Document:-
A/CN.4/SR.1604

Summary record of the 1604th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
1980, vol. I

30. The passing of the archives depended, however, on the form which the uniting of States took and on the kind of archives involved. Where States united to form a federation or confederation, there was no reason why the archives of the predecessor States should pass to the successor State: each predecessor State would retain its own archives. Where States united in order to form a unitary State, the archives might perhaps be rearranged—but that was a question for the successor State.

31. So far as the kinds of archives were concerned, he said that historical archives, for example, manifestly were of interest primarily to the predecessor State. Hence it would not be desirable to make provision for the transfer of those archives, unless by virtue of internal law it was decided to assemble all the archives in the capital of the successor State. Similarly, a union of States might have less need of the administrative archives of the various component States than did those States themselves; in such a case, therefore, those archives did not necessarily pass. At the time of the unification of Spain in the fifteenth and sixteenth centuries, for example, each kingdom had received its autonomy, exemplified by the establishment of the office of Viceroy and separate councils. Accordingly, the archives had not been centralized in the capital of Spain; some had to be consulted in Seville, others in Cadiz, none of them in Madrid.

32. Nevertheless, even if under the public internal law the predecessor States retained the legal ownership of their archives, in public international law—which took cognizance only of the new State—the archives would pass to the successor State, even in cases where all the problems, including the disposition of the archives, were settled by the internal law of the successor State, as happened where the predecessor States forming the union were determined to fulfil all the conditions to make the union viable.

33. He explained that the terms of article D were modelled on those of article 12, concerning the succession of State property in the case of a uniting of States. During its first reading of article 12 the Commission had decided to omit the words "subject to paragraph 2" from the end of paragraph 1 and to add at the beginning of paragraph 2 the words "without prejudice to the provision of paragraph 1".[9] For the sake of consistency he had made an analogous change in his draft article D.

The meeting rose at 5.15 p.m.

[9] See *Yearbook ... 1979*, vol. I, p. 179, 1568th meeting, para. 16.

1604th MEETING

Wednesday, 4 June 1980, at 10.10 a.m.

Chairman: Mr. C. W. PINTO

Members present: Mr. Barboza, Mr. Bedjaoui, Mr. Boutros Ghali, Mr. Calle y Calle, Mr. Díaz González, Mr. Evensen, Mr. Jagota, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Verosta, Mr. Yankov.

Organization of work (*continued*)*

1. The CHAIRMAN said that, at its meeting held on 3 June 1980, the Enlarged Bureau had decided that the topic of jurisdictional immunities of States and their property, for which Mr. Sucharitkul was the Special Rapporteur, would be discussed by the Commission on 3, 4, 7 and 8 July.

2. The Enlarged Bureau had further decided to set up a Planning Group of the Enlarged Bureau and to appoint Mr. Thiam as Chairman of the Group. Mr. Thiam had suggested that the Planning Group should be composed of the following members: Mr. Calle y Calle, Mr. Díaz González, Mr. Njenga, Mr. Reuter, Mr. Šahović, Mr. Schwebel, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov and Sir Francis Vallat. The meetings of the Planning Group would, of course, be open to all members of the Commission.

Succession of States in respect of matters other than treaties (*continued*) (A/CN.4/322 and Add.1 and 2,[1] A/CN.4/333)

[Item 1 of the agenda]

Draft articles submitted by the Special Rapporteur (*continued*)

Article D (Uniting of States)[2] (*concluded*)

3. Mr. TABIBI said that the question of succession to State archives, which was dealt with in the Special Rapporteur's twelfth report (A/CN.4/333) and related to the administrative, cultural and historical heritage of peoples and States, had received close attention at the General Assembly's twenty-eighth, thirtieth and thirty-fourth sessions in the course of discussions on the subject of the restitution of works of art to countries victims of expropriation; the Assembly had invited[3] all Member States to ratify the Convention on the Means

* Resumed from the 1591st meeting.

[1] Reproduced in *Yearbook ... 1979*, vol. II (Part One).

[2] For text, see 1603rd meeting, para. 28.

[3] Resolutions 3187 (XXVIII), 3391 (XXX) and 34/64 of the General Assembly.

of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the UNESCO General Conference in 1970.[4] The question had also been carefully considered by the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, which had ended its first session on 9 May 1980.

4. In view of the importance of the topic, he agreed with the Special Rapporteur that the draft articles relating to State archives might be included in the part of the draft articles on succession in respect of State property. He felt, however, that since their cultural and historical value was difficult to assess, State archives should be considered as a special kind of State property.

5. He agreed with the view expressed by the Special Rapporteur in paragraph 28 of his twelfth report, that the Commission should not take any decision for the time being to change the title of the topic because that question had no bearing on the decision whether the Commission should append the study on State archives to the original draft articles. He had no doubt about the need to include in the draft articles provisions on succession to State archives, but, if such provisions referred to an inventory of *objets d'art*, it would be necessary to supplement draft articles A and B.[5]

6. He also supported the views stated by the Special Rapporteur in paragraphs 48 and 49 of his twelfth report, that the question of the definition of State archives should be left untouched for the time being and that articles A and B should be enlarged to take account of types of succession other than decolonization.

7. He supported draft article B'[6] because it was in keeping with the principle embodied in draft article 10, paragraph 2 (*b*) and gave preference to agreement between the successor State and the predecessor State.

8. With regard to draft article D, he said that he agreed with the reasoning set out by the Special Rapporteur in paragraphs 63 and 64 of the report, and could therefore support that draft article.

9. Mr. BARBOZA, referring to draft article D, said that he doubted the need not only for draft article D but also for draft article 12 (on succession to State property in the case of a uniting of States) on which article D was based.

10. State property passed at the time when the succession occurred. Thus, from the legal point of view, there was a moment in time when the sovereignty of the successor State replaced that of the predecessor State in the territory to which the succession related. It was also at that time that the passing of State property or archives occurred, and it occurred by operation of international law.

11. In the case of a uniting of States, there was also a time when the transfer of sovereignty occurred. At that time, however, there was only one State, the successor State, and it was therefore the internal law of that State, not international law, which governed that transfer. Draft article D, paragraph 2, recognized that the only applicable law was the internal law of the successor State. The point might have some bearing on the question of claims on the property of the successor State made by third States, which could, of course, not contest the succession. This might be the only justification for the article.

12. For that reason, he could understand why the Special Rapporteur had said that draft article D might not be necessary if the draft articles on State archives were included in those on State property. He proposed that, if such were the case, draft article D should be dropped. As of now, he agreed that it should be referred to the Drafting Committee.

13. Mr. SCHWEBEL said he agreed with the views expressed by other members of the Commission concerning draft article D, which was entirely acceptable and should be referred to the Drafting Committee.

14. Mr. USHAKOV said he could accept the Special Rapporteur's draft article D.

15. With regard to paragraph 2 he pointed out, however, that it had never been the Commission's intention to limit the successor State's power to deal as it saw fit with the State archives or, for that matter, with all the State property passing to it, for that State was sovereign and free to determine for what purpose that property was to be used. The point would have to be reconsidered during the second reading of the draft.

16. Mr. VEROSTA said that article D was strictly necessary, and that he likewise could accept the Special Rapporteur's draft of the article. He suggested that the article should be referred to the Drafting Committee.

17. Mr. DÍAZ GONZÁLEZ said that the debates in the General Assembly and in UNESCO on matters relating to cultural property were directly relevant to the study of the question of State archives, both in cases of the dissolution or uniting of States and in cases of decolonization. In that connexion, he noted that, as pointed out by the Special Rapporteur in his eleventh report (A/CN.4/322 and Add.1 and 2), treaties concluded in the nineteenth and early twentieth centuries, particularly in Europe, had nearly always referred to the passing of State archives, whereas in cases of decolonization no provision had ever been made for the passing of those archives, which were of

[4] UNESCO, *Records of the General Conference, Sixteenth Session, Resolutions* (Paris 1971), p. 135.

[5] See 1602nd meeting, foot-note 2.

[6] For text, see 1602nd meeting, para. 1.

the greatest importance at a time when the process of decolonization was practically completed and newly independent States required assistance in maintaining their cultural and historical memory and taking possession of what the Special Rapporteur had called in paragraph 73 of his twelfth report "one of the keys to power".

18. He thus supported the draft article D proposed by the Special Rapporteur, because it met the requirement of protecting developing countries that wished to belong, not to the "third world", but to the world *tout court*, and were now entitled to the rights so long denied to them by their colonizers.

19. Mr. SUCHARITKUL said that he fully approved of the Special Rapporteur's draft article D.

20. He added that the case of the Socialist Republic of Viet Nam offered a concrete and recent example of a uniting of States, even though it might be debatable whether Viet Nam had been a divided State before. In the light of that example the provision proposed by the Special Rapporteur, particularly paragraph 2, seemed perfectly justified.

21. Mr. BEDJAOUI (Special Rapporteur) noted that the Commission seemed to be agreed that draft article D should be referred to the Drafting Committee.

22. He said that Mr. Barboza had subtly analysed the situation to be covered by the provision, for he had spoken of the specific moment at which the succession occurred and at which there was only the successor State, inasmuch as the predecessor States had ceased to exist in the eyes of international law. It was precisely for that reason that under paragraph 1 of the draft article the responsibility for the archives was attributed to the successor State to which they passed; that did not mean that the archives belonged to that State or ought to be transferred to the new capital—it meant only that as from that moment the successor State alone was responsible for those articles vis-à-vis the international community. Paragraph 2 then went on to provide that the ownership of the archives would be governed by internal law.

23. Any other larger problems that the draft article might raise might be considered by the Commission in the course of the second reading, a possibility mentioned by Mr. Ushakov in his comments on paragraph 2. In the circumstances contemplated by that provision, there was no doubt that the internal law of the successor State was applicable, and there was no suggestion of limiting that State's freedom.

24. He suggested, lastly, that draft article D should be referred to the Drafting Committee.

25. The CHAIRMAN said that, in the absence of objections, he would take it that the Commission decided to refer draft article D to the Drafting Committee.

It was so decided.[7]

ARTICLE E (Separation of part or parts of the territory of a State) *and*

ARTICLE F (Dissolution of a State)

26. The CHAIRMAN invited the Special Rapporteur to introduce draft articles E and F (A/CN.4/322 and Add.1 and 2, paras. 204 and 206), which read:

Article E. Separation of part or parts of the territory of a State

1. Where a part or parts of the territory of a State separate from that State and form a State, the transfer of the State archives of the predecessor State to the successor State shall be settled by agreement between the predecessor State and the successor State.

2. In the absence of an agreement:

(*a*) the State archives of the predecessor State connected with the activity of the predecessor State in respect to the territory to which the succession of States relates pass to the successor State;

(*b*) the State archives of the predecessor State, other than those referred to in paragraph 2 (*a*) above, pass to the successor State in an equitable proportion.

3. Each of the two States shall, for the use of the other State and at its request, make an appropriate reproduction of the State archives which it has retained, or which have passed to it, as the case may be.

4. The provisions of paragraphs 2 and 3 above are without prejudice to any question of equitable compensation that may arise as a result of a succession of States.

5. The provisions of paragraphs 1 to 4 above apply where a part of the territory of a State separates from that State and unites with another State.

Article F. Dissolution of a State

1. If a predecessor State dissolves and disappears and the parts of its territory form two or more States, the transfer of the State archives to the different successor States shall be settled by agreement between them.

2. In the absence of an agreement:

(*a*) the State archives of all kinds of the predecessor State, wheresoever they may be, pass to the successor State if they relate exclusively or principally to the territory of that successor State, which shall be responsible for making an appropriate reproduction thereof for the use of the other successor States, and at their request and expense;

(*b*) State archives which are indivisible or which relate equally to the territories of two or more successor States pass to the successor State in whose territory they are situated, the other successor States concerned being equitably compensated, and the successor State to which they pass shall be responsible for making an appropriate reproduction thereof for the use of the other successor States concerned and at their request;

(*c*) State archives of the type referred to in paragraph (*b*) above which are kept outside the territory of the dissolved predecessor State pass to one of the successor States concerned according to the conditions laid down in paragraph (*b*).

27. Mr. BEDJAOUI (Special Rapporteur) said that the terms of paragraph 3 of article E should be amended to read:

[7] For consideration of the text proposed by the Drafting Committee, see 1627th meeting, paras. 26 *et seq.*

Each of the two States shall, for the use of the other State and at the request and expense of that other State, make an appropriate reproduction of the State archives which it has retained or which have passed to it, as the case may be.

28. When the Commission had considered the question of State property and State debts it had chosen to prepare two separate articles, one for the case of the separation of part of a State's territory and the other covering the case of the dissolution of a State, but to provide only a single commentary covering both provisions. The explanation was that both separation and dissolution involved the removal of a part of a State, with the consequential formation of a new State. The only difference between the two situations was that in the case of a separation of States the predecessor State survived, whereas in the case of dissolution it disappeared.

29. Both situations could be illustrated by numerous examples taken from history of the kind he had mentioned in his eleventh report.

30. For example, in 1905, at the time of the termination of the union of Sweden and Norway under which two separate States had been linked solely by the person of a single sovereign ruling in both, the archives specific to each State that had not been merged had been easily divided. The only cases remaining to be settled were that of the central archives and that of the common archives held abroad by diplomatic missions. The case of the central archives was settled almost half a century later, by a protocol dated 25 April 1952 whereby Norway had obtained from Sweden the transfer of certain archives of special interest to Norway. The common archives held abroad formed the subject of an agreement concluded, with less delay, in the form of a convention dated 27 April 1906 whereby documents "relating exclusively to Norwegian affairs" had been handed over to the Norwegian diplomatic agent accredited to the country concerned; similarly, collections of Norwegian laws and other Norwegian publications had been dealt with in like manner in pursuance of the principle of functional connexion (A/CN.4/322 and Add.1 and 2, para. 191).

31. The termination of the union between Denmark and Iceland in 1944 illustrated the combined application of the principles of functional connexion and territorial origin. The case was especially interesting in that archives that had not formed part of the State archives, but belonged to a private person, had been transferred to the successor State—a situation comparable to that referred to by Mr. Calle y Calle in his remarks on the subject of expropriation at the previous meeting. Even before the termination of the union, a general arbitration convention, concluded on 15 October 1927, had settled the reciprocal delivery of archives on the basis of the two principles of origin and connexion. Iceland had, however, also claimed some historic archives of great cultural value belonging to a private person who had constituted them outside Iceland, at Copenhagen, and who had even bequeathed the ownership thereof to a Danish university institution. Those documents were not State archives, but a collection of parchments and manuscripts. When the Danish Government had decided to restore them to Iceland, the legatee foundation had contested the decision in the Court of Copenhagen; in 1966, the Court ruled in favour of their restoration to Iceland. In 1971, the Supreme Court of Denmark had given a ruling to the same effect, and on that legal basis the two Governments had agreed on the restitution of the originals to Iceland, which added them to the collection of the Institute of Icelandic Manuscripts at Reykjavik and which entered into certain commitments as regards loans, reproductions and facilities for the consultation of the documents (*ibid.*, paras. 192–193).

32. Those examples showed that, in the case of a dissolution each of the successor States received the archives relating to its territory; the central archives were apportioned if they were apportionable or, if not, were entrusted to the successor State with which they had the closest connexion, subject to the right of the other State or States to obtain copies thereof.

33. The dissolution or disintegration of the Austro-Hungarian Empire had likewise given rise to a series of extremely complex disputes regarding archives which were still continuing 60 years later. The basis for the apportionment of the archives of the Austro-Hungarian Empire were the provisions set out in great detail in the Treaty of St. Germain-en-Laye of 10 September 1919 and in the Treaty of Sèvres of 10 August 1920. However, owing to the diversity of the situations it was impossible to determine clearly what was the exact legal nature of the disappearance of that Empire, for it was not always easy to identify the various kinds of State succession to which its dissolution had given rise. In his eleventh report he had described the long series of treaties, agreements and conventions concluded among the large number of States concerned for the purpose of settling the transfer of the multifarious archives involved—political, administrative, military, historic, cultural—in keeping with the principles of connexion and origin (*ibid.*, paras. 195 *et seq.*).

34. The break-up of the Ottoman Empire after the First World War was another example that made it reasonable to treat the two articles together and to draft a single commentary, for it had been argued on the one hand that what had happened was the separation of various parts of a State, whereas during the negotiation of the treaty signed at Lausanne in 1923 the Turkish Government had argued to the contrary that the case was one of dissolution, since Turkey too was one of the successor States to the Ottoman Empire (*ibid.*, para. 201).

35. The last example that might be cited was that of the dissolution of the German Third Reich, which had led to the establishment of the two Germanies; that

example likewise was mentioned in his eleventh report (*ibid.*, para. 202).

36. The large number of historic precedents he had mentioned indicated clearly what line the Commission should follow in settling the question of the succession to State archives in the case of the separation of part or parts of a State's territory and in the case of the dissolution of a State. Draft articles E and F were modelled on articles 13 and 14,[8] which were applicable in analogous circumstances to State property.

37. Mr. YANKOV said that archives, although a species of movable property, presented special features, one of the most important of which was their integrity and indivisibility; and whereas, in the case of most movable property, compensation provided an equitable solution in the event of a dispute, that did not apply in the case of State archives which, by virtue of their very nature and purpose, could not generally be split up. Moreover, even if a selection were made of those archives which related to a part of the territory of a State or to a newly emergent State, the value of the archives as a whole could be destroyed. As he understood subparagraph 2 (*a*) of draft article E, it imported a presumption that State archives could in fact be divided or that a selection among them could be made. He noted that subparagraph 2 (*b*) borrowed from draft article 13 the expression "in an equitable proportion", which posed the question of who would decide, in the case of archives that were not divisible, what constituted an equitable proportion.

38. He therefore considered that the whole question of indivisibility merited special attention within the context of the Commission's consideration of the separation of part or parts of the territory of a State or of the dissolution of a State. Specifically, he would recommend that the Commission should endeavour to adopt a more pragmatic and flexible approach in paragraph 2 of draft article E, with a view to providing Governments with a viable solution in the event of a dispute. Possibly, a reference could be made to the question of indivisibility, in which connexion subparagraphs 2 (*a*) and (*b*) of article F might provide a guideline. Alternatively, more emphasis should be given to the idea of appropriate reproduction of State archives as embodied in paragraph 3 of draft article E.

39. His comments were not to be construed as a criticism of the wording of draft article E, since he appreciated the difficulties attaching to the very complex issue of archives, but he did feel that there was a problem the Commission was required to solve.

40. On a point of drafting, he would suggest that, for the sake of uniformity, the wording of the opening clause of paragraph 1 of draft article 13 should serve as a model for paragraph 1 of draft articles E and F.

41. Mr. EVENSEN said that in his view Mr. Yankov had laid undue stress on the indivisibility of archives. As was demonstrated by State practice, archives not only could be divided, but should be divided in certain cases, and the Special Rapporteur had cited a number of relevant criteria in support of such division. It was only right and just that the original archives should be transferred to the territory to which they belonged, although modern reproduction methods could, of course, be used as an aid in that connexion. For the purpose of assuring an equitable distribution of archives, as envisaged in subparagraph 2 (*b*) of draft article E, there were a number of relevant factors that could be taken into account, for instance, the manner in which and the place where the archives had been acquired, the ownership of the archives before they had entered the predecessor State's archives, the artistic, folkloric and historical value of the archives, and the type of separation of the territory of a State involved. For example, the developments of the preceding twenty years, during which colonial empires had been split up into national States, called for a more modern approach to the division of archives.

42. In general, he agreed with draft articles E and F. He noted, however, that in certain respects draft article E was similar to draft article B'[9]; possibly, therefore, the language of the two articles could be aligned. He would prefer the wording of paragraph 1 of draft article E to that of the opening clause of draft article B'. On the other hand, he preferred the phrase "that concern exclusively or principally the territory" (subparagraph 2 (*a*) (ii) of draft article B' to the phrase "connected with the activity ... in respect of the territory" (subparagraph 2 (*a*) of draft article E). In that connexion, he noted that a phrase similar to the one used in draft article B' appeared in paragraph 2 (*a*) of draft article F. Lastly, it might be useful to compare draft articles B'[10] and F, since the wording of the latter seemed preferable in certain respects.

43. Mr. TSURUOKA said that he had not commented on the draft articles considered by the Commission at the preceding meetings because, as to substance, he was in agreement with their provisions. At most, he would offer in the Drafting Committee some minor comments on the concordance of some provisions and on some terminological questions. Though minor, the comments would nevertheless be of great importance to the Drafting Committee, particularly with regard to a topic where treaty provisions, if not buttressed by the goodwill and understanding of the parties, would not be sufficient *per se* to settle problems that might arise.

44. To illustrate the drafting questions he had in mind, he stressed that a better concordance should exist between articles 13, 14, E and F. Whereas articles 13, 14 and E each contained a special provision concerning the question of equitable compensation, no such provision appeared in article F. The passing reference in subparagraph 2 (*b*) of article F to

[8] See 1602nd meeting, foot-note 2.

[9] For text, see 1602nd meeting, para. 1.

[10] See 1602nd meeting, foot-note 2.

equitable compensation was not sufficient to establish a concordance with the provision in each of the other three articles, and it was a potential source of error.

45. Nor was he entirely satisfied with the expression "equitable proportion". The expression conveyed an idea of which he approved, but he thought that the language used might give rise to difficulties of interpretation. Not having any specific suggestions to make, he considered that it was the task of the Drafting Committee to devise better language.

46. Mr. QUENTIN-BAXTER said that, unlike many of the members of the Commission who came from countries with a long tradition of direct interest in the matter of archives, he came from a country which had never had any particular problem on that score. Consequently, he approached the matter with the detached attitude of a lawyer seeking to do what was right and proper in the circumstances.

47. One problem to which reference had been made concerned the transfer of folkloric and like materials to Europe and elsewhere; but that problem, and the concern to which it gave rise, had nothing to do with archives as defined in the draft unless, of course, the predecessor State took a very exotic view of what constituted its State archives.

48. He had been persuaded by the Commission's series of discussions that the value of a collection of archives should not be wantonly destroyed by dealing them out like a pack of cards. That consideration must, however, be balanced by the recognition that what properly belonged to the new entity should not be withheld from it.

49. Equitable compensation rules clearly occupied an important place in the case of immovable property and of movable property connected with the activities of the new State that had been entirely paid for by somebody else. In the case of archives, however, compensation was a very secondary matter, unless it was understood in a different sense from the monetary sense in which it was used in the articles relating to property.

50. The Special Rapporteur had been completely loyal to the formulations which the Commission had approved in other articles, and possibly the members felt that there should be a limit to that loyalty in view of the special quality of archives. His own view was that the extreme differences in drafting between articles E and F could not be defended, even though those differences had been dictated by the terms in which the articles on State property had been drawn up. Draft article F perhaps provided the better starting point, since in subparagraph 2 (*b*) a certain emphasis was given to the question of indivisibility. Also, since the Drafting Committee had spent much time and effort on article B (Newly independent State), the Commission should not hesitate to draw on that article for inspiration when dealing with some of the more difficult points in draft articles E and F.

51. He was grateful to the Special Rapporteur for his response at the previous meeting to the comments that he had made on draft article B′ (1602nd meeting) and agreed entirely that cases involving the movement of populations should be taken into account. Yet the reader should not be led to believe that the article on the transfer of part of the territory of a State was the dominant article; without the benefit of the commentary, it would take keen perception to deduce that a subparagraph in draft article E was in fact more important. For that reason, he would suggest that at the second reading the classification adopted at the outset of the Commission's work should be slightly adjusted.

52. Mr. SUCHARITKUL said that a clear distinction should be drawn between the case of the separation of one or more parts of a State's territory—a situation dealt with in article E—and the case of the transfer of part of a State's territory to another State—the situation dealt with in article B′. In connexion with article B′ it had been said that there must have been at least two pre-existing States, and special reference had been made both to the right of self-determination and to the initiative of the territory that was separating.

53. In the case of Bangladesh, in the absence of agreement between the predecessor State and the successor State concerning the archives held in the territory of East Pakistan, the relevant provision would be paragraph 2 of article E; in other words, the archives would pass to the successor State, or rather would stay in that State. In the case of Singapore, what had been paramount was the right of self-determination, a subjective element that was at the basis of every case of separation of a part of a State's territory. In that case, the initiative had come not from Singapore but from the Parliament of Malaysia, and the State of Singapore had come into existence by virtue of parliamentary action by the predecessor State. It was arguable that the apportionment of the State archives had formed the subject of an agreement, inasmuch as consultations had preceded the separation.

54. As a further illustration of the case contemplated in paragraph 5 of article E, that of separation of part of a State's territory and union with another State, he cited the case of Timor and West Irian, which had separated and united with the Republic of Indonesia.

55. Cases of the dissolution of a State, the subject of article F, could occur after a uniting of States. For example, the case of the Socialist Republic of Viet Nam, which had come into existence through the union of two pre-existing States, also illustrated the situation of dissolution. Similarly, the Federation of Malaya had been dissolved on being succeeded by Malaysia.

The meeting rose at 1 p.m.