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- Alternate Member Dr. S.P. Jagota,  
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- Adviser Mr. R. G. Rajan,  
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- Adviser Mr. Katsuhisa Uchida,  
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- Alternate Member Mr. L. C. Vohrah,  
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(Leader of Delegation) Hon'ble Sharifuddin Pirzada,  
Attorney-General for Pakistan.
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- Adviser Mr. Haroon Al Rashid,  
Deputy Legal Adviser,  
Ministry of Foreign Affairs.



**PHILIPPINES**

Member

(Leader of Delegation)

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Member

(Leader of Delegation)

Hon'ble Mr. J. E. Mahoney,  
Attorney-General for Sierra  
Leone.**SYRIA***Not Represented.***THAILAND**

Member

(Leader of Delegation)

Mr. Nissai Vejjajiva,  
Charge d'Affaires,  
Thai Embassy in Colombo.**UNITED ARAB REPUBLIC**

Member

(Leader of Delegation)

H.E. Mr. Hassan Fahmy  
Al Badawy,  
Minister for Justice.

Alternate Member

Mr. Justice Al Sadek Almahdi,  
Chief Justice of the High Court.

Adviser

Mr. Omar Hafez Cherif,  
Counsellor in High Court.

Adviser

Dr. Asmat Hammam,  
Counsellor in Foreign Office.

Adviser

Mr. Saad Zagloul Maher,  
Chief, Prosecuting Office.**B. Representatives of Associate Member States :****REPUBLIC OF KOREA**

Associate Member

H. E. Dr. Woonsang Choi,  
Ambassador, Consul-General of  
the Republic of Korea in India.

Alternate

Mr. Tae Zhee Kim,  
Chief of Treaty Section,  
Bureau of International Relations,  
Ministry of Foreign Affairs.

Adviser

Mr. Sun Sup Chang,  
South-East Asian Section I,  
Bureau of Asian Affairs,  
Ministry of Foreign Affairs.

Adviser

Mr. Suk Woo Kim,  
Vice-Consul, Consulate-General  
of the Republic of Korea,  
New Delhi.**C. Representatives of non-Member Asian-African States  
attending as Observers :****LIBYAN ARAB  
REPUBLIC**Mr. Ali Al-Ghandanis,  
Charge d'Affairs,  
Embassy of Libya in Pakistan.**TURKEY**Mr. Akin Emregul,  
First Secretary, Turkish  
Embassy, New Delhi.**MAURITIUS**Mr. L. Venchard,  
Solicitor-General, Ministry of  
Justice.**SAUDI ARABIA**Mr. Zain A. Dabbagh,  
Minister Charge d'Affaires,  
Embassy of Saudi Arabia,  
Taipeh.

## SINGAPORE

Mr. Michael Khoo Kah Lip,  
State Counsel and Deputy Public  
Prosecutor, Attorney-General's  
Chambers.

## TANZANIA

Mr. Justice Seaton,  
Judge of the High Court of  
Tanzania.

**D. Representatives of United Nations Agencies attending  
as Observers :**

INTERNATIONAL LAW COMMISSION H. E. Dr. T. O. Elias,  
Chairman, International Law  
Commission.

UNITED NATIONS COMMISSION ON  
INTERNATIONAL TRADE LAW  
(UNCITRAL) Prof. John Honnold,  
Chief, International Trade Law  
Branch, Office of Legal Affairs.

**E. Representatives of Inter-Governmental Organisations  
attending as Observers :**

INTERNATIONAL INSTITUTE FOR THE  
UNIFICATION OF PRIVATE LAW Mr. Mario Matteucci,  
Secretary-General.

PERMANENT SOUTH PACIFIC COMMISSION Dr. Jaime-Cocho Sousa,  
Under Secretary (Legal).

**F. Representatives of Non-Governmental Organisations  
attending as Observers :**

AMERICAN SOCIETY OF INTERNATIONAL  
LAW Mr. John Lawrence Hargrove,  
Director.

INTERNATIONAL LAW  
ASSOCIATION  
(GERMAN SECTION)

Professor Gunther Jaenicke,  
President,  
German Society of International  
Law.

**G. Representatives of States outside the Asian-African  
Region attending the Session to Explain their  
View-Point on the Law of the Sea.**

## ARGENTINA

H. E. Mr. Ernesto De La  
Guardia,  
Deputy Representative of  
Argentina to the United  
Nations.

## BRAZIL

H. E. Mr. Wladimir Murinho,  
Ambassador of Brazil to India  
and Ceylon.

## ECUADOR

Mr. Ledo Jose Ayala-Lasso,  
Counsellor of the Embassy of  
Ecuador to Italy.

## PERU

H. E. Mr. Alfonso Arias  
Schreiber,  
Director of Sovereignty and  
Frontiers, Ministry of External  
Affairs.

UNITED STATES OF  
AMERICA

Mr. Berhanard H. Oxman,  
Assistant Legal Adviser for  
Ocean Affairs,  
Department of State, and  
Chairman, Inter-Agency Drafting  
Committee on Seabeds.  
Dr. Vincent McKelvey,  
Senior Research Geologist,  
U. S. Geological Survey,  
Department of Interior.



### III. AGENDA OF THE TWELFTH SESSION

#### I. Administrative and Organisational Matters :—

1. Adoption of the Agenda.
2. Election of the President and Vice-President.
3. Admission of new Members and Observers to the Session.
4. Consideration of the Secretary's Report on Policy and Administrative Matters and the Committee's Programme of Work.
5. Dates and place for the Thirteenth Session of the Committee.

#### II. Matters referred to the Committee by the Governments of the Participating Countries under Article 3 (b) of the Statutes :—

1. *Law of the Sea including Questions relating to Sea-Bed and Ocean Floor* (Referred by the Government of Indonesia).
2. *Law of International Rivers* (Referred by the Governments of Iraq and Pakistan).

#### III. Matters taken up by the Committee under Article 3 (c) of the Statutes :—

1. *International Sale of Goods* (Taken up by the Committee at the suggestion of the Governments of India and Ghana).

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1. Priority item.

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### IV. LAW OF INTERNATIONAL RIVERS

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Euphrates and their tributaries are the principal sources of surface run-off in Iraq. They are both international rivers in the sense that they originate in Turkey and pass down through Syria and Iraq having the longest course of their channels in the latter country.

There are also twenty-four common rivers that originate in Iran and flow down to the Iraqi territory which range in their yearly run-off from about half a billion cubic metres per annum to 24 billion cubic metres per annum. The international document that refers to the joint utilization of the waters of the Tigris and Euphrates between Syria and Iraq is the treaty concluded between England and France as mandatory powers over Syria and Iraq signed on the 23rd December, 1923, which states the following :

"The British and French Governments shall come to an agreement regarding the nomination of a commission whose duty it will be to make a preliminary examination of any plan of irrigation formed by the government of the French mandatory territory, the execution of which would be of a nature as to diminish in any considerable degree the waters of the Tigris and Euphrates at the point where they enter the area of the British mandate in Mesopotamia".

Another international document concerning the joint utilization of the waters of Tigris and Euphrates among Turkey, Syria and Iraq is Article 109 of the Lauzan Agreement concluded between Turkey and the Governments of the Allied Forces on 24th of July, 1923 which states the following :

"In default of any provisions to the contrary when as a result of the fixing of a new frontier the hydraulic system, canalization, inundation, irrigation, drainage and similar matters in a State are depending on works executed within the territory of another State or when usage is made on the

territory of a State in virtue of pre-War usage of water or hydraulic power the source of which is on the territory of the other State, an agreement shall be made between the States concerned to safeguard the interests and rights acquired by each of them".

Regarding the joint utilization of the common rivers between Iran and Iraq, the international document that regulates the utilization of those waters is contained in the book entitled "*Collection of the Minutes of the Meetings of the Ottoman-Persian Commission entrusted with the delimitation of the frontiers between Iraq and Iran in 1913-1914*" in addition to the local agreement between the inhabitants on the two sides of the frontier based on old local water use practice.

In 1945 an agreement of friendship and good neighbourhood was concluded between Turkey and Iraq. A protocol attached to this treaty implied the exchange of hydrological data and to give a prior notice before undertaking any project and other related matters.

Mr. President, it is the opinion of the Iraqi delegation—based on the principles of international law—that each river is a material indivisible entity from its source to its estuary and that such river must be utilized for the welfare of all the human communities living in its basin.

The Iraqi delegation disagrees entirely with the old theory of complete sovereignty of a State over that part of the international river that passes through its territory. That theory which had few supporters in the medieval ages is presently totally rejected by the authorities on international law, both in theory and practice, as evidenced by all the concluded agreements on the joint utilization of international rivers and decisions of tribunals. Oppenheim states the following :

"The flow of international rivers cannot be submitted to the arbitrary control of any State



through which it passes, because there is a definite international rule that prohibits the State to make the changes in the natural conditions of its territory that will cause harmful effects in the natural conditions of a neighbouring State".

The State is, therefore, according to Oppenheim, prohibited from stopping or changing the course of an international river but is also prohibited to use the water in a manner that causes danger to the interest of the neighbouring State or prevents the neighbouring State from making an appropriate usage of the water of that portion of the river that passes through its territory.

The International Law Association in its report on the Fifty-Second Conference in Helsinki in 1966 follows more or less the same line of thinking.

Mr. President, the aim of the Iraqi delegation in requesting to put the subject of international rivers on the agenda of the esteemed Committee is to make use of the abilities of the distinguished Members of the Committee in setting the general principles and rules in accordance with international law and the internationally accepted practice for the joint utilization of international rivers for the just benefit of all parties concerned. That is why a draft for a joint Pakistani-Iraqi proposal concerning the joint use of international rivers was put forward before the Committee in Accra. The internationally accepted principles and rules in theory and practice were incorporated in the said draft proposal. The draft proposal was framed with the spirit of absolute and complete neutrality.

Since the subject is certainly of vital concern to many Members in the Asian-African Group which are bound together by the ties of neighbourhood and the desire to advance as a group the development of their economic resources and the raising of the living standards of their people, I trust the Pakistani-Iraqi proposal will be looked upon favourably

by the esteemed Members who are most qualified in the opinion of our delegation to set the general rules and principles for the joint exploitation of international rivers for the benefit of all countries of the group. The humanitarian and ethical considerations dictate upon us as a group to crystallize definite general rules and principles for guiding our countries in solving their disputes concerning the joint use of international rivers.

Finally, may I thank you for giving me this opportunity to speak.

#### PAKISTAN :

Mr. President, distinguished Delegates and Observers : May I congratulate you upon your election as President of the current session.

It will be recalled that it was in the year 1967 at the Ninth Session of this Committee, that the Governments of Iraq and Pakistan suggested, under Article 3(b) of the Statutes of this Committee, that the Committee should take up for consideration the Law of International Rivers. The Committee accepted the requests of the two Governments and in its resolution No. IX(16) decided to consider the question of international rivers, and directed the Secretariat to collect the relevant materials on the issues indicated in the statements made by the delegations.

At the Tenth Session in 1969 the subject came up for discussion. Detailed statements were made : very informative and instructive exchange of views took place and after considering all the views expressed by delegations, a resolution X(6) was adopted which decided that a Sub-Committee be formed to give a detailed consideration to the aforesaid subject. The Sub-Committee met in New Delhi from the 15th December to 20th December, 1969. A start was made in the task of preparation of draft articles on the Law of International Rivers in the light of experience of the