

Court, and the Member for Indonesia, Mr. F. Latumeten, respectively as President and Vice-President for the year 1966-67. At the Ninth Session held in New Delhi from December 18 to 29, 1967, the Committee elected Mr. C.K. Daphtary, Attorney General of India, as President of the Committee, and Mr. R. J. Hayfron-Benjamin, Solicitor-General of Ghana, as Vice-President of the Committee for the year 1967-68.

Co-operation with other Organisations

The Committee at its First Session decided to locate its permanent Secretariat at New Delhi (India). The Committee also decided at its First, Second, Fourth, Sixth, Seventh and Ninth Sessions that Mr. B. Sen, Hony. Legal Adviser to the Ministry of External Affairs, Government of India, should perform the functions of the Secretary to the Committee.

The Committee maintains close relations with and receives published documentation from the United Nations, the International Law Commission, the International Court of Justice, the League of Arab States, the International Institute for the Unification of Private Law (UNIDROIT) and the Hague Conference on Private International Law. The Committee has taken steps to co-operate with the United Nations in its Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, and as part of that Programme the Committee has decided to sponsor two scholarships to be awarded to the nationals of Asian and African countries.

The Committee is empowered under its Statutory Rules to admit to its Sessions Observers from international and regional inter-governmental organisations. The International Law Commission was represented at the Committee's Fourth, Fifth, Sixth and Seventh Sessions respectively by Dr. F.V. Garcia-Amador, Dr. Radhabinod Pal, Mr. Eduardo Jimenez de Arechaga and Prof. Roberto Ago, and at its Eighth and

Ninth Sessions by Dr. Mustafa Kamil Yasseen. The Secretary-General of the United Nations was represented at the Committee's Fifth Session by Mr. Oscar Schachter of the U.N. Secretariat, at the Sixth Session by Mr. Luis Moreno Verdin, Director of U.N. Information Centre, Cairo and at the Seventh Session by Mr. Dik Lehmkuhl, Director, U.N. Information Centre, Baghdad. The Organisation of American States was represented by Dr. F.V. Garcia-Amador at the Committee's Sixth Session. The Arab League also sent Observers to the Committee's Second, Fifth, Sixth, Seventh, Eighth, and Ninth Sessions. At the Committee's Eighth and Ninth Sessions, the International Law Association of the U. S. S. R. was also represented by an Observer.

Further, the Secretary of the Committee has discretion to invite the Specialised Agencies of the United Nations and other bodies keeping in view the agenda of a particular session. Since the subject of "Rights of Refugees" was of particular interest to the United Nations Office of the High Commissioner for Refugees (U.N.H.C.R.), it was invited to be represented at the Committee's Sixth, Seventh and Eighth Sessions when that subject was on the agenda of the sessions.

The Committee sends Observers to the sessions of the International Law Commission in response to a standing invitation extended to it by the Commission. The United Nations also invites the Committee to be represented at all Conferences convoked by it for consideration of legal matters. At the Vienna Conference on Diplomatic Relations, 1961, the recommendations of this Committee on that subject were considered by the Conference of Plenipotentiaries as a basic document, and in fact some of the recommendations of the Committee were accepted in preference to those mentioned in the working papers. The Committee was also represented at the U.N. Conference of Plenipotentiaries on the Law of Treaties. The Committee participated in the Second United Nations Conference on Trade and Development held in New Delhi in February-March, 1968 and in the First Meeting of the Advisory

Group of International Trade Centre of the UNCTAD/GATT held in Geneva from 28th to 31st May, 1968.

The Sessions of the Committee

First Session : During the First Session held in New Delhi (1957), the Committee discussed and drew up interim reports for submission to the governments of the participating countries on three subjects, namely "Diplomatic Immunities and Privileges", "Principles of Extradition" and "Immunity of States in respect of Commercial Transactions". These subjects were, however, carried forward for further consideration at the next Session.

Second Session : During the Second Session held in Cairo (1958), the Committee had before it five main subjects for consideration, namely "Diplomatic Immunities and Privileges", "Principles of Extradition", "Immunity of States in respect of Commercial Transactions", "Dual Nationality" and "The Status of Aliens". It also discussed briefly questions relating to 'Free Legal Aid' and "Reciprocal Enforcement of Foreign Judgments in Matrimonial Matters".

The Committee finalised its Reports on "Diplomatic Immunities and Privileges" and on "Immunity of States in respect of Commercial Transactions" which were submitted to the participating governments.

Third Session : The Committee at its Third Session held in Colombo (1960) considered the comments of the governments on its reports on 'Diplomatic Privileges and Immunities' and 'Immunity of States in respect of Commercial Transactions' which it had finalised at its previous Session. The Committee reaffirmed the view it had taken in its Report on Immunity of States in respect of Commercial Transactions¹, but it made certain changes in its Report on Diplomatic Immunities and Privileges¹ in the light of comments received from the

¹A.A.L.C.C. Report of the Third Session, Colombo (1960).

participating governments. The latter report was placed before the United Nations Conference of Plenipotentiaries on Diplomatic Relations convoked in 1961.

The Committee gave detailed consideration to the subjects 'The Status of Aliens' and "Principles of Extradition" and drew up provisionally the principles governing these topics in the form of draft articles. These provisional draft articles were submitted to the participating governments for their comments.

The Committee also generally considered questions relating to 'Dual or Multiple Nationality', and the recommendations of the International Law Commission on 'Arbitral Procedure'. The Committee decided to take up at its next Session the question of 'The Legality of Nuclear Tests', 'Conflict of Laws in respect of International Sales and Purchases' and 'Relief against Double Taxation and Fiscal Evasion'.

Fourth Session: At the Fourth Session held in Tokyo (1961), the Committee discussed in detail the subjects of 'Extradition' and 'The Status of Aliens' on the basis of the draft articles as provisionally drawn up by the Committee at its Third Session. The Committee revised the Draft Articles in the light of comments made by the Delegations present and adopted its Final Reports for submission to the participating governments.²

The topics relating to 'Diplomatic Protection of Citizens Abroad' and 'State Responsibility for Maltreatment of Aliens' were also generally considered by the Committee.

The Committee gave special attention to the question of 'The Legality of Nuclear Tests'. After a general discussion the Committee unanimously decided to place the subject as the first item on the agenda of the Fifth Session considering it to be a matter of utmost urgency.

The Committee also considered the subjects of "Free Legal Aid" and "Recognition of Foreign Decrees in Matrimonial

²A.A.L.C.C. Report of the Fourth Session, Tokyo (1961).

Matters". It decided to publish the Reports of the Special Rapporteur on both these topics.³

Fifth Session: At the Fifth Session held in Rangoon (1962), the Committee discussed in detail the subjects of 'Dual or Multiple Nationality' and 'The Legality of Nuclear Tests'. The Committee drew up a set of Draft Articles⁴ embodying the principles relating to elimination or reduction of dual or multiple nationality. It was decided that the Draft Articles should be submitted to the participating governments for their comments and that the subject be placed before the Committee at its next Session for fuller consideration in the light of comments that may be received from the governments.

The Committee discussed the subject of 'The Legality of Nuclear Tests' on the basis of materials collected by the Secretariat on the scientific and legal aspects of nuclear tests. The Committee heard the views and expressions of opinion on the various aspects of the question from the Delegates present and took note of the written memoranda presented by some of the governments. On the basis of these discussions the Secretary of the Committee drew up a Draft Report for consideration of the Committee. After a general discussion the Committee decided that the Secretariat should submit the Draft Report to the participating governments for their comments, and that the subject be placed before the next session of the Committee as a priority item on the agenda.

The Committee also considered the subject of 'Arbitral Procedure'. The Committee decided that a report should be drawn up on 'Arbitral Procedure' incorporating the views expressed by the various Delegations.⁵

Sixth Session: At the Sixth Session held in Cairo (1964),

³A.A.L.C.C. *Report of the Fourth Session*, Tokyo (1961).

⁴For background materials prepared by the Secretariat on the subject of Dual or Multiple Nationality, refer A.A.L.C.C. *Report of the Fifth Session*, Rangoon, (1962). For Final Report of the Committee on this subject, refer A.A.L.C.C. *Report of the Sixth Session*, Cairo (1964).

⁵A.A.L.C.C. *Report of the Fifth Session*, Rangoon (1962), pages 184-88.

the Committee finalised its recommendations on the subjects of 'Dual or Multiple Nationality'⁶ and 'The Legality of Nuclear Tests'.⁷ It also discussed the subjects of 'The Rights of Refugees' and 'The U.N. Charter from the Asian-African Viewpoint' which were referred to the Committee by the Government of the U.A.R. The questions relating to "Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence in Civil and Criminal Cases", referred by the Government of Ceylon, were considered by a Sub-Committee appointed at this Session.

The Committee also considered certain questions relating to the Vienna Convention on Diplomatic Relations, 1961; the Vienna Convention on Consular Relations, 1963; and the Vienna Convention on Nuclear Damage, 1963.

Seventh Session : At the Seventh Session held in Baghdad (1965), the Committee finalised its recommendations on the subject of 'Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence both in Civil and Criminal Cases'⁸ and considered in detail the subjects of 'The Rights of Refugees' and 'The U.N. Charter from the Asian-African Viewpoint'. It also took up for preliminary discussion the topics of 'Law of Outer Space' and 'Codification of the Principles of Peaceful Co-existence', both referred by the Government of India. The topics of 'Relief against Double Taxation & Fiscal Evasion' and 'Diplomatic Protection and State Responsibility' were given consideration by Sub-Committees appointed at the Session.

Eighth Session : At the Eighth Session held in Bangkok (1966), the Committee finalised its consideration of the subject of 'The Rights of Refugees' by formulating general principles

⁶A.A.L.C.C. *Report of the Sixth Session*, Cairo (1964) pages, 33-36.

⁷A.A.L.C.C. *The Legality of Nuclear Tests-Report of the Committee & Background Materials*, (New Delhi, 1964).

⁸A.A.L.C.C. *The Reciprocal Enforcement of Foreign Judgments-Report of the Committee & Background Materials* (New Delhi, 1965).

governing the subject in a final Report which it adopted unanimously and decided to submit it to the Government of the U.A.R. which had referred the subject and to other participating Governments.

The other subjects considered by the Committee at this Session were 'Relief against Double Taxation and Fiscal Evasion' and 'Codification of the Principles of Peaceful Co-existence'. The subject of 'Relief against Double Taxation' was given consideration by a Sub-Committee. The Sub-Committee prepared a report on the topics not covered by the Sub-Committee appointed at the Seventh Session. The Committee directed that this report alongwith the report of the Sub-Committee of the Seventh Session be placed before it for final consideration at the next Session.

The subject of 'Peaceful Co-existence' was given detailed consideration by a Sub-Committee. The Sub-Committee presented an Interim Report dealing with some of the aspects only as it did not have sufficient time to discuss all aspects of the matter. The Committee, therefore, directed the Secretariat to continue its study of the subject and to revise the draft articles prepared by it in the light of discussions at the Session and to place the revised draft articles before it for consideration at the next Session.

The Committee also took up for discussion the Judgment of the International Court of Justice on the South West Africa Cases and certain questions arising therefrom, under Article 3 (c) of its Statutes, at the request of the Delegation of Ghana. After a general discussion, the Committee decided to place this subject as a priority item on the agenda of its next Session and directed the Secretariat to study the points raised in the course of discussions at this Session and to prepare a comprehensive brief to facilitate deliberations at the next Session.

The Committee also gave consideration to the subject of

^aA.A.L.C.C. *The Rights of Refugees: Report of the Committee & Background Materials*. (New Delhi, 1966).

the Law of Treaties which it had taken up for consideration at its Seventh Session as a matter arising out of the work of the International Law Commission. After taking note of the views of the Delegations and the suggestions made by the Chairman of the International Law Commission on the scope of work of this Committee *vis-a-vis* the subject of "The Law of Treaties", the Committee decided to examine the Draft Articles on the Law of Treaties at the next Session as a priority item with a view to formulating proposals and suggestions from the Asian-African viewpoint. The Committee appointed Dr. Sompong Sucharitkul as Special Rapporteur on the subject with the request that he prepare a report on the specific points arising out of the Commission's Draft Articles which require consideration by the Committee from the Asian-African perspective. The Committee also requested the participating governments to send their comments on the Draft Articles to the Special Rapporteur through the Secretariat and directed the Secretariat to transmit the Report of the Special Rapporteur to the participating governments for comments and to place that Report and the comments thereon that may be received for consideration at its next Session.

Ninth Session of the Committee

The Ninth Session of the Committee was held in New Delhi from December 18 to 29, 1967. The Committee finalised at this Session its recommendations on the subject of "Relief against Double Taxation and Fiscal Evasion" and considered *in extenso* the subjects of 'the Law of Treaties' and 'South West Africa Cases' which were priority items on the agenda of the present Session.

The subject principally discussed at this Session was "The Law of Treaties". The Committee had before it the Report on the subject prepared by Dr. Sompong Sucharitkul, the Special Rapporteur. The Secretariat also placed before the Committee a set of 35 questions for its consideration in relation to the Draft Articles formulated by the International Law Commission.

After initial observations made by the Delegations, bringing forth additional points for consideration, the Committee appointed three Sub-Committees, the first on Draft Articles 1 to 22, the second on Articles 23 to 38, and the third on Articles 39 to 75. The function of each of these Sub-Committees was to take note of the observations made by the Delegations in the plenary and then to submit its report to the main Committee for its consideration. The three Sub-Committees presented their reports, and after detailed discussions on them in the plenary, the Committee drew up and adopted an Interim Report in the form of Comments on such of the Draft Articles formulated by the Commission as in its opinion required special consideration by the Member Governments. The Committee directed the Secretariat to submit the Interim Report to the Member Governments and also to place the Interim Report at the disposal of the Delegations of the Asian-African countries attending the Conference of Plenipotentiaries. The Committee also directed the Secretariat to transmit a copy of the Interim Report to the United Nations requesting it to place the same before the Conference of Plenipotentiaries. Further, the Committee decided that the subject be carried forward to its next Session as a priority item for its final consideration, especially on the points that may arise in the course of deliberations at the Conference of Plenipotentiaries during its first Session, so as to enable the Committee to examine the same and make recommendations for the consideration of the Member Governments before the second session of the Conference of Plenipotentiaries is held in 1969. The Committee also decided to send an Observer to the Conference of Plenipotentiaries.

The subject "South West Africa Cases" was considered at this Session on the basis of a comprehensive study prepared and presented by the Secretariat of the Committee. The Committee also invited Hon'ble Mr. Justice M. Hidayatullah (now Chief Justice of the Supreme Court of India) as Special Invitee under Rule 7(5) of the Statutory Rules of the Committee to address the Committee on this subject. Extensive discussions were held

on this question. It was 'however' felt that as action in regard to this question was being taken by the United Nations, it was not necessary for the Committee to make any recommendations for the present. The Committee decided to keep the subject on the agenda of its next Session and directed the Secretariat to collect further material that may be relevant for consideration of the question and to place the same before it at the next Session.

On the question of "Relief against Double Taxation and Fiscal Evasion", the Committee at this Session had before it the Reports of the two Sub-Committees appointed at its Seventh and Eighth Sessions. The Committee after a general discussion of these Reports found the principles formulated therein generally acceptable and adopted its final Report on the subject. It was decided to submit the same to the Government of India, which had referred this question, and the Governments of other participating countries for their consideration.

The Committee took up for preliminary discussion the subject of "Law of International Rivers", referred to it by the Governments of Iraq and Pakistan under Article 3(b) of its Statutes. The Delegations of Iraq and Pakistan made their preliminary statements indicating the points which they wished to be studied by the Committee, and the Delegations of Ceylon, India, Indonesia, Japan and the United Arab Republic expressed their agreement to consider the subject. The Committee directed the Secretariat to collect the relevant material on the issues indicated in the course of statements made by the Delegations and to prepare a brief for its consideration at the next Session.

Work Done by the Committee

During the past eleven 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 consideration of legal matters of common concern. The subjects on which the

Committee has been able to make its Final Reports 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", "Reciprocal Recognition and Enforcement of Foreign Judgments in Matrimonial Matters", "Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence in Civil and Criminal Cases", "Questions relating to Free Legal Aid", "Arbitral Procedure", "The Rights of Refugees", and "Relief against Double Taxation and Fiscal Evasion".

The Committee has also made considerable progress on "Diplomatic Protection of Citizens Abroad and State Responsibility for Maltreatment of Aliens", "Law of Treaties" and "South West Africa Cases". The Committee has also before it for consideration several other subjects including "The U.N. Charter from Asian-African Viewpoint", "Law of Outer Space", "Codification of the Principles of Peaceful Co-existence", "Accession to General Multilateral Treaties concluded under the auspices of the League of Nations", "Law of International Rivers", "Law of Territorial Seas", "State Succession", "Special Missions", and "Relations between States and Inter-Governmental Organisations".

Studies in Economic Laws

The topics at present 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 have been requested to forward their laws and regulations relating to this topic to assist the Committee in formulating cer-

tain principles on the topic. The International Institute for the Unification of Private Law (UNIDROIT) has 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.

(2) *Transport Law:*

This topic has been taken up at the suggestion of the International Institute for the Unification of Private Law (UNIDROIT) and is still at preliminary stages.

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

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 the "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 on Industry.

The Secretariat of the Committee has already published in mimeographed form two of its above studies, namely (1) Laws and Regulations relating to Control of Import and Export Trade in Member Countries, and (2) Foreign Investment Laws and Regulations of Member Countries. The Secretariat is now expanding the scope of these studies to include the laws and regulations of all Asian and African countries on these topics.

Publications of the Committee

The full reports, including the verbatim record of discus-

sions 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, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Sessions. The Committee has also published three special reports entitled: *The Legality of Nuclear Tests—Report of the Committee and Background Materials*; *Reciprocal Enforcement of Foreign Judgments, Service of Process and Recording of Evidence—Report of the Committee and Background Materials*; and *The Rights of Refugees—Report of the Committee and Background Materials*. The special reports of the Committee on the topics of "Relief against Double Taxation and Fiscal Evasion" and "South West Africa Cases" are under print.

The Secretariat of the Committee has prepared a compilation of the Constitutions of Asian countries which is to come out very shortly. The compilation on the Constitutions of African countries has been completed and is to be given for printing 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 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 NINTH SESSION

DELEGATES

CEYLON

Member and Leader of the Delegation	Hon'ble Mr. Justice T. S. Fernando, Acting Chief Justice of Ceylon.
Alternate Member	Mr. V. L. B. Mendis, Deputy High Commissioner for Ceylon in India.
Adviser	Mr. H. L. De Silva, Crown Counsel, Ministry of Justice.
Adviser	Mr. D. S. Wijewardene, Advocate, Supreme Court of Ceylon.

GHANA

Member and Leader of the Delegation	Mr. R. J. Hayfron-Benjamin, Solicitor-General of Ghana.
Alternate Member	Mr. B. K. Nketiah, Ministry of External Affairs.

INDIA

Member and Leader of the Delegation	Mr. C. K. Daphtary, Attorney-General of India.
Alternate Member	Mr. B. N. Lokur, Special Secretary and Member, Law Commission of India.