practical difficulty in rigorously following the course suggested. It was, in fact, found almost impossible to agree upon a clear line of division between rules generally accepted as embodying existing law, and rules admitted to be new. The reason was, in many cases, not so much that the rules set up new principles, or, indeed, involved any serious innovation of practice, but that some slight modification or development, which it had been necessary to introduce, was, even if in entire harmony with the spirit of the law as acknowledged to be in force, held by some Powers to preclude a rule being described as part of the existing law, because it was not strictly covered by the letter of their prize legislation. Such a hard-and-fast criterion of classification may, according to the British view of international law as a living thing, capable of development and adaptation from time to time to new conditions, seem inconveniently rigid and defective, but continental Powers whose legal systems are entirely built up on the strict application of the minute prescriptions of statutory codes, and whose view of international law takes little account of any but their own national regulations, hesitate, not perhaps unnaturally, to accord recognition to rules and practices not in absolute accord with the letter of those regulations.

39. In these circumstances, absolute insistence on the definite separation of new rules from statements of existing law, and on their embodiment in different instruments, would in all likelihood have led to the Declaration being reduced to a comparatively small number of articles, restricted, in the main, to the enunciation of broad principles, whilst most of the important details respecting their applications, together with many rules even now widely applied but not perhaps textually recognized hitherto as generally binding by one or another of the signatory Powers, would have had to be relegated to the supplementary convention. Such a result it seemed to us desirable to avoid if possible. After much discussion and argument with our foreign colleagues, we felt convinced that it would be better to have only one instrument, covering all the rules agreed upon, so long as we obtained recognition of the fact—which was not seriously disputed—that, as a body, those rules do amount practically to a statement of what is the essence of the law of nations properly applicable to the questions at issue under present-day conditions of maritime commerce and warfare. We believe we have clearly vindicated this principle by securing the insertion at the head of the Declaration of the preliminary provision which dominates the whole series of articles. It is therein declared that