countries of Asia and Africa. However, as the discussions were not conclusive, the Sub-Committee agreed that all matters referred to it would be discussed further at the Eleventh Session in Accra. At the Accra Session, Iraq and Pakistan made a joint proposal which was formally presented to the Committee. The Indian Delegation proposed that Helsinki Rules should be taken as a basic proposal and formally presented Articles I to VIII only of those Rules as its proposal. It will be recalled that after some discussion, the Committee decided that at its Twelfth Session, both the proposals would be taken up for consideration article by article.

Pursuant to the aforesaid decision, Mr. President, my delegation proposes that the Committee should take up consideration of the two proposals, article by article, in order to arrive at the formulation of a text of the law governing the uses of international rivers acceptable to the Committee. A Sub-Committee may be set up now by this Committee to deal with this subject.

The question has assumed greater urgency since the adoption by the U.N. General Assembly at its 25th Session of the Finnish sponsored resolution requiring the International Law Commission to take up for study and codification the law governing the non-navigational uses of international watercourses, during which study the International Law Commission will also take note of the work done in this field by non-governmental as well as inter-governmental bodies, such as the Asian-African Legal Consultative Committee. Hence this Committee should be ready with its formulation of the Law of International Rivers in the context of Asian-African needs and experience, so that the International Law Commission may take note of it in its aforesaid task.

Finally, Mr. President, the articles on the Law of International Rivers, must stress the principle of equitable apportionment of waters between the upper and lower riparians,

besides the right to indemnification or compensation if harm is caused to the lower riparian by any denial of its share of the waters of an international river.

Accordingly, Mr. President, my delegation proposes that in case the work of the Sub-Committee is not completed during the current session, an inter-sessional Sub-Committee be appointed to conclude the work and report at the next session of the Committee. The Sub-Committee may be composed of the representatives of Ceylon, India, Iraq, Nigeria, Pakistan and the U.A.R.

I shall speak again, if found necessary, on this subject. Thank you, Sir.

INDIA :

Mr. President and distinguished delegates :

As you are aware, the subject of the Law of International Rivers was introduced at the New Delhi session of the Committee in December 1967 by the representatives of Pakistan and Iraq under Articles 3(b) of the Statutes of the Committee. A brief discussion took place at the Karachi session in January 1969 and a further discussion about the procedural aspects took place at the inter-sessional meeting in New Delhi during December 1969. This Sub-Committee had before it the Brief of Documents prepared by the Committee's Secretariat and the following three proposals : (1) a set of draft principles proposed by the delegation of Iraq ; (2) a set of draft articles proposed by the delegation of Pakistan ; and (3) a proposal by the delegation of Japan that the starting point for the Committee should be the Helsinki Rules prepared by the International Law Association in 1966.

At New Delhi in December 1969, the Indian delegate supported the Japanese proposal. Since the discussions were inconclusive, it was agreed that the matter should be discussed further at the Eleventh Session of the Committee at

Accra in January 1970.

At the Accra session there were lengthy discussions both in the Committee, and the Sub-Committee constituted for the purpose, regarding the procedures to be followed for making progress in the matter. It was clear that the subject-matter was complex and most of the States represented in this Committee were riparian States who were anxious to safeguard their interests, of course, on a rational and equitable basis.

There were three alternatives open to the Committee, namely, (i) to proceed on an independent research into the multitude of treaties and the variety of State practice in the world, with a view to ascertaining the general principles and rules of existing law with particular reference to the Asian-African experience; (ii) to proceed on the basis of the work already done by international bodies in this behalf, and (iii) to start our work on the basis of ready-made *a priori* propositions or hypotheses by following a deductive approach. The Indian view was that the second alternative provided a reasonable basis for making speedy progress. Such an approach would enable the Committee to benefit from the extensive work done by eminent experts over a period of time. The Committee would also start from neutral propositions based on a world-wide experience, rather than from propositions based on limited experience or special interests. It was on this basis that the Indian delegation proposed that the Committee may start its work by examining the Helsinki Rules which were evolved by the International Law Association, an eminent non-governmental body of experts, in 1966, after an assiduous study extending to 12 years, *i.e.* from 1954 to 1966. This approach was, however, not acceptable to the delegations of Pakistan and Iraq, who had tabled their own drafts.

At the Eleventh Session in Accra, Iraq and Pakistan abandoned their individual drafts and tabled a joint draft.

It was agreed at Accra that the joint proposal made by Iraq and Pakistan and the proposal made by the delegation of India should be circulated among Member Governments and their comments invited and that these proposals, together with the comments received, should be taken up for consideration at the present session.

In the meanwhile, as the distinguished Members of the Committee are aware, the United Nations General Assembly has at its recent session requested the International Law Commission to take up the study of the Law of International Water Courses.

While resuming our work on this subject, I should like to make a few general observations for the consideration of the Committee. Rivers and river waters are a delicate subject. Water is a resource which will increasingly be in greater demand. With the growth in population and with economic development, water is going to be scarce. The economists, planners, engineers, hydrologists and lawyers should address themselves to the question as to how to facilitate the use of water for the maximum development of all concerned. Any water of interest to more than one State has to be utilised on a rational and equitable basis. How this reconciliation of the interests involved should take place in individual cases would, it is realised, depend upon the facts of each river, the river system or the river basin. Although there are numerous agreements on the subject all over the world, it is true that there is as yet no settled uniformly applicable general international law or State practice on this subject. The Law of Intenational Rivers, or the rules or principles regarding the uses of waters of international water courses, whatever you call them, are not a part of *jus cogens*. There is no general convention on this subject of international rivers or river basins barring the Barcelona Convention of 1921 on Navigational Waterways which, as is well-known, is limited in its membership. There is no settled international custom either.

Hence the initial attempts of the parties in any concrete case are always directed to a reconciliation of their interests in a fair and reasonable manner by concluding bilateral or multilateral agreements, depending upon the facts of each case and in the interests of the parties involved. If no agreement is reached, the parties seek to support their positions by arguments based on *a priori* propositions or analogies. The first essential, therefore, is to build up a body of positive law on the subject. This involves sifting of the principles of general application embodied in the treaties or agreements on the subject, as well as in State practice.

The value and authority of the product of our work will depend upon the fairness of the propositions and the acceptance they receive from our Governments and from the international community of States as a whole. For this purpose it is necessary that these propositions should be based on the widest experience rather than on a limited experience, and that our approach is inductive rather than deductive. Judge Elias, Chairman of the International Law Commission, the other day referred to the method that the International Law Commission adopts in its study of a subject (he was referring to the subject of State Responsibility), namely, that each proposition or draft article should be supported by reference to State practice or doctrine from which it is derived. We should follow a similar approach in our work. Our work should be as systematic as we can make it. Let us build up rules or propositions bit by bit. Let us for the present concentrate on general uses of the waters, leaving out for the moment questions relating to navigation, timber floating, pollution etc. Whatever propositions we develop should be subject to agreements or treaties or binding custom already in force or recognised.

Our work should be progressive. We should take note of, and make use of, the latest development in the thought on the subject. A number of international organisations and learned

institutions, such as the Economic and Social Council of the United Nations, the International Law Association, and the Institute of International Law, have already devoted a lot of their time and effort to develop expertise on this subject. Economists, planners, engineers and water experts have developed concepts of river management, development and utilisation. They have all recommended the adoption of a progressive approach for the utilisation of the waters of a drainage basin as a whole, rather than the waters of rivers, tributaries and lakes, taken separately. This approach has been evolved to promote co-operation, to avoid conflicts and disputes, and to bring about the optimum utilisation and rapid economic development on a rational and equitable basis, that is, by ensuring to every interested country an equitable share in the waters of the drainage basin. In our work, we should not ignore these developments and go back to the traditional thinking of twenty years ago. We will dwell on the technical and legal aspects of this subject at length in our further deliberations.

Finally, Mr. President, our approach to the study of every subject of common interest in this Committee should be the same in all cases and not discriminatory. I need hardly mention that we are a Consultative Committee of Members. We are appointed by Governments, but we are not plenipotentiaries. Nor do we have a mandate to draft treaties or conventions. The product of our work, after mutual exchange of views, can at best have the status of principles for the consideration of our Governments. The value and validity of these rules, as I stated earlier, will depend upon their contents, their fairness, and their general acceptability to our Governments and to the international community of States as well. In this endeavour, Mr. President, we offer the fullest co-operation of the Indian delegation. Thank you, Mr. President.

CEYLON :

Many important rivers do not pay homage to man-made political boundaries. Such rivers are, naturally, of international interest. International rivers flowing between or traversing several States have been increasing in importance with the passage of time. In the days of Hugo Grotius there had already arisen a need for the international community to take an interest in the regulation of their use and since then attempts have been made from time to time to evolve principles which satisfactorily define the rights of co-riparian States. At first, the principal concern of States revolved around the question of navigation in international rivers. The world, however, is now even more concerned with non-navigational uses and utilisation of such waters. The international community is now also anxious to progressively develop and codify the law relating to international rivers in so far as it is concerned with such uses as domestic purposes, irrigation of land, stock-watering, and the production of hydro-electric and atomic power. Despite the great number of bilateral treaties, regional resolutions and conventions, the use of international rivers and lakes is still based in part on general principles and rules of customary law.

The panel of United Nations experts concerned with the development of river basins has observed that the "lack of accepted international law on the uses of international streams presents a major obstacle in the settlement of differences, with the result that progress and development is often held up for years to the detriment not only of the countries concerned but of the economy of the world in general". Therefore, although countries like Ceylon have no international rivers, yet it is a subject which we ought to consider to be one of prime importance.

About eight centuries ago, a great King of Sri Lanka, Parakarama Banu, is quoted in an ancient Sinha Chronicle,

the *Chulavansa*, as saying that "not even a little water that comes from the rain must flow into the ocean without being useful to man". Owing to the growth of population and the increasing and multiplying needs and demands of mankind, the preservation, protection and optimum utilization of the limited available fresh water resources is of paramount importance. Dr. Walter Lowdermilk, a United Nations expert, has pointed out that the present water supplies in the world are either inadequate or will become so in the proximate future. Our very survival, perhaps, depends, therefore, on the satisfactory development and codification of the Law of International Water Courses.

Attempts have been made in the past to set out the principles which should guide States in the matter of using the waters of international rivers for navigational and non-navigational uses. For instance, one recalls the Madrid Declaration by the Institute of International Law in 1911. In 1921 there was the Barcelona Convention on the Regime of Navigable Waterways of International Concern, followed in 1923 by the Geneva Convention relating to the development of hydraulic power. In 1956 we had the Dubrovnik Resolutions of the International Law Association followed by the Association's New York Resolutions in 1958 and its Hamburg recommendations two years later. Meanwhile, the subject had also been engaging the attention of the Inter-American Bar Association which at its Tenth Session at Buenos Aires set out certain proposals regarding the use of rivers and lakes. The Institute of International Law, in 1961, at its session at Salzburg adopted further resolutions recommending the adoption of other articles. In 1965, the Inter-American Council of Jurists considered a draft convention presented by the Inter-American Juridical Committee on the subject of Industrial and Agricultural Uses of International Rivers and Lakes. In 1966 at Helsinki, the International Law Association at its fifty-second conference, set out certain principles in the form of several articles and in the following

year Pakistan and Iraq brought the subject up to the Asian-African Legal Consultative Committee for discussion. Pakistan and Iraq later submitted a joint draft containing several proposals. Due to certain procedural difficulties, however, this Committee was unable to consider either the Pakistan-Iraq draft or the Helsinki proposals.

By a *note verbale* dated 24th April, 1970 Finland requested the inclusion in the agenda of the 25th Session of the General Assembly of the United Nations an item entitled "Progressive Development and Codification of the Rules of International Law relating to International Watercourses". At its 1843rd plenary meeting on the 18th of September, 1970, the General Assembly decided to place the item on the agenda and allocated it to the Sixth Committee. In December 1970, the General Assembly decided to place the item on the agenda and allocated it to the Sixth Committee. In December 1970, the Sixth Committee recalled its resolution 1401 (XIV) of 21st November, 1959 by which it considered that it was desirable to initiate preliminary studies on the subject. While observing that as a result of that resolution useful legal material had been collected in the report prepared by the Secretary-General (A/5409 of 15th April 1968) and noting that measures had been taken and valuable work carried out by several international organs, both governmental and non-governmental, in order to further the development and codification of the Law of International Watercourses, the Sixth Committee requested the Secretary-General to continue the study initiated by the General Assembly in 1959 and to prepare a supplementary report on the legal problems relating to the utilisation and use of such waters. The recent application in State practice and international adjudication of the Law of International Watercourses and also inter-governmental and non-governmental studies of this matter were to be considered. It further requested the Secretary-General to forward to the International Law Commission the records

of the discussion of the item at the 25th Session of the General Assembly, the report prepared by the Secretary-General in 1963 pursuant to the General Assembly Resolution of 1959, as well as other documentation necessary for the Commission's work.

My Government is now engaged in a careful study of the law and practice relating to the subject of International Watercourses with special reference to the Afro-Asian community. In the circumtances, my Government does not wish it to be understood that what we shall say during this conference represents its final views. It reserves the right to make such a pronouncement if and when necessary at a later date after due consideration has been given to the views which other countries, particularly Afro-Asian countries, might express at this meeting and elsewhere. Subject to this important qualification, however, my delegation would like to make the following observations :

It appears to us that States can no longer properly ignore the fact that an international river has multifarious uses. Combined with the fact that the optimum use ought to be made of the available water resources, it is difficult to resist the conclusion that the subject of international rivers, in so far as it relates to non-navigational uses, ought, perhaps, also to include a discussion of the drainage basin.

With regard to the use of the water of an international river, my Government at present is of the opinion that every basin State in an international drainage basin ought, generally, to be regarded as being entitled to a fair, reasonable and equitable share in the use of such waters. It is difficult for us to believe that the Harmone Doctrine, according to which a State has the absolute and unqualified right to do whatever it wills with the water flowing through its land, would find many supporters, if any, in the world today.

What is fair, reasonable and equitable cannot be determined except by reference to the circumstances of each case.

This would include various factors. For instance, the extent of the drainage area in the territory of the basin State and other geographical factors would be relevant. The hydrology of the basin, including the contribution of water by each basin State, climatic factors, economic and social needs, demographic consideration, the availability of compensating one or more of the co-basin States as an acceptable means of adjusting conflicting uses, are some of the matters which might deserve attention.

Regard also may have to be paid to the past utilization of the basin.

The emphasis has now shifted from navigation to other uses and it may, therefore, be difficult to support any firm rule that a use or category of use is entitled to preference over any other use or category, except, perhaps, where preference is claimed on the ground that it supports life.

There are some States which have claimed that every State whose territory lies within an international drainage basin ought to be assured the use of the waters by reservation even where such waters cannot presently be utilised. It seems to my delegation that supporting this view might result in a waste of the limited water resources which are now available. My delegation believes that a basin State ought not to be denied the presesent reasonable use of the waters of an international drainage basin merely to reserve a right for a co-basin State to use the waters of that river. When a State has the need for the water, it should be entitled to use it without being prejudiced in any way by the fact that some other State had already commenced using it earlier. The fact that it had not itself used the water earlier ought not *per se* to be construed as an abandonment of its rights. On the other hand, the fact that a co-riparian State has already been using it ought not to give it a right which excludes the fair, reasonable and equitable use of the river by the State which started using the water only later on.

In the common law of our country, which is the Roman-Dutch Law, we have a very well-known basic rule relating to the law of property namely, *sic utere tuo ut alienum non laedas*. That is to say, a person must not use his own property so as to cause injury to another. This is also a rule which might profitably be borrowed by the international community. In fact, in the *Corfu Channel Case*, the International Court of Justice reminded States that it was their obligation "not to interfere with the rights of other States".

It follows from this rule that the waters of a river flowing through the territory of a State ought to be so used as to prevent pollution. The pollution of watercourses is a matter of very grave importance, for on several occasions, international bodies like the World Health Organisation have reported that the fouling of water in various ways such as by discharging municipal sewage and industrial waste or organic matters originating from domestic and industrial wastes, inorganic salts originating from industry, bacteria and other organisms, toxic substances, mineral oils and in a special way radio-active wastes endangers life. Reference may be made in this connection to the report of the World Health Organization on the subject of International Standard for Drinking Water in 1958. Where pollution is inevitable, there is a duty at least to ensure that no substantial injury would de caused to other co-basin States. Perhaps, it may not be unreasonable to require States to ensure that precautions will be taken to abate pollution to such a degree at least as would eliminate danger to human life. The need to eliminate pollution which is harmful to life is specially important when we realise that the consequences of pollution might affect not only co-riparian States, but also others. This was illustrated by Dr. T. Voelaar who pointed out that if a cow drinks contaminated water and produces milk which may be exported to a distant country, consumers far away might be harmfully affected.

I have already stated, Mr. President, that my delegation favours the principle of equitable utilisation. This would include the right to navigation for the purpose of communication or transportation. We would like to include in this principle the right for vessels to enter ports and to make use of planks and docks and to load and unload goods and passengers. These are rights which have been recognised by the International Court of Justice in such cases as *River Oder Case* and the *Oscar Chinn Case*. Its advisory opinion concerning the jurisdiction of the European Commission of the Danube also supports the view that freedom of navigation, as far as the business aspect or fluvial transport is concerned, includes freedom of commerce.

The right of navigation is subject to the fundamental right enunciated earlier that the use of a river must be fair, equitable and reasonable. For instance, the State using the river should not cause obstruction to navigation. On the other hand, it is fair and reasonable that it should help to remove obstructions, if any, and dredge the river, if required, to preserve its navigability, at any rate if it can afford to do so.

Finally, we should like to refer to the question of disagreements, differences of opinion and disputes between basin States and other States. In this connection there is an obligation imposed on the States by Article 33 of the United Nations Charter to attempt to find a solution by negotiation, before the invocation of the adjudicatory power of third parties. We recall that the Commission in connection with the dispute between Sind and Punjab concerning the waters of the Indus River Basin said, "The most satisfactory settlement of disputes of this kind is by agreement, the parties adopting the same technical solution of each problem as if they were a single unified community undivided by political or administrative frontier".

In this connection it may be observed that where information, particularly hydrological, meteorological, economic

and demographic data, is relevant, and can be obtained without unreasonable expense and trouble, the States concerned ought to exchange it between themselves, for if the experience of the past is worth anything, most disputes relating to international rivers can be solved once the facts are clearly understood. If the disputes are legal, it may be desirable that they be submitted to a Commission of Inquiry or to an *ad hoc* Conciliation Committee or tribunal or to the International Court of Justice. In this connection the Model Rules for the Constitution of the Conciliation Commision for the Settlement of Disputes proposed by the International Law Association deserve the most careful consideration.

JAPAN :

Mr. President, coming from a country which has no international rivers, I shall be very brief. From the beginning of this discussion we have felt that there are no well established rules of international law on the uses of international rivers for navigational purposes or on the international watercourses. In view of consultative character of our Committee, the Committee should approach this problem not with a view to drafting an agreement or a convention, but with a view to drafting a set of general principles which may serve in future negotiations to conclude bilateral or multilateral arrangements.

We are convinced that this subject is more suitably resolved on the basis of bilateral and multilateral arrangements because of the different circumstances and practices surrounding a particular river. This point of view we would like to maintain, and I hope that our Committee would continue its work on the subject in that way.

On the other hand, as the previous speaker pointed out, the General Assembly of the United Nations at its last session has framed a resolution on this subject asking for a study of the subject by the International Law Commission. In

these circumstances. I think our Committee has plenty of time to proceed in its work as the study by the International Law Commission proceeds.

My attention was drawn to the communication which the Government of Pakistan has sent to the Secretariat in August, 1970 in which the Pakistan Government after a careful and critical comparison of the Indian proposal and the Iraqi-Pakistani joint proposal, concludes that there is no insurmountable discrepancy between these two proposals and suggests that a harmonization of the two proposals should be sought. The official communication of the Pakistani Government has much encouraged us. In case our Committee adopts the proposal just made by the distinguished delegate from Pakistan, that is, if we decide to constitute a Sub-Committee, I do hope that this Sub-Committee will take into due consideration the communication of August last of the Pakistani Government on these two proposals, on which we could decide to begin discussions in the present session.

IRAQ :

In view of the complexity of this subject it seems to me that we are not going to arrive at a resolution at our present meeting. Therefore, I second the proposal of the delegate of Pakistan to form a Sub-Committee to go into the problem of international rivers in detail.

PRESIDENT :

That was our intention, but we would like any other delegation that wishes to make a statement to do so. May I take it that no other delegation as such has any statement to make at this stage ? As there is no other delegation wishing to speak now, may I ask the Secretary-General of the International Institute for the Unification of Private Law who is present here to kindly make a statement.

International Institute for the Unification of Private Law :

Mr. President, may I be allowed, firstly, to thank you

for the invitation to the International Institute for the Unification of Private Law to take part in this very interesting meeting of the Asian-African Legal Consultative Committee, and secondly, may I congratulate you on your election as President of this body.

My short intervention is not determined by my intention of taking part in the discussion concerning the problems in regard to the law of international rivers. The distinguished delegates who have intervened in this discussion have put the accent on the non-navigational uses of international rivers, and particularly the joint exploitation of international rivers by the coastal States. I am not qualified to express any opinion on this matter, as I speak not as an expert but as a man in the street.

I was wondering whether it would not be more prudent and advisable to put aside any question regarding a declaration of principles or a declaration of rights as these declarations of rights are very difficult to elaborate and more difficult to respect. I wonder whether it would not be a pragmatic procedure by creating for each international river, under an agreement between the coastal States, a body or a commission, entrusted with the supervision of the river. It would be possible in the beginning to give a limited power to this commission, but once the organ has been created, it will be easier, little by little, to develop and create regulations. So, I am wondering whether it would not be better not to insist on the problem of having a general declaration of rights which cannot be, perhaps, appropriate for each international river, but begin by a more simple and pragmatic procedure by creating commissions as they exist already regarding the Rhine and the Danube. They exist of course in very, very old treaties like the Treaty of Vienna for the river Rhine.

I think, the first task is the creation of an organisation, and this is not difficult if the coastal States agree on the

creation of a commission with a limited jurisdiction in the beginning. The other developments will come afterwards through the experience of these commissions. Excuse me if I have dared to intervene in this matter, one which is completely outside my competence.

I wish only to call your attention to another aspect of the Law of International Rivers, that is, the private law aspect. The Economic Commission in Europe of the United Nations, since 20 years, is working very actively, and my organization has given very fruitful help to this Commission in regulating by uniform rules all matters arising from navigation on international rivers, particularly the Rhine and the Danube.

First of all comes the problem of the contract of carriage, bills of lading, which is a problem very similar to the problem of maritime law. When a contract is made on an inland waterway, and it begins in one country and ends in another, there may be a conflict of laws in case of litigation. To avoid conflicts of laws the best way is to evolve a uniform regulation. So, a convention has just been made and is under examination by the Economic Commission of Europe, concerning Bills of Lading relating to Navigation on International Rivers.

There is also the problem of the limitation of liability of boat owners. No two cases have the same criteria of limitation. So also in these fields it will be useful to have a uniform regulation.

There are also problems concerning creditors of boat owners, rise in rent of boat owners, the transportation of passengers and various other problem regarding boats engaged in river navigation.

Regarding all these services draft conventions and conventions have been prepared and examined by our Institute and delivered to the Economic Commission of Europe, which is studying these matters.

So, I am asking whether these matters could not be taken into consideration also by the Asian and African Economic Commissions of the United Nations. If your Committees, with the high authority it has in these two continents, would suggest to your United Nations Commissions to follow the example of the European Commission of the United Nations, their sister Commission. I think something useful may result from the initiative.

I am not sufficiently informed to know through statistics whether the traffic on the international rivers of Asia and Africa is comparable to the traffic on the Rhine and the Danube. Perhaps the situation is quite different. But in any case, they are problems which have a say in these continents.

This is the subject of my intervention. I do not suggest that you invite a direct study on this matter, but I thought that I should draw the attention of the two Economic Commissions in Asia and Africa to these problems, and cite as precedents the work that has been followed by the European Commission of the United Nations.

PRESIDENT :

Thank you, Sir, for your very valuable contribution. I am sure the suggestions you have made will receive the serious consideration at the hands of our delegates during these discussions.

I would now call upon the Chairman of the International Law Commission to make a short statement on this subject.

Chairman, International Law Commission :

Mr. President, I did not wish to make an intervention during the discussion of this subject, but the last speaker has made a suggestion which I consider to be very valuable and in respect of which I thought I should say one or two words in support. The precedents which the last speaker cited

could not be regarded as entirely new to Africa because the nine States which are concerned with River Niger, as early as 1961 enlisted the support of the United Nations and of the Dutch Company to carry out a survey of the whole length of the River Niger and to make suggestions as to the possibility of exploiting the flora and fauna and the mineral resources of River Niger. As a result three international conferences were held at which the nine States were represented by plenipotentiaries, and in three succesive years we met and hammered out the text of a Statute to which we attached a Convention. The Convention spells out the details of how to use the waters of the River Niger, and the rights of the respective owners, and those States which have direct coasts fronting the river and the three States that are merely adjacent to them, both were given equal rights. The Statute sets out the principles that govern the regime and the entirety of the lands of the River Niger from its sources in New Guinea down to the Atlantic coast in Nigeria.

This example was, in the following year, followed in regard to Lake Chad, an inland sea, which is situated almost in the heart of Africa. It has considerable resources which are now being exploited by the four States bordering it. Here again they have followed the pattern of having a Statute and attaching a Convention very similar to the one relating to the River Niger, but it was certainly different in very important respects because the uses to which it can be put must necessarily be different from those to which a river course like the River Niger could be put. But the pattern is invaluable. Recently still, the countries through which River Senegal runs namely, Mauritania, Senegal, Mali and Guinea, have formed similar river regimes and in each case we call it a commission and the choice would be between an executive commission or purely an administrative commission, a commission that serves as a sort of clearing house of information. In any case, they have power to request the members to submit whatever schemes of exploitation or

development they wish to carry out on their portion of the river to this central commission. It was discussed by the commission and finalized so that not a single State is able to take undue advantage over the other. It may be, whatever my friend has just said, worthwhile, looking at these existing Statutes, and those who wish to do so may look at the *American Journal of International Law* of October 1963, which contains something I wrote about these experiments, so that we have an example of similar uses of two international rivers and an international lake in respect of which we have drafted laws and the conventions. At the United Nations, the World Bank and representatives of a number of specialized international agencies were present through out the time when we drafted these proposals. So, they are not really local. They have borrowed something from the Danube experiment and from Rhine and from other rivers. We even considered in detail the problems of the Mekong River. So, I think, he has rightly pointed this out.

My suggestion is that it would be the best if the Sub-Committee, that is to be set up, decided to go along the lines of the established river regimes, and then determine what pattern we should give to it ; examine the precedents elsewhere and take into consideration the peculiar conditions and circumstances of each river and try to work out something acceptable for that particular river. I think, in this field, we shall avoid having a direct confrontation and trying to declare whether one State has a right to be there and whether the other State has no right-we will avoid all that because in the text of the convention all these issues can be rationalized and established on an international basis having in mind that it has been done elsewhere.

EIGHTH MEETING HELD ON 27TH OF JANUARY, 1971 AT 11.00 A.M.

PRESIDENT :

May I now have the attention of distinguished delegates to still another report ? This time it is the Report of the Sub-Committee on the Law of International Rivers. As delegates are fully aware, this Sub-Committee had been working at great pressure yesterday, and even last night and this morning. I invite comments on this subject.

JAPAN :

Mr. President, I would like to present the Report of the Sub-Committee on the Law of International Rivers. [Pl. see pages 52-58]

NIGERIA :

My delegation would not like the case of the rebuttal of international rivers to go by default. This session, as you all know, has been rightly dominated by our consideration of the Law of the Sea. But, to my mind, the Sub-Committee that has made the greatest progress in the work of this session has been that on the Law of International Rivers. Upto the beginning of this session our Committee had nothing that you may call a Committee work on the Law of International Rivers, but due to the erudition of the Chairman of the Sub-Committee, Dr. Amerasinghe of Ceylon and the industry of our indefatigable Rapporteur, Mr. Uchida of Japan, this Sub-Committee has been able to present, what you may call, a committee draft or some of the articles or propositions on the Law of International Rivers. But for the lack of time the report which we have before us could have put into greater focus the intensity of the work

of that Sub-Committee. That is to say, if the papers in Part II were really amalgamated into Annex I as a separate paper to show what propositions we are agreed on and what we are critical about, the report of that Sub-Committee could have been further high-lighted.

In this connection my delegation would like to pay homage to the spirit of give and take which was shown by the distinguished delegates of India and Pakistan on this most delicate issue. It is the hope of my delegation that with this spirit of co-operation continuing this Committee would, in due course, produce a corpus on the Law of International Rivers.

PRESIDENT :

I thank you and we appreciate your encouraging words very much. May I have it that the Report of this Sub-Committee is approved ? (The Report is adopted by the Committee).

JAPAN :

Mr. President, in adopting the Report of our Sub-Committee on this topic, may I formulate our wish that the coming inter-sessional Sub-Committee would be taking the examination of the remaining five articles. I pray that the spirit of mutual understanding and co-operation which prevailed here will prevail there also. I thank you.