the Spanish text of article 32 because they were entirely redundant.

The comment to article 32 was adopted.

Article 33

51. Mr. ZOUREK said that he had the same objections to article 33 as to article 31, with which it was closely linked.

The comment to article 33 was adopted.

⁷ See para. 31 above.

⁸ 321st meeting, paras. 52-54.

Articles 34-38: Submarine cables and pipelines

The comments to articles 34-38 were adopted.

Consideration of further chapters in the draft report was deferred.

Proposal by Mr. Krylov for the appointment of a special rapporteur on consular intercourse and immunities

52. Mr. KRYLOV, observing that at its next session the Commission would not require a great deal of time to complete its work on the régime of the high seas, the régime of the territorial sea and related topics, said that discussion of Mr. Sandström's report (A/CN.4/91) on Diplomatic Intercourse and Immunities and Mr. García Amador's report on State responsibility might not take up the remainder of the session. He therefore suggested that Mr. Zourek be appointed Special Rapporteur on consular intercourse and immunities—a topic closely related to that already covered by Mr. Sandström. If his suggestion met with approval, he would make a formal proposal in that sense.

53. Mr. LIANG (Secretary to the Commission) reminded the Commission that the subject of consular intercourse and immunities had been among the four-teen topics selected for codification at its first session. There was in existence a Harvard Research Draft on the legal position and functions of consuls.

54. The CHAIRMAN considered the title of the Harvard Research Draft a little restrictive and preferred the one chosen by the Commission in 1949. A model convention might assist States in unifying their law and regulations on the subject.

55. Mr. LIANG (Secretary to the Commission) said that judging from the observations emanating from scholars and learned bodies dealing with the development of international law, the Commission might well start preparing for the study of other topics on its programme, even though they would not necessarily be taken up at the next session.

56. Mr. SALAMANCA welcomed Mr. Krylov's suggestion, which was particularly interesting because it offered a possibility of the Commission's adopting a new method of work. Clearly, a study on consular intercourse and immunities must be based on the internal regulations of States and there would accordingly be no need first to prepare a draft and then to submit it to governments for comment. Their observations would only be required on the controversial issues and there perhaps the Commission might do well to follow the practice of the League of Nations and send out questionnaires.

57. Mr. GARCÍA AMADOR supported Mr. Krylov's suggestion, firstly because the Commission might find itself short of subjects to discuss at the following session if, as he estimated, it needed a maximum of five weeks if not less for completing its work on maritime questions, and also because the study would complement Mr. Sandström's report.

58. Mr. SANDSTRÖM considered Mr. Krylov's suggestion to be a valuable one. The Commission would indeed be well advised to appoint a special rapporteur at the present session, but it should not expect his report to be ready for the eighth session; for judging from his own experience, the special rapporteur would probably have to rely very considerably upon the help that could be given by the Secretariat and the necessary studies might take some time to complete.

59. Mr. SALAMANCA asked what kind of assistance the Secretariat would be able to provide.

60. He entirely agreed with Mr. Sandström that the report on consular intercourse and immunities might not be ready for discussion by the eighth session.

61. The CHAIRMAN pointed out that the Commission's mandate expired in 1956 and it seemed hardly fitting to appoint a special rapporteur for a topic which would not be taken up until 1957. As there was a great deal of material on the subject, perhaps Mr. Zourek could be appointed special rapporteur on the assumption that he would be able to finish his report for the next session.

62. Mr. LIANG (Secretary to the Commission) said that the nature of the co-operation between the Secretariat and special rapporteurs was a matter which it was difficult to formalize.

63. The pattern of such co-operation had been set more or less from the outset of the Commission's work. It had always been the practice for the Secretariat to supply a survey of a topic to the special rapporteur on a particular subject if the rapporteur expressed a desire for secretariat help. In appropriate cases of necessity, the Secretariat invited experts outside its staff to prepare such surveys.

64. Another form of assistance which the Secretariat gave was to prepare a compilation of the relevant national legislative texts in the way it had done in the case of nationality laws (A/CN.4/56 and Add.1, A/CN.4/66, E/1112 and Add.1).

65. A *Collection of the Diplomatic and Consular Laws and Regulations of Various Countries*⁹ had been edited in 1933 under the auspices of the Harvard Law School by Mr. A. H. Feller and Mr. Manley O. Hudson in connexion with the research involved in the preparation of draft conventions with a view to the codification of those subjects.¹⁰ That collection was now, of course, very much out of date.

66. The preparation of a volume of that type by the Secretariat took not months, but years. The necessary texts had to be obtained from governments or sought

⁹ A. H. Feller and M. O. Hudson, *A Collection of the Diplomatic and Consular Laws and Regulations of Various Countries* (Washington, Carnegie Endowment for International Peace, 1933), 2 vol.

¹⁰ Harvard Law School, *Research in International Law. II, Diplomatic Privileges and Immunities and The Legal Position and Functions of Consuls* (Cambridge, Mass., 1932), p. 15 and p. 189.

out in libraries; even in the latter case the government concerned had still to be asked whether the text in question was still the law in force.

67. The Secretariat submitted its surveys and compilations to the special rapporteur for his use before publication.

68. In the case of the topic of diplomatic intercourse and immunities, a survey of the subject had been prepared in a very short time by the Secretariat. It was not yet in its final form.

69. He stressed that the special rapporteur on a particular topic could make such use as he considered appropriate of the material contained in a survey by the Secretariat. The rapporteur could decide to make a different survey of his own giving his approach to the question; or he could embark simply on the preparation of a draft convention or draft regulations.

70. With regard to the problem which arose when the special rapporteur was not re-elected as a member of the Commission by the General Assembly, he recalled the decision taken at the Commission's 1953 session on that issue:

"A special rapporteur who had not been re-elected as a member of the Commission by the General Assembly would have to cease work on that date. However, the special rapporteur who had been re-elected should continue his work unless and until the Commission as newly constituted decides otherwise."¹¹

71. Should the General Assembly decide to make the term of office of members of the Commission five years instead of three, the risk of a special rapporteur's being unable to continue his work would thereby be considerably lessened.

72. Mr. SALAMANCA said the topic of diplomatic intercourse and immunities, and also the question of the status of consuls, were matters which could not be dealt with adequately merely in the light of academic research of the type conducted under the auspices of the Harvard Law School. The primary source for the study of questions concerning diplomats and consuls was the laws and regulations applied to diplomatic and consular representatives by the various States. International conventions and agreements—which were few and, in any case, only applicable to the signatory States—were only a secondary source. As to the opinions of writers and research work of the type carried out under the auspices of the Harvard Law School, such material was of little value to the Commission's work since it tended to present the practices of a particular State as general principles of international law—in the case of the Harvard Research, the emphasis was on the practice of the United States State Department.

73. He did not suggest that the Secretariat should pre-

pare a very voluminous survey of national legislation on the subject of diplomats and consuls. He did feel, however, that the Secretariat was in a good position to prepare an adequate and concise survey of such legislation, which would be of very great assistance to the special rapporteur. If the special rapporteur were to base his work on all the common ground that he would certainly find in the respective national legislative texts, there would be every chance that the work of the Commission would prove acceptable to governments. The matter of consular representation, in particular, was one in which discrepancies between the practices of various States existed only on minor points—as would appear clearly from the survey which the Secretariat would prepare.

74. It was essential that the Secretariat's survey be ready in time for the next session as it was possible that the Commission might deal with the topics of diplomatic immunities and the status of consuls at that session.

75. Mr. LIANG (Secretary to the Commission) said that the Secretariat had only very recently begun the preparation of a collection of national legislative texts concerning the position and immunities of diplomats and of consuls.

76. He emphasized that much time was required to complete work of that type. Patience and discretion were necessary in obtaining information from governments: a government might delay six or eight months before replying to a letter, and the Secretariat could not press for an answer by writing repeated reminders.

77. The Secretariat gave every possible help to special rapporteurs in the task of gathering material for their work. As the special rapporteur and the Commission had necessarily to rely on the authenticity of the material it supplied, the Secretariat had to check it carefully by making enquiries from the governments concerned or by other means at its disposal.

78. In connexion with the research on the question of the status of consuls carried out under the auspices of the Harvard Law School, there was no doubt that it presented the point of view of American scholars on the topics in question.

79. Mr. SALAMANCA said he had never doubted the excellent co-operation which had always existed between special rapporteurs and the Secretariat.

80. His purpose had been to stress two facts: firstly, that the matter of consular intercourse and immunities was one on which national legislation was comparatively uniform; secondly, that national legislative texts were the essential source of material for study of the question, and that any work which was not primarily based on that material—or which had a theoretical orientation—would not prove fruitful.

81. The CHAIRMAN, speaking in his personal capacity, said he warmly approved of Mr. Krylov's proposal for the appointment of Mr. Zourek as Special Rapporteur.

¹¹ "Report of the International Law Commission covering the work of its fifth session" (A/2456), para 172, in *Yearbook of the International Law Commission, 1953*, vol. II.

teur on the topic of consular intercourse and immunities.

Mr. Zourek was unanimously elected Special Rapporteur on the topic of consular intercourse and immunities.

82. The CHAIRMAN said that consuls had very few privileges and immunities. The subject to be covered would therefore have to be of wider scope than those words suggested; it might entail the drafting of a model consular convention.

83. Mr. KRYLOV said he had had in mind not only the few privileges and immunities enjoyed by consuls, but, more broadly, their role as representative organs of a State.

84. It was highly desirable that the two branches of State representation abroad be dealt with concurrently, namely, the question of diplomatic intercourse and immunities on the one hand and, on the other, the wider but somewhat less controversial question of the status and role of consuls.

85. Mr. ZOUREK thanked the Commission for his appointment as Special Rapporteur on the topic of consular intercourse and immunities, and accepted the honour done to him.

86. The subject, as he saw it, covered the whole field of consular relations and consular representation, as well as those few privileges enjoyed by consuls.

87. At a later meeting of the Commission and before the end of the session, he would give a brief outline of the topic as he (Mr. Zourek) construed it, with a view to obtaining the general views of his fellow members of the Commission. Those views would prove of very great value in the preparation of his report.

The meeting rose at 12.40 p.m.

328th MEETING

Wednesday, 6 July 1955, at 10 a.m.

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Chairman: Mr. Jean SPIROPOULOS

Rapporteur: Mr. J. P. A. FRANÇOIS

Present:

Members: Mr. Douglas L. EDMONDS, Sir Gerald FITZMAURICE, Mr. F. V. GARCÍA AMADOR, Mr. Shuhsi

Hsu, Faris Bey el-KHOURI, Mr. S. B. KRYLOV, Mr. Carlos SALAMANCA, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. Jaroslav ZOUREK.

Secretariat: Mr. LIANG, Director of Codification Division, Office of Legal Affairs, Secretary to the Commission.

Draft report of the Commission covering the work of its seventh session (A/CN.4/L.59 and Add.1-2) (resumed from the 327th meeting)

CHAPTER III: RÉGIME OF THE TERRITORIAL SEA A/CN.4/L.59/Add.2)

INTRODUCTION

*Paragraphs 1-3 [19-21] **

Paragraphs 1-3 were adopted without comment.

*Paragraph 4 [22] **

1. Mr. FRANÇOIS (Rapporteur) said that in the French text the words *assortis de commentaires qui* should be placed after instead of before the words *pour autant qu'il s'agisse de modifications quant au fond*.

Paragraph 4 was adopted subject to the above correction of the French text.

*Paragraph 5 [23] **

2. Mr. GARCÍA AMADOR proposed that the final sentence of the paragraph be amended to read:

"The Commission submits them to governments so that they may send it any comments they may see fit to make on these or any other articles of the draft before they are adopted at its eighth session and included in the final report to be submitted in accordance with resolution 899 (IX) of the General Assembly."¹

3. Mr. FRANÇOIS (Rapporteur) accepted Mr. García Amador's proposal.

Paragraph 5 was adopted with the amendment proposed by Mr. García Amador.

Paragraph 6²

4. Mr. GARCÍA AMADOR proposed the deletion of paragraph 6, which laid undue emphasis on the technical character of the articles. In actual fact, only a few really dealt with subjects of a technical nature. Even if paragraph 6 was deleted, governments would still send their comments on all the relevant articles, and clarify any technical points that might arise in connexion with some of them.

* The numbers within brackets indicate the paragraph numbers in the "Report" of the Commission.

¹ In document A/CN.4/L.59/Add.2, para. 5 read as follows: ". . . before they are adopted on second reading at its eighth session."

² In document A/CN.4/L.59/Add.2, para. 6 read as follows: "In view of the technical nature of the subjects governed by these articles, the Commission expresses the hope that governments will provide clarifications of technical points calculated to simplify its task."