



CONTENTS

	Page
Agenda item 86: Report of the International Law Commission on the work of its twenty-first session (<i>continued</i>)	35
Agenda item 94: Declaration and resolutions adopted by the United Nations Conference on the Law of Treaties: (b) Resolution relating to article 1 of the Vienna Con- vention on the Law of Treaties (<i>continued</i>)	

Chairman: Mr. Gonzalo ALCÍVAR (Ecuador).

AGENDA ITEM 86

**Report of the International Law Commission on the work
of its twenty-first session (*continued*) (A/7610 and Corr.1)**

AGENDA ITEM 94:

**Declaration and resolutions adopted by the United Nations
Conference on the Law of Treaties:**

**(b) Resolution relating to article 1 of the Vienna Con-
vention on the Law of Treaties (*continued*) (A/7592;
A/C.6/L.743)**

1. Mr. MUNIM (Pakistan) was happy to note the increasingly close relationship between the International Court of Justice, the International Law Commission and the Sixth Committee, whose common goal it was to encourage the progressive development of international law and its codification. His delegation wished to pay a tribute to the memory of Mr. Amado, who had been one of the most outstanding jurists of the International Law Commission. It also wished to congratulate Mr. Ushakov, the Chairman of the International Law Commission, on his able presentation of the Commission's report (1103rd meeting).

2. In view of the increasingly important role of international organizations, his delegation was happy to note the considerable progress made by the International Law Commission in regard to the formulation of draft articles on relations between States and international organizations. His delegation would for the present confine itself to comments of a preliminary nature on that and other matters dealt with in the report, since his Government would communicate its considered observations to the Secretary-General in due course.

3. The draft articles on representatives of States to international organizations appeared to be modelled mainly on the Vienna Convention on Diplomatic Relations. How-

ever, bearing in mind the basic difference between a diplomatic agent and the representative of a State to an international organization, his delegation considered that the privileges and immunities to be granted by the host State were based, as the representative of Thailand had pointed out (1106th meeting), not on the long discarded extraterritoriality theory but on the more recent representative-cum-functional theory. That point of view was borne out by the preamble to the Vienna Convention, which stated that the purpose of such privileges and immunities was to ensure the efficient performance of the functions of diplomatic missions. However, the International Law Commission should examine more closely cases where the diplomatic agent had functions of a dual nature, serving as the representative of the sending State not only to the host State but also to an international organization situated in the territory of the host State.

4. The first sentence of article 22 was drawn from article 25 of the Vienna Convention. His delegation was glad to note that it was expressly provided in that article that the international organization should assist the permanent mission in obtaining those facilities that should be granted to it. That stipulation, in any case, merely confirmed the practice of certain international organizations.

5. With regard to the privileges and immunities of the permanent mission, his delegation endorsed the view expressed by the Legal Counsel, who had said that the rights of representatives should be protected by the organization to which they were accredited and not left to the bilateral action of the States involved. It was moreover in the interests of the international organization itself that the representatives of the member States should enjoy all the privileges and immunities necessary to help them discharge their functions. In that connexion, his delegation noted that, while section II of part II of the draft articles set out the facilities, privileges and immunities of the permanent representative and members of the permanent mission, there was no specific provision that the assets of the mission would be immune from attachment.

6. The concept of public safety referred to in article 25, paragraph 1, was not clearly defined and no indication was given as to who was to determine whether public safety was seriously threatened. The International Law Commission should examine that problem, as well as that posed by the term "official functions" in article 32, paragraph 1(d), which introduced an element of subjectivity. His delegation also thought that the expression "other property thereon" used in article 25, paragraph 3, should be more closely defined. Finally, it would be advisable to specify the object and purpose of the provisions of article 50 in order to make it more effective.

7. With regard to the subject of succession in respect of matters other than treaties, he wished first to congratulate the Special Rapporteur, Mr. Bedjaoui, on his excellent report entitled "Economic and financial acquired rights and State succession", which rightly emphasized the importance of the problems raised in that respect by decolonization. It would be desirable that the viewpoints of emerging new countries should be taken into consideration when that question was examined more closely. His delegation realized that there had been divergencies of opinion in connexion with the examination of that question and at the present stage it was in general agreement with the view of the Special Rapporteur, who considered that acquired rights could not have a legal basis in the transfer of sovereignty from the predecessor State to the successor State, since there had not been a transfer but a substitution of sovereignty by the extinction of one and the creation of another. The Commission should in any case do its utmost to harmonize the conflicting views that had been put forward.

8. With regard to State responsibility, he wished to congratulate the Special Rapporteur, Mr. Ago, on his excellent report, which showed a correct and comprehensive approach to the problem.

9. He wished to congratulate Mr. Ustor on his most interesting report on the question of the most-favoured-nation clause. It was to be hoped that when the question was studied more fully, the interests of developing countries would be duly taken into consideration.

10. His delegation was not convinced by the arguments put forward in paragraph 90 of the Commission's report (A/7610 and Corr.1) regarding the proposed extension of the term of office of its members. Such a measure would prevent the participation of as large a number of States as possible in the task entrusted to that Commission. In his opinion, the Commission should endeavour to complete the draft articles on relations between States and international organizations before the term of office of its present members expired.

11. He was happy to note that the Commission had continued to keep in close contact with various regional bodies concerned with international law. He also noted with satisfaction that the Commission was continuing the practice of holding seminars on international law.

12. In conclusion, he wished to say that, in view of the increasing interdependence of States and of the role played by the international organization, his delegation considered that, in accordance with the recommendation made by the United Nations Conference on the Law of Treaties, the General Assembly should refer to the International Law Commission the study, in consultation with the principal international organizations, of the question of treaties concluded between States and international organizations or between two or more international organizations.

13. Miss LAURENS (Indonesia) wished to join other delegations in commending the report of the International Law Commission and also to draw attention to the importance of the chapters dealing with relations between States and international organizations and with the succe-

sion of States and Governments. For the time being she would make only a preliminary statement, which would later be supplemented by further views and comments from her Government.

14. The Indonesian delegation noted with interest the decision by the International Law Commission to consider, at its twenty-second session, the draft articles on permanent observers of non-member States to international organizations and on delegations to sessions of organs of international organizations, and to postpone a decision on the question of dealing separately with the possible effects on State representation of exceptional situations, such as absence of recognition or of diplomatic relations. The extremely complex and delicate nature of those questions fully justified the caution shown by the Commission in the matter. She believed that tripartite consultations might prove to be the only solution for some of those questions.

15. With regard to sub-paragraph (d) of paragraph 1 of article 32, the Indonesian delegation wondered whether it would be appropriate to include such a provision or whether it would be better to provide, as suggested by some delegations, for tripartite consultations as a means of settling the problem referred to in the sub-paragraph.

16. The misgivings expressed by various delegations concerning the second sentence of article 25, paragraph 1, were understandable, and the non-arbitrary use of that provision by the host country should be guaranteed.

17. The Indonesian delegation agreed with those who felt that article 44 should be placed at the end of the draft, so that it applied to all the relevant articles in the text.

18. Regarding the question of succession of States and Governments in respect of matters other than treaties, the Indonesian delegation wished to emphasize the gravity of the problems posed by the decolonization process in many countries that had recently attained independence. It fully endorsed the principle of equality of States, which had been taken by the Special Rapporteur, Mr. Bedjaoui, as the starting-point for dealing with the question, and it shared his view that acquired rights could not have a legal basis in a transfer of sovereignty from the colonial State to the newly independent State, entailing a transfer of obligations from the former State to the latter. It also thought that, in view of the various problems which it had raised, the question of acquired rights would have to be considered both within the context of State succession and within the context of State responsibility.

19. The historical survey of the question of State responsibility, provided in the report of the International Law Commission, was extremely useful. The Commission's decision to study the subject in three separate stages, starting with the question of the imputability to a State of the violation of an obligation, seemed very sensible. The Indonesian delegation agreed that priority should be given to the study of the most-favoured-nation clause and hoped that special attention would be paid to the problems posed by that question for the developing countries, especially in connexion with the principle of reciprocity. It was pleased to see that the International Law Commission had decided to bring up to date its long-term programme of work at its

next session. It also supported the recommendation made by the Conference on the Law of Treaties and welcomed the decision to continue the seminars on international law, which it hoped would be attended by an increasing number of students from developing countries.

20. With regard to the extension of the term of office of the members of the International Law Commission, the Indonesian delegation agreed with many other delegations that felt that such a measure was not really necessary. In conclusion, she expressed the hope that co-operation between the International Law Commission and the various other organs competent in the field of international law would be steadily strengthened.

21. Mr. JACOVIDES (Cyprus) considered that, in view of the special responsibilities of the International Law Commission, the Sixth Committee and the International Court of Justice for the progressive development and codification of international law, the existing co-operation between those organs should be increasingly strengthened. Of the many activities undertaken in 1969 in connexion with the codification and progressive development of international law, one of the most successful had been the conclusion of the Vienna Convention on the Law of Treaties, which would help considerably towards the establishment of conditions that would promote respect for justice and for obligations arising from treaties.

22. It was a pity that the very clear and full report of the International Law Commission on its twenty-first session could not have been issued earlier, so that delegations could study it with the necessary attention. The delegation of Cyprus wished, however, to congratulate the Commission and the United Nations Secretariat on the work that both had accomplished.

23. The questions dealt with in the draft articles on representatives of States to international organizations, concerning which his delegation would only make some preliminary comments, were of special interest because of the growing importance of State representation in international organizations, particularly for States which had recently gained independence and thus still lacked an extensive network of embassies.

24. With regard to draft article 25, he considered that only in extreme cases, such as disasters, could an exception be allowed to the principle of the inviolability of the premises of a permanent mission and that the host State should have the burden of proving that the circumstances justified any departure from that principle. Concerning article 26, he considered it only fair that the exemption of the premises of the permanent mission from taxation should extend to any property rented by the mission, so that States which were not in a position to purchase the necessary premises would not be deprived of the benefits provided for in the article.

25. His delegation attached great importance to such questions as the assistance by the organization in respect of privileges and immunities (article 24), the inviolability of archives and documents (article 27), freedom of movement (article 28), freedom of communication (article 29), personal inviolability (article 30), inviolability of residence and

property (article 31), and immunity from jurisdiction (article 32).

26. With the completion, at the next session of the International Law Commission, of the draft articles on permanent observers of non-member States to international organizations and on delegations to sessions of organs of international organizations, the codification and progressive development of the whole field of diplomatic law would be almost finished, and that would be a source of great satisfaction for his delegation.

27. On the subject of the succession of States and Governments, he observed that the very lively debates which had followed the introduction of Mr. Bedjaoui's report had clearly illustrated the complexity of that question. He hoped that the Commission's work on the subject would progress rapidly and that the topic would be given priority at the next session of the Commission.

28. With regard to another difficult and controversial subject—State responsibility—his delegation was particularly interested in paragraph 83 of the report, in which the International Law Commission recognized the importance of the so-called responsibility for risk arising out of the performance of certain lawful activities, such as space and nuclear activities. He recalled that, at the 768th meeting of the Sixth Committee, during the seventeenth session of the Assembly, his delegation had indicated its position regarding the legality and consequences of nuclear tests conducted by a State outside its own territory in such a way as to endanger human life or property.

29. The co-operation which existed between the International Law Commission and various competent bodies was both useful and constructive. The holding of an annual session of the Seminar on International Law at Geneva was also a happy initiative. The delegation of Cyprus would have no difficulty in supporting any proposal to have an extended session of the International Law Commission in 1971 or to hold an additional session if either of those measures was needed to complete the work in progress. However, an extension of the term of office of the Commission's members did not seem necessary or desirable, particularly as it would be an obstacle to the broadest possible participation in the work of the Commission. Lastly, his delegation supported the recommendation contained in the resolution relating to article 1 of the Vienna Convention on the Law of Treaties.

30. Mr. SECARIN (Romania) congratulated the International Law Commission and its Chairman, Mr. Ushakov, on the remarkable work done during its twenty-first session, particularly on such important topics as the succession of States and Governments, State responsibility and the most-favoured-nation clause. His delegation noted with satisfaction the constructive spirit of understanding that had made those remarkable results possible and thus helped to establish better relations and closer co-operation between States.

31. At the preceding session of the Sixth Committee, his delegation had been one of those which had stressed the desirability of consultation with international organizations, and it was therefore particularly gratified to note the

International Law Commission's decision to submit its new draft articles to the Secretariat of the United Nations and to the secretariats of the specialized agencies and the International Atomic Energy Agency, for their comments. His delegation would also await with great interest the future draft articles on permanent observers of non-member States to international organizations and on delegations to sessions of organs of international organizations and to conferences convened by such organizations, as well as the decisions that would be taken on the question of the legal effects of exceptional situations such as absence of recognition or of diplomatic relations on the representation of States in international organizations.

32. While reserving the Romanian Government's position on the new draft articles, his delegation wished to make some preliminary comments.

33. On the topic of the facilities, privileges and immunities of permanent missions to international organizations, the International Law Commission had concluded that those missions should enjoy a status analogous to the status granted to diplomatic missions in the context of bilateral relations; it was therefore natural that the corresponding provisions of the Vienna Convention on Diplomatic Relations should be adapted to the topic under consideration. His delegation favoured the principle of analogy on which the Commission had based its decisions. It believed, however, that the principle should be applied to specific articles in such a way as to respect the particular characteristics of the permanent mission. With regard to freedom of movement, the analogy principle had made the text of article 28 broader in scope than that of article 26 of the Vienna Convention; however, elsewhere—in particular, in article 25—the analogy principle led to a deviation from the rule of the inviolability of premises, which ought to have been adopted. The idea of assumed consent, expressed in the last sentence of article 25, paragraph 1, was inconsistent with the permanent and representative nature of State missions to international organizations. On the other hand, the rule in article 39 on exemption from laws concerning acquisition of nationality marked a real advance in the definition of the legal status of permanent missions.

34. With regard to the succession of States and Governments, his delegation agreed with the Special Rapporteur that the starting-point should be the fundamental principles of international law, as embodied in the United Nations Charter and other international instruments of universal applicability. Any legal rule adopted in matters of State succession should conform to principles such as that of equal rights and self-determination of peoples, the sovereign equality of States and the duty of States to co-operate with one another. His delegation was eagerly awaiting the results of the Commission's work in that field, particularly the draft articles to be prepared by the Special Rapporteur on the succession of States in respect of economic and financial matters.

35. Turning to the question of State responsibility, he expressed general support for the Commission's plan, adopted at the suggestion of the Special Rapporteur, for codifying the rules relating to that topic.

36. He congratulated Mr. Ustor, Special Rapporteur on the most-favoured-nation clause, on his first report, con-

taining a history of that clause up to the Second World War, and was eagerly awaiting the second study, which would take up the replies from organizations consulted by the Secretary-General and the judicial precedents relevant to the clause.

37. His delegation fully appreciated the reasons for the Commission's desire to extend the term of office of its members. It was not certain that such a measure would indeed make the Commission's work more fruitful; it would in any case side with the majority on that question.

38. With regard to the resolution relating to article 1 of the Vienna Convention on the Law of Treaties, the law governing agreements between States and international organizations was growing more important as inter-governmental organizations came to play a larger role in international co-operation. Codification and progressive development of that branch of law were essential, and the Commission should be left completely free to fix the order of priority of its work on that topic.

39. Mr. MUNGOMBA (Zambia) said that because of the late date on which the International Law Commission's report had been transmitted to the delegations, he would be unable to express any definite views on the topics discussed in it. His Government would, however, make a close study of the draft articles contained in the report and submit its comments to the Secretariat.

40. He welcomed the exception specified in article 32, paragraph 1(d), and hoped that the International Law Commission would extend that exception to accidents caused by a vehicle even during the exercise of official functions.

41. The question of acquired rights mentioned in chapter III of the report was very important to countries which had just emerged from colonial rule. When his Government determined which of the obligations entered into by the former colonial Power were binding on Zambia, it would take account, *inter alia*, of the doctrine of unjust enrichment. It did not accept the thesis of "absolute inheritance" of obligations, particularly where those obligations were prejudicial to the economic, political and social development of the Zambian people, and it believed that in formulating new principles of the law of succession of States in cases of decolonization, the International Law Commission should avoid imposing on the new States any unfair burdens and responsibilities incurred by the former colonial Powers.

42. His delegation opposed extending the term of office of the members of the Commission to seven years because, in its view, lawyers from all States Members of the United Nations should be given a chance to participate in the progressive development and codification of international law.

43. With regard to the Vienna Convention on the Law of Treaties, the Sixth Committee should recommend the General Assembly to take steps to close the remaining gaps, the most important of which related to the principle of universality. General multilateral agreements such as the Vienna Convention or treaties which might have a profound

bearing on general principles of international law or which vitally affected all States should be viewed in a universal context and therefore be open to signature by all States.

44. Lastly, although his Government was not among the beneficiaries, it wished to thank those States which had offered scholarships for nationals of developing countries to attend the annual Seminar on International Law.

45. Mr. KHASHBAT (Mongolia) wished to make some general remarks on the report of the International Law Commission. In regard to the draft articles contained in the report, he emphasized the importance his Government attached to such matters as the inviolability of the premises of the permanent mission, freedom of movement and non-discrimination, and recalled that the theory of functional necessity played an increasingly important role in determining the extent of the privileges and immunities of heads of missions. He noted with satisfaction that the Commission intended to include in the draft articles provisions concerning observers for States which were not members of international organizations.

46. There was cause for satisfaction in the fact that the General Assembly had recommended that the International Law Commission should give high priority to the question of the succession of States and Governments, which was of considerable interest to newly independent States. That question should be considered not only from the political point of view, but also in the light of the principles of the Charter and the collapse of colonialism.

47. The question of State responsibility was an essential one with respect to the maintenance of international peace and security. The International Law Commission had been right in beginning with the study of the question of imputability.

48. He congratulated the International Law Commission on the productive work it had accomplished at its twenty-first session in the field of the codification and progressive development of international law; he was gratified to note the strengthening of the co-operative relationships it maintained with other organizations working in the same field.

49. He did not think the arguments advanced in favour of the prolongation of the terms of office of the members of the Commission justified the adoption of such a measure. The provisions in the Statute of the International Law Commission for the re-election of members in specific cases should be sufficient to ensure the continuity of work. Similarly, he did not think it would be necessary to reserve the possibility of an additional or extended session in 1971.

50. Mr. SHAW (Australia) regretted that his delegation had not had sufficient time to study the report of the International Law Commission in detail, since it had not been distributed until a very few days before the opening of the debate; in that connexion, it should be remembered that the twenty-first session of the Commission had been held somewhat later than usual. However, if the debate in the Sixth Committee on the report of the International Law Commission was to be as useful as had been hoped, it was essential that the delegations should be able to study the report in detail, particularly where it dealt with subjects on which no texts had been prepared.

51. His delegation wished to submit some comments of a general and preliminary nature on the twenty-nine new articles on representatives of States to international organizations prepared by the International Law Commission. It noted first of all that article 22 placed an obligation on international organizations to assist permanent missions to obtain the facilities which the host State was obliged to accord them, but that it was stated in the commentary on that article that the question of whether international organizations would become parties to the instrument was a separate one to be considered at a later stage. It seemed to his delegation that a question of principle was involved that must be decided on first, and that the final text of the draft articles would depend to a large extent on whether or not international organizations were to become parties to the instrument, assume the obligations imposed by it and acquire rights under it. Moreover, even if it were decided that international organizations could become parties to the draft articles, it would be necessary to settle the question of whether it was better to state the rights and duties of international organizations in separate articles or to deal with them as was currently done, namely as incidental and dependent on articles dealing primarily with the rights and duties of host or sending States or of the missions themselves and their members.

52. Lastly, in connexion with article 22, he referred to a difficulty which was perhaps merely one of language. The second sentence in article 22 seemed to imply that the obligations imposed in the first sentence would not be honoured unless the organization assisted the permanent mission in that respect; that might make it possible to place on the obligation imposed in the first sentence a less absolute interpretation than would be the case if the second sentence were not there. The way in which international organizations were dealt with in the articles was, in his delegation's view, of primary importance with respect to both the form and the content of the articles.

53. In regard to article 45, paragraph 1, he noted that the draft contained no provision for the host State to declare a representative of the international organization *persona non grata*. That omission was made because the relation between a host State and a representative to an international organization was different from that between a receiving State and a representative accredited to it and was intended to safeguard the independent exercise of their functions by representatives to the international organization. However, the functions of a representative to an international organization were defined to a large extent by the draft articles themselves, and the question arose whether the sending State ought not to be obliged to recall a representative in the case of a gross breach on his part of the obligations imposed on him by the draft articles; the draft articles obliged the sending State to recall a representative only in the case of a grave and manifest violation of the criminal law of the host State. Paragraph 2 of that article raised another question, that of whether the limitation on the operation of the first part of that paragraph was correctly defined. It might be asked whether it would not be advisable to define it in another way, for example, by providing that the provisions of paragraph 2 should not apply to acts performed by the person in question in carrying out the functions of the permanent mission, no matter where those acts were performed. Paragraph 2 of

article 45 raised yet another problem in that it referred to grave and manifest violations of the criminal law of the host State; while it might be easy to reach agreement on the meaning of the adjective "grave", that was not the case with the adjective "manifest", which might be the subject of a real dispute; accordingly, it would be advisable to make a careful search for another formula. His purpose in taking article 45 as an example was to show some of the problems which seemed to arise where it was necessary to depart from traditional notions because of the new nature of the problem under consideration, namely the three-sided character of the relationship in question. The report indicated that the International Law Commission had been induced to depart from familiar notions in the areas of *agrément*, *persona non grata* and nationality. His delegation considered that Governments should pay close attention to those areas in considering the draft articles.

54. Lastly, referring to article 32, he noted that some members of the International Law Commission had taken the view that members of the permanent mission should not enjoy immunity from the civil jurisdiction of the host State in a case of action for damages arising out of an accident caused by a vehicle used outside the official functions of the person in question. In view of the differences of opinion which had emerged in that connexion, he felt that a solution could be to adopt provisions requiring representatives to international organizations to be insured against liability for accidents caused by vehicles used by them; if that solution were adopted, it would of course also be necessary to ensure that insurance companies would not be able in the exercise of their rights of subrogation to rely on the diplomatic immunity of the insured.

55. In the matter of the succession of States and Governments, although the question of post-colonial succession was obviously one of considerable importance, the future was likely to bring many problems arising out of different situations; he had in mind, in particular, new forms of international co-operation such as common markets. His delegation would therefore be disappointed if the International Law Commission were to neglect those problems.

56. Turning to the concluding chapter of the Commission's report, he welcomed the Commission's confirmation of its intention of bringing its long-term programme of work up to date. His delegation remained convinced that any increase in the term of office served by members of the Commission would have to be considered in the light of existing arrangements for the rotation of offices on the Commission among jurists from each geographical group and the availability to the Commission of the services of a wide range of jurists. It remained to be convinced, however, that the term of office should be extended. In the time remaining before expiry of the mandate of its present members, in 1971, the Commission should concentrate its efforts on those parts of its work which it could complete within that time.

57. He also believed that the question dealt with in the resolution adopted by the Vienna Convention on the Law of Treaties in relation to article 1 should be considered in connexion with relations between States and international organizations. At the same time, he shared the view that

that question should be referred to the International Law Commission, since it was a subject sufficiently narrowly defined to justify the Commission giving it priority consideration.

58. Mr. RUDA (Argentina) noted, first of all, that the International Law Commission had fulfilled the hopes placed in it by the international community, as it had shown once again with the adoption, at Vienna, of the Convention on the Law of Treaties. The Commission's achievements were due primarily to its unflagging efforts to draft texts of high quality which reflected the rules of international law established by practice but which also embodied ideas recognized by the contemporary international community.

59. He was glad to note that, in response to the wish expressed by the General Assembly, the Commission had resumed the study of the difficult but very important question of State responsibility. His delegation was convinced that the Commission was adequately equipped by its experience to attack the problem, and it approved of the approach adopted for the study of that question. However, it believed that the question of responsibility for risks arising out of the performance of certain lawful activities should not be deferred for too long, since research in space and on the use of nuclear energy might cause even greater damage than illicit acts.

60. There could be no doubt that, from the theoretical point of view, the most interesting debate which had taken place during the Commission's last session had been that on the problem of State succession in respect of matters other than treaties. It should be noted in that connexion that, in considering the question from the standpoint of acquired economic and financial rights, the Special Rapporteur had adopted a position which, while controversial, was nevertheless important in that it represented the point of view of new States. However, the Commission had been right in adopting a cautious and pragmatic approach by deciding to begin with a study of public property and public debts.

61. He commended the report presented by Mr. Ustor on the most-favoured-nation clause, which provided a valuable account of the background of that clause. The report would be a good basis for the work to be undertaken by the Commission on that question, which was of great importance to international organizations concerned with economic matters and international trade in general.

62. At its twenty-first session, the Commission had concentrated mainly on the question of relations between States and international organizations; it had adopted twenty-nine new draft articles comprising part II of its draft articles on representatives of States to international organizations. His delegation approved of the decision to include in the draft provisions concerning permanent observers of non-member States to international organizations and delegations to sessions of organs of international organizations, but it reserved its position regarding both delegations to conferences convened by international organizations and any consequences of armed conflict with regard to the representation of States before international organizations and the existence or absence of diplomatic relations, until such time as it had an opportunity to study all the draft articles.

63. With regard to chapter VI of the report, his delegation wished first of all to point out that once it had decided to study a given question, the Commission should complete the study of that question before the term of office of its members expired. It was to be hoped that it would have completed its study on relations between States and international organizations by 1971, and the General Assembly should grant it every facility to make that possible.

64. Lastly, his delegation endorsed the recommendation contained in the resolution of the United Nations Conference on the Law of Treaties concerning article 1 of the Vienna Convention on the Law of Treaties. It believed that, in order to study the question of treaties concluded between States and international organizations or between two or more international organizations, the Commission would not need to change the order of priority which it had established and that it would suffice for it to place that important new question among those to be given priority in its programme of future work.

65. In conclusion, his delegation expressed particular satisfaction regarding the contacts established between the International Law Commission and the Inter-American Juridical Committee, and it confirmed its support for the Seminar on International Law at Geneva.

66. Mr. ZAVOROTKO (Ukrainian Soviet Socialist Republic) said that he wished to make some general comments on the report of the International Law Commission. In connexion with chapter II of the report, he recalled that the Polish representative had, at the 1106th meeting of the Committee, rightly called for the inclusion of provisions relating to the legal status of permanent observers of States which were not members of international organizations. On the other hand, he did not agree with the Japanese representative's view (1108th meeting) that such observers should be allowed to attend only on two conditions, namely, that they should have been invited by the international organization concerned and that the host State should have given its agreement. Those conditions were unacceptable, since they restricted the independence of international organizations.

67. With regard to the question of the succession of States and Governments, it was not enough merely to refer to rules which had been applied in the past; consideration should also be given to the experience of the new States which had cast off the yoke of colonialism, since the question of the succession of States was a matter of paramount importance to them. Work on the question of State responsibility was proceeding too slowly and should be speeded up.

68. He agreed with some of the previous speakers that it was unnecessary to reserve the possibility of an additional session or an extended session of the International Law Commission in 1971. Furthermore, he thought that it would be unwise to extend the term of office of members of the Commission from five to seven years.

69. He considered that the International Law Commission should not at present be requested to examine the question referred to in the resolution relating to article 1 of the

Vienna Convention on the Law of Treaties. In order not to interfere with the work in hand, the Commission should be allowed to decide which questions to consider first. It should also be given full discretion in regard to consultations with international organizations, and should not be given instructions liable to restrict its independence.

70. Mr. DEBERGH (Belgium) congratulated the International Law Commission on the admirable work it had done in preparing a draft of twenty-nine new articles on representatives of States to international organizations. He said that he wished, at the present stage, merely to make one preliminary comment in connexion with article 22. It appeared from the commentary on that article that some doubt had been expressed in the International Law Commission as to whether it was desirable that the obligations of international organizations should be stated in the draft articles. There did indeed seem to be some reason for those doubts, particularly as the twenty-nine articles related mainly to the obligations and rights of the host State, the sending State and, subsidiarily, the third State or State of transit, and the international organization figured merely as an intermediary, or agent, in the creation and implementation of those obligations and rights. He wondered therefore whether it might not be better not to speak of an obligation of the international organization but rather to stress the obligation of the host State to accept the good offices of the organization whenever they were offered in connexion with any matter affecting the granting of facilities, privileges and immunities to permanent missions. The same comment applied, *mutatis mutandis*, to article 23, paragraph 2, and to articles 24 and 50.

71. The succession of States in respect of economic and financial matters was a controversial subject which should not be dealt with prematurely; otherwise, work on the whole question might be held up. His delegation therefore agreed with the International Law Commission that it would be best to adopt an empirical method and start with a study of public property and public debts.

72. His delegation also agreed with the International Law Commission that the starting point for the codification of the international responsibility of States should be the imputability to a State of the violation of obligations arising from rules of international law.

73. With regard to the organization of the future work of the International Law Commission, his delegation approved the proposals contained in paragraph 92 of the report. He was sure that it would be possible to complete the study of the relations between States and international organizations during the Commission's twenty-third session.

74. His delegation agreed with earlier speakers who had taken the view that the extension of the term of office of the members of the International Law Commission would unduly slow down the process of rotation, which was designed to ensure the participation of representatives of different geographical groups and different schools of legal thought. If it appeared that the Commission would have difficulty in completing the work in hand by the end of 1971, his delegation was not likely to object to an extended session, but it would reserve judgement on that question until it had a more accurate idea of the financial implications.

75. Finally, his delegation continued to support the Seminar on International Law at Geneva.

76. His delegation had no objection in principle to the recommendation of the United Nations Conference on the Law of Treaties that the question of treaties concluded between States and international organizations should be referred to the International Law Commission; but it had some doubts as to the practical value of such a step. As everyone knew, the Commission's workload was extremely heavy and the question could therefore only be included in its long-term programme.

77. Mr. MOUFTI (Saudi Arabia) said that he approved the report of the International Law Commission as a whole and expressed his appreciation of the Commission's unique and

highly important role in the codification and progressive development of international law.

78. He welcomed the adoption of the twenty-nine new articles on representatives of States to international organizations. His Government would study those articles carefully and would submit its written comments in due course.

79. His delegation supported the proposal to extend the term of office of the members of the International Law Commission, because it believed that an extension would help to ensure continuity of work and would lead to better results, since the questions under consideration by the Commission sometimes required long and thorough study.

The meeting rose at 5.50 p.m.