

national Rivers, particularly in the light of the experience of the countries of Asia and Africa and reflecting the high moral and juristic concepts inherent in their own civilizations and legal systems, for the consideration of the Committee at its Eleventh Session. The Committee has directed its Secretariat to assist the Sub-Committee in its task by collecting relevant data in the light of discussions at this Session. The Committee has requested the Member Governments to indicate the points on which they desire the data to be collected and to assist the Secretariat in the collection of the relevant materials.

The topic of 'the Right of Refugees' was taken up at this Session for reconsideration by the Committee. The Committee had finalised its Report on this topic at its Eighth Session held in Bangkok during 1966. Subsequently the Government of Pakistan made a request that some aspects of the final recommendations of the Committee on this topic should be reconsidered by the Committee. This request was supported by the Governments of Iraq, Jordan and others. The matter was accordingly placed before the Committee at this Session. After extensive discussions in the plenary meetings held on the 23rd, 25th, 28th and 29th of January, 1969, the Committee adopted two resolutions, namely X(7) and X(8). By Resolution No. X(7) the Committee recognised the right in international law of the Palestine Arab Refugees and other displaced Arabs to return to their homeland and the duty of the authorities in control to receive them and restore their property; and recommended to the Member States to make every effort to secure to them these rights. The Committee also decided to request the Secretary-General of the United Nations to use his good offices to achieve this end.

By Resolution No. X(8) the Committee recorded its satisfaction on the entry into force of the Protocol relating to the Status of Refugees of 31 January 1967 which has made the provisions of the 1951 U.N. Refugee Convention universally

applicable, directed that the topic be taken up for fuller consideration at the next Session, and requested the Secretariat in the mean time to prepare, in co-operation with the Office of the United Nations High Commissioner for Refugees, a detailed analysis of the proposals made by the Delegations at this Session in the light of the recent developments in the field of refugee law.

Work done by the Committee

During the past twelve years of its existence, the Committee had to concern itself with all the three types of activities referred to in clauses (a), (b) and (c) of Article 3 of its Statutes, namely examination of questions that are under consideration by the International Law Commission; consideration of legal problems referred by Member Governments, and exchange of views and information on legal matters of common concern. The subject on which the Committee has been able to make its recommendations so far include 'Diplomatic Immunities and Privileges', 'State Immunity in Commercial Transactions', 'Extradition', 'Status and Treatment of Aliens', 'Dual or Multiple Nationality', 'Legality of Nuclear Tests', 'Recognition and Enforcement of Foreign Judgments in Matrimonial Matters', 'Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence, both in Civil and Criminal Cases', Questions relating to Free Legal Aid, 'Relief against Double Taxation', certain questions relating to the 1966 Judgment of the International Court of Justice in South West Africa Cases, and the Law of Treaties.

The Committee had also finalised its recommendations on the Rights of Refugees at its Bangkok Session (1966), but at the request of one of its Member Governments the Committee has decided to reconsider the subject in the light of new developments in the field.

Some of the other subjects pending consideration of the Committee at present include the Law of International Rivers,

Diplomatic Protection and State Responsibility, the Law of the High Seas, the Law of the Territorial Seas, the Law of Outer Space, International Transport Law, Revision of the U.N. Charter from the Asian-African Viewpoint, State Succession, Special Missions and 'Relations between States and Inter-Governmental Organisations'.

Studies in Economic Laws

The topics under consideration of the Committee in relation to International Trade and Economics are as follows :

- (1) *Rules of Private International Law or Conflict of Laws relating to Sales and Purchases in Commercial Transactions between States or their Nationals :*

This topic was considered by a Sub-Committee appointed by the Committee at its Fourth Session and the Member Governments had been requested to forward their laws and regulations relating to the topic so as to assist the Committee in formulating certain principles. The International Institute for the Unification of Private Law (UNIDROIT) had suggested that the Committee might consider the two conventions relating to a Uniform Law on International Sale of Goods drawn up at a diplomatic conference at The Hague in April, 1964. The United Nations Commission on International Trade Law (UNCITRAL) has also asked the Committee to consider this subject, and it is expected that the Committee will take up this topic at its Eleventh Session.

- (2) *International Transport Law :*

This topic has been taken up at the suggestion of the UNIDROIT. International Legislation on Shipping, which is a part of this topic, has been placed on the agenda of the Eleventh Session of the Committee for a preliminary exchange of views.

- (3) *Laws and Regulations relating to Commerce and Industry :*

This Committee, at its Third Session, held in 1960, had decided on the suggestion of the Government of India that it would proceed to prepare a Study including a compilation of the Laws and Regulations on 'Commerce and Industry and connected labour problems' in the Asian and African countries. To begin with, the Study was confined to Member Countries of the Committee on the following three topics :

- (i) Foreign Investment Laws and Regulations;
- (ii) Laws and Regulations relating to Control of Import and Export Trade; and
- (iii) Laws and Regulations relating to Control of Industry.

The Secretariat of the Committee has already published in mimeographed form the first two of the above-mentioned studies. The Secretariat has now expanded the scope of these studies by including the laws and regulations of all the Asian and African countries on these topics.

Publications of the Committee

The full reports, including the verbatim record of discussions together with the recommendations of the Committee are made available only to the governments of the Member States of the Committee. The Committee, however, brings out regularly shorter reports on its Sessions for general circulation and sale. So far it has published reports on its First to Ninth Sessions. The Committee has also published five special reports entitled as under :

- (1) *The Legality of Nuclear Tests—Report of the Committee and Background Materials.*
- (2) *Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence, both in Civil and Criminal Cases—Report of the Committee and Background Materials.*

- (3) *The Rights of Refugees—Report of the Committee and Background Materials.*
- (4) *Relief against Double Taxation and Fiscal Evasion—Report of the Committee and Background Materials.*
- (5) *South West Africa Cases—Report of the Committee and Background Materials.*

The Secretariat of the Committee has also prepared and published a compilation of the Constitutions of Asian countries. Its compilation of the Constitutions of African countries is to be published very shortly. The Secretariat has made considerable progress on the preparation of a Digest of important decisions of the municipal courts of Asian and African countries on international legal questions. It is also proposed to bring out in mimeographed form a publication containing digests of treaties and conventions registered with the United Nations Secretariat to which an Asian or African State is a party.

II. DELEGATES OF PARTICIPATING COUNTRIES AND OBSERVERS ATTENDING THE TENTH SESSION

A. Delegations of Member States

BURMA *Not represented.*

CEYLON

Member and Leader of Delegation Hon'ble Mr. H.N.G. Fernando,
Chief Justice of Ceylon.

Alternate Member Mr. V.L.B. Mendis,
Deputy High Commissioner for
Ceylon in India.

Adviser Mr. C.W. Pinto,
Legal Adviser,
Ministry of Defence and External
Affairs.

Adviser Mr. P. Naguleswaram,
Ministry of Justice.

GHANA

Member and Leader of Delegation H.E. Mr. E.K. Dadzie,
Ambassador,
Ministry of External Affairs.

Alternate Member Mr. M.W.K. Vanderpuye,
Director,
Legal and Consular Department,
Ministry of External Affairs.

Adviser Mr. A.E.K. Offori-Atta,
Counsellor,
Ghana High Commission,
New Delhi.

INDIA

Member and Leader of Delegation	Dr. Nagendra Singh, Secretary to the President of India and Member, International Law Commission.
Alternate Member	Dr. S.P. Jagota, Director, Legal and Treaties Division, Ministry of External Affairs.
Adviser	Mr. V.P. Kumar, First Secretary, High Commission of India in Pakistan.
Adviser	Dr. (Mrs.) K. Thakore, Law Officer, Legal and Treaties Division, Ministry of External Affairs.
Adviser	Dr. S.N. Sinha, Law Officer, Legal and Treaties Division, Ministry of External Affairs.

INDONESIA

Member and Leader of Delegation	Miss E.H. Laurens, Chief, Legal and Consular Bureau, Ministry of Foreign Affairs.
Alternate Member	Mr. Sos Wisudha, Counsellor, Embassy of Indonesia, New Delhi.

IRAQ

Member and Leader of Delegation	Mr. Alauddin Aljubouri, Minister, Embassy of Iraq, Islamabad.
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JAPAN

Member and Leader of Delegation	Dr. Kumao Nishimura.
Alternate Member	Mr. Hisashi Cwada, First Secretary, Permanent Mission of Japan to the United Nations.
Adviser	Mr. Hiroyuki Yushita, Legal Affairs Division, Ministry of Foreign Affairs.

JORDAN

Member and Leader of Delegation	Hon'ble Mr. Shukri Al Muhtadi, Legal Adviser to the Prime Minister.
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PAKISTAN

Member and Leader of Delegation	Mr. Syed Sharifuddin Pirzada, Attorney General for Pakistan.
Alternate Member	Mr. Abdul Hakeem Khan, Joint Secretary, Ministry of Law.
Adviser	Mr. M.A. Samad, Legal Adviser, Ministry of Foreign Affairs.
Adviser	Mr. B.M. Abbas, Chief Engineering Adviser, Natural Resources Division.

Adviser	Mr. Manzur Ahmad, Engineering Adviser, Natural Resources Division.
Adviser	Mr. Rafiuddin, Director, Ministry of Foreign Affairs.
Adviser	Mr. Zahid Saeed, Deputy Legal Adviser, Ministry of Foreign Affairs.
Adviser	Mr. Usmani, Kashmir Affairs Division.
Adviser	Mr. Nisar Hassan Khan, Works and Rehabilitation Division.
Adviser	Mr. Aftab Hussain, Advocate.
Adviser	Mr. Jamil Hussain Rizvi, Retd. Judge, High Court of West Pakistan.
Adviser	Mr. Abdul Wadood Malik, Advocate.
Adviser	Mrs. Rashida Patel, Advocate.
Adviser	Mr. Z.A. Villani, Advocate.

SIERRA LEONE

Member and Leader of Delegation	Mr. Albert Metzger, First Parliamentary Counsel, Government of Sierra Leone.
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THAILAND

Member and Leader of Delegation	H.E. Mr. Ari Buphavesa, Ambassador of Thailand in Pakistan.
Alternate Member	Mr. Montri Jalichandra, Ministry of Foreign Affairs.

UNITED ARAB REPUBLIC

Member and Leader of Delegation	Hon'ble Mr. Justice Mohamed Abdulselam, President, High Court of Appeal at Cairo.
Alternate Member	Hon'ble Mr. Justice Sadek Almahdi, Secretary to the Ministry of Law.
Alternate Member	Prof. Gaber Gad Abdul Rahman, Dean, Faculty of Law, Cairo University.
Adviser	Dr. Ahmed Sadek Alkosheri, Assistant Professor of International Law, Cairo University.
Adviser	Mr. Mohammad Said Aldosouki, Counsellor, Treaty Division, Ministry of Foreign Affairs.

SECRETARY TO THE
COMMITTEE

Mr. B. Sen,
Senior Advocate,
Supreme Court of India,
New Delhi.

B. Representatives of Non-Member States Attending as Observers

AFGHANISTAN

Mr. Abdul Kayoum Mansour,
First Secretary,
Royal Afghan Embassy,
Karachi.

CAMBODIA

H.E. Mr. Sarin Chhak,
Ambassador of Cambodia,
Cairo.

CYPRUS

Mr. Elias Ipsarides,
Director of Legal Division,
Ministry of Foreign Affairs.

**DEMOCRATIC REPUBLIC
OF CONGO**

Mr. Sebastien Kini,
Minister-Counsellor,
Embassy of the Democratic Republic
of Congo, New Delhi.

IRAN

Mr. Mohamad Amin Kardane,
Ministry of Foreign Affairs.

KENYA

Mr. F.X. Njenga,
Ministry of Foreign Affairs.

MONGOLIA

Mr. G. Nyamdo,
Ministry of Foreign Affairs.

MOROCCO

H.E. Dr. Mohamed Saadani,
Ambassador of Morocco in Pakistan.

NIGERIA

Mr. J.D. Ogundere,
Acting Deputy Solicitor General
of Nigeria.

PHILIPPINES

Mr. Manual F. Laurente,
Legal Officer, Embassy of the
Philippines, Islamabad.

REPUBLIC OF KOREA

Mr. Kong Chun Choi,
Consul,
Consulate General of the Republic
of Korea, New Delhi.

Mr. Chong Ha Yoo,
Consul,
Consulate General of the Republic
of Korea,
Islamabad.

Mr. Chang Choon Lee,
Treaty Section,
Ministry of Foreign Affairs.

SINGAPORE

Mr. K.S. Rajah,
Attorney General's Chambers,
Government of Singapore.

TURKEY

Dr. Mustafa Asula,
Counsellor,
Turkish Embassy,
Islamabad.

C. Representatives of United Nations Agencies attending as Observers

**INTERNATIONAL
LAW COMMISSION**

H.E. Dr. Abdul Hakim Tabibi,
Member, International Law Commission and Royal Afghan Ambassador to Japan.

**UNITED NATIONS HIGH
COMMISSIONER FOR
REFUGEES**

Dr. E. Jahn,
Deputy Director,
Legal Division.

Mr. Zia Rizvi,
Legal Officer.

D. Representatives of Non-Governmental Organisations attending as Observers

**AMERICAN SOCIETY
OF INTERNATIONAL
LAW**

Professor Myres S. McDougal,
Sterling Professor of Law,
Yale Law School, New Haven,
U.S.A.

I.L.A. OF USSR

Mr. V. Ia Osipov.

**I.L.A. (German
Section)**

Prof. Dr. Guenther Jaenicke,
University of Frankfurt.

III. AGENDA OF THE TENTH SESSION

I. Administrative and Organisational Matters :

1. Adoption of the Agenda.
2. Election of the President and Vice-President.
3. Admission of Observers to the Session.
4. Consideration of the Secretary's Report on Policy and Administrative Questions and the Committee's Programme of Work.
5. Consideration of the Reports of the Committee's Observers to the UN Conference on the Law of Treaties, the Twentieth Session of the International Law Commission, the Second United Nations Conference on Trade and Development, Joint Advisory Group, International Trade Centre UNCTAD/GATT, and the Regional Conference of the International Commission of Jurists.
6. Dates for the Eleventh Session of the Committee to be held in Ghana.

II. Matters arising out of the Work Done by the International Law Commission under Article 3 (a) of the Statutes :

1. *Law of Treaties* : (Review of the work of the Committee of the Whole at the First Session of the United Nations Conference on the Law of Treaties held in Vienna, March—May 1968, in preparation for the Second Session of the Conference)

III. Matters Referred to the Committee by the Governments of the Participating Countries under Article 3 (b) of the Statutes :

1. *Rights of Refugees* : (Reconsideration of the Committee's Report on the Rights of Refugees adopted at the Eighth Session of the Committee in the light of new developments—Subject originally referred by the Government of the United Arab Republic, referred for reconsideration by the Government of Pakistan)
 2. *Law of International Rivers* : (Referred by the Governments of Iraq and Pakistan)
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IV. THE LAW OF INTERNATIONAL
RIVERS

THE LAW OF INTERNATIONAL RIVERS

The subject of the Law of International Rivers has been referred to this Committee for consideration under Article 3(b) of its Statutes by the Governments of Iraq and Pakistan.

The subject was taken up by the Committee for preliminary discussion at its Ninth Session held in New Delhi during December, 1966. At that Session, the Delegates of IRAQ and PAKISTAN made their introductory statements setting forth the points which their Governments wished to be studied by this Committee. The points suggested by the Government of Iraq for the consideration of the Committee are : (i) Definition of the term 'International River' and (ii) Formulation of suitable Rules relating to utilisation of waters of International Rivers by the States concerned for agricultural, industrial and other purposes apart from navigation. The questions suggested by the Government of Pakistan are the uses of waters of international rivers, more particularly the rights of lower riparians. The Government of Pakistan also posed a fundamental question, namely how far the rules developed and practised by the European nations are applicable to the situations arising in the Asian-African region. According to them, the draft principles adopted by the International Law Association and the Institut de Droit International on the Law of International Rivers are not adequate for meeting the needs of the Asian-African region, and, therefore, they stressed the urgent need of developing the Law of International Rivers in a manner which would reflect the Afro-Asian viewpoint. At that Session, the Delegates of Ceylon, India, Indonesia, Japan and the United Arab Republic also made statements indicating their agreement to consider the subject. Thereupon, the Committee directed the Secretariat to prepare a comprehensive brief for consideration at its Tenth Session.

At the Tenth Session held in Karachi, the subject was considered by the Committee at its plenary meetings held on

24th and 25th of January, 1969. Initiating the discussion, the Delegate of Iraq stated that he would like to recommend that a Special Sub-Committee be set up to study the applicability of existing rules governing international waters and to formulate a draft of principles governing the subject. Having regard to the importance of the subject, he felt that it would be better if the task of formulation of draft rules be entrusted to a Sub-Committee rather than to a Special Rapporteur.

The Delegate of Pakistan supported the suggestion for the appointment of an inter-Sessional Sub-Committee. He observed that an International River was an integral part of the people of each State concerned and that the Asian-African States could make these rivers a powerful instrument of mutual advantage, co-operation, and promotion of stability and peace.

The Delegate of Ghana also supported the suggestion for constitution of an inter-Sessional Sub-Committee. In view of the utmost importance of the subject for the mankind, he advised priority to be given to this topic.

The Delegate of India stated that the first point which the Committee had to consider was the form in which the Committee's conclusions should be stated, namely whether in the form of general principles or model rules or even a draft convention; secondly the method that should be adopted for discussion and enunciation of general principles. After referring to the usual practice followed by the Committee in the consideration of the problems referred to it, he stated that the rules to be formulated on the subject must be based on proper sources of law, namely State practice whether in the form of agreements, treaties or customs. He felt that the Committee should take a decision at the outset as to whether the attempt on the part of the Committee would be to crystallise the existing rules on the subject or whether it would attempt to suggest new rules for consideration of Member Governments. He felt

that it would be desirable to do both, but it would be preferable to indicate the two types of rules separately. He suggested that although the Committee should concentrate on State practice in Asia and Africa, it should also take into account the State practice in other areas of the world, the views of experts, and the recommendations of International Organisations, both governmental and non-governmental. Although he would have preferred the Secretariat to prepare a draft of rules or principles for consideration of the Committee at its next Session, he had no objection to the proposal of appointing an inter-Sessional Sub-Committee, provided the Sub-Committee was open to participation by all Member Governments of the Committee and adequate data was made available to it by the Secretariat.

The Delegate of Indonesia stated that the subject deserved a thorough study. She supported the idea of establishment of an inter-Sessional Sub-Committee.

The Delegate of Japan stated that in view of the importance, urgency and complexity of the problem, the Committee should take up this problem and work out some guiding principles which might be used as a basis for bilateral agreements. He favoured the idea of establishment of a Sub-Committee but felt that some clear instructions should be given to the Sub-Committee regarding the manner and scope of its work. He felt that the Helsinki Rules prepared by the International Law Association could be usefully taken as a basis for discussion in the Sub-Committee, but as these rules were too general in character, it would be upto the Committee to make them more concrete by framing detailed rules.

The Delegate of Jordan stated that what was a source of anticipated fear to other Asian and African countries, had already taken place in the occupied Palestine where the Israeli authorities were in control. He referred to the diversion of the major tributaries of the Holy Jordan River. He said