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Chairman: Mr. Erik SUY (Belgium).

AGENDA ITEM 85

Report of the International Law Commission on the work of its twenty-fourth session *(continued)* (A/8710 and Add.1 and 2)

1. Mr. GASTLI (Tunisia) said that the International Law Commission had of late fashioned two new links in the chain of the codification and development of international law. The draft articles on succession of States in respect of treaties (see A/8710, chap. II, sect. C) were an essential supplement to the Vienna Convention on the Law of Treaties while the draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons (*ibid.*, chap. III, sect. B) complemented the conventions governing diplomatic and consular relations and the immunities and privileges of international officials.

2. His delegation took note of the draft articles on succession of States in respect of treaties and reserved the right to comment thereon. It fully supported the "clean slate" principle, which was fundamental to the draft as a whole. Tunisia, for example, regarded the Judicial Agreement of 1894 between France and the United Kingdom, which had applied to Tunisia and Fiji, as having lapsed; it had recently concluded a judicial agreement with France and was currently negotiating another with the United Kingdom.

3. As to the draft articles on the prevention and punishment of crimes against diplomatic agents, his delegation considered that it would be well to include in article 1 a reference to previous codification work—namely, the Vienna Conventions on Diplomatic Relations and on Consular Relations, the Conventions on the Privileges and Immunities of the United Nations and on the Privileges and Immunities of the Specialized Agencies and the Convention on Special Missions—together with a statement that the persons affected were entitled to special protection. The machinery regarding sanctions, which allowed a choice between prosecution and extradition, was acceptable. Tunisia's municipal law and the bilateral conventions which it had signed provided that the crimes in question were extraditable offences under the ordinary law. Article 9, which merely invoked internal law, could be deleted. It should at least be specified that the most severe penalty should serve as a determinant; the penalty should be a sanction under the criminal law because the offence was described as a *universal crime*. With regard to article 12, his delegation could not support the procedure set forth in alternative B because his Government had not yet recognized the compulsory jurisdiction of the International Court of Justice. He expressed the hope that the draft articles would be sent to Governments for their comments, which should be transmitted to the Commission for it to undertake a review of the draft.

4. The Tunisian delegation opposed the convening of an international conference of plenipotentiaries and he asked that the Secretariat should estimate the financial implications of such a meeting for the Committee's information. It would leave it to the Commission to redraft the text of the 12 articles in the light of comments by Governments, after which the draft should be submitted to the Sixth Committee for final consideration and adoption—which had been the procedure in the case of the Convention on Special Missions.

5. Mr. KRISHNADASAN (Zambia) observed that the codification of international law on succession of States in respect of treaties and in respect of matters other than treaties was of special importance to new States like Zambia which had to protect their economic and political independence. It was to be hoped that the Commission would deal expeditiously with the topic of succession in respect of matters other than treaties and would be able to submit a first set of draft articles at the twenty-eighth session of the General Assembly.

6. His delegation noted with satisfaction that the Commission had adopted a positive approach to the question of succession of States in respect of treaties, basing itself on State practice rather than on doctrine and taking the Vienna Convention on the Law of Treaties[1] as the framework for its efforts. By applying the "clean slate" principle to newly independent States, article 11 gave due weight to the right of peoples to self-determination and to the sovereign equality of States. Zambia had implemented that principle from the time of its accession to independence, in October 1964, by formulating a general reservation with regard to all rights, responsibilities or obligations deriving from treaties concluded by the United Kingdom. Nevertheless, it attached due significance to the provision of article 12 whereby newly independent States might participate in multilateral treaties by a notification of succession, and to the provision of article 19 whereby they might obtain the continuance in force of bilateral treaties by express or tacit agreement.

[1] See United Nations Conference on the Law of Treaties, 1968 and 1969, *Official Records* (United Nations publication, Sales No.: E.70.V.5), document A/CONF.39/27, p. 287.

7. Articles 7 and 8 were worded in such a way as to give equal significance to devolution agreements and unilateral declarations. While not contesting the Commission's view that, in the case of a State party to a treaty concluded by the predecessor State, the legal effect of a unilateral declaration would be analogous to that of a devolution agreement, the Zambian delegation felt that, if possible, the difference between the two forms of legal act should be reflected. A unilateral declaration was made voluntarily after careful consideration, whereas a devolution agreement might not always have been concluded quite freely. Furthermore, if treaty relations with the other State party were to continue in force, the latter must accept, tacitly at least, the provisional application of the treaty. A unilateral declaration and the acceptance, express or tacit by the other State party had been used by the Zambian Government as a provisional method for maintaining most of its treaty relationships. It had preferred that procedure to negotiating the express revival of a lapsed treaty or a new treaty to replace it. It was therefore entirely satisfied with the provisions of article 23, which embodied its own practice.

8. The Zambian delegation was in some doubt as to the necessity of article 14 because it did not consider that the signature of a treaty subject to ratification or approval justified the transfer to the successor State of the obligations which the predecessor State had accepted. He suggested therefore that the article should be deleted.

9. Article 15 was a pragmatic and flexible approach to the question of reservations. As Zambia's notification of its succession to the Covention relating to the Status of Refugees of 1951 had been cited in paragraph (10) of the commentary on that article as a striking example of recent practice regarding reservations in which the line between "succession" and "accession" seemed to have become somewhat blurred, the Zambian delegation would restate the position which it had adopted in the Committee (1265th meeting) at the previous session of the General Assembly, namely that when a new State gave notice to the depositary of its succession to a treaty and at the same time notified him of reservations of its own without alluding to those formulated by its predecessor, the new State was a party to the treaty in question by succession, although the terms of its participation had been modified by the formulation of new reservations which implicitly abandoned the predecessor State's reservations. To some extent, such a situation seemed analogous to the application of successive treaties relating to the same subject-matter where the provisions of the earlier treaty applied only to the extent that they were compatible with those of the later treaty. The Zambian delegation could not also accept the Netherlands opinion expressed at the 1317th meeting that reservations in respect of multilateral law-making conventions should not be automatically maintained.

10. With regard to articles 27 and 28, the Zambian delegation found it difficult to appreciate the necessity for distinguishing between the dissolution of a State and the separation of a State and for providing that, in the first place, treaty relations should continue whereas, in the second case, the "clean slate" principle would be applicable. It would be advisable, if only for reasons of consistency, that the same provision should be applied to both situations, unless it was made clear that the dissolution related to a union of former independent States.

11. The draft articles relating to boundary régimes or other territorial régimes established by a treaty, though representing a laudable effort by the Commission from the standpoint of ensuring peace and tranquility, belied not only existing facts but also appeared to cut across the principles of self-determination, equal rights and sovereign equality of States that underlay the remainder of the draft. Colonial frontiers had been drawn up for strategic or economic reasons without any regard for geographic or ethnic considerations. The fact that most States members of the Organization of African Unity had pledged themselves to respect the borders existing on their achievement of national independence did not necessarily mean that the measure, which they had adopted in the interests of stability in Africa, should be consecrated as a rule of international law. Under both the Vienna Convention and international customary law, a State could only be bound by a treaty through an act of will establishing consent to be bound. That rule was applicable in respect of boundaries and territorial régimes. Furthermore, a question arose as to whether, in the case of the accession of a State to independence, the change of circumstances was not so fundamental that the exception for which provision was made in article 62, paragraph 2 (*a*), should not be applicable. That did not mean that all territorial treaties should be considered lapsed. Yet it was certain that the question should be re-examined with a view to the formulation of rules in keeping with current realities and in harmony with widely accepted rules of international law.

12. With regard to the draft articles on the protection of diplomatic agents, the Zambian delegation would have preferred the Commission to appoint a special rapporteur on the topic in accordance with its usual practice. The solution to the problem of the protection of diplomatic agents was to be found not so much in the elaboration of a new international covention, or even in the reinforcement of the penal law of States, but in the ability of the host State to provide adequate protection by effectively implementing existing penal law. While the question of crimes against diplomatic agents and other persons entitled to special protection was but one of the aspects of a wider question, the commission of acts of terrorism—as the Commission had recognized in paragraph 65 of its report—it was equally the case that the draft articles could be properly formulated only after a thorough study of the causes of terrorism. The success or failure of a convention on this subject would depend largely on its acceptability by a large majority of States.

13. Despite its general reservations, his delegation proposed to offer some preliminary comments on certain draft articles. Article 2, paragraph 1, which defined the type of act to which the draft applied, used the word "intentional". That did not necessarily make clear that the offender was aware of the special status of his victim. The expression "regardless of motive" might make it more

difficult for States to become parties to the proposed Convention. Moreover, absence of the expression would not weaken the thrust of the definition. The threat referred to in article 2, paragraph 1 (*c*), was different in character to the concept of threat in article 1 of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague in 1970[2] which covered cases where a person actually seized an aircraft or attempted to do so. Subparagraph (*c*) should therefore be deleted. With regard to the content of article 2, paragraph 2, his delegation did not favour a reference to the aggravated nature of the offence, due to the identity of the victim. It would be preferable to adhere in that regard to the text of article 2 of The Hague Convention, followed in article 3 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal in 1971.[3] It was doubtful whether the incorporation in article 2, paragraph 3, of the principle of universality as the basis for establishing jurisdiction was the most appropriate method of ensuring apprehension and punishment of the offender. It might be better to model that provision on the lines of article 5 of the Montreal Convention. In order to maintain consistency with article 6, the words "the purpose of" should be inserted between the words "for" and "prosecution" in article 5, paragraph 1, of the English text. Paragraph (2) of the commentary on article 6 stated that it was clear that no obligation was created for the State in whose territory the alleged offender was present to punish or to conduct a trial. That State's obligation would be fulfilled if the competent authorities decided, in good faith and in the light of all the circumstances involved, not to commence trial proceedings. His delegation agreed with that interpretation and suggested that the final phrase of article 6 should be amended, either by deleting the words "through proceedings" or by substituting the word "procedures" for "proceedings". That would make it absolutely clear that judicial proceedings were not necessarily implied. Considering his delegation's earlier remarks on the question of extraterritorial jurisdiction, it felt that consideration might be given to retaining the substance of article 8, paragraph 4, of The Hague and Montreal Conventions in article 7. His delegation believed that careful consideration should be given to the view expressed by Canada in regard to extradition (see A/8710/Add.1) and thought that it might be advisable to adopt the less rigorous terms of the Single Convention on Narcotic Drugs, 1961, which stated that it was desirable that the offences referred to be included as extradition crimes in any extradition treaty which had been or might thereafter be concluded between any of the parties.

14. If a convention on the protection of diplomats was to result, it should be made quite clear that it would in no way impose shackles on peoples seeking independence and liberation. International law could not be used for spurious or immoral purposes.

15. With regard to the other decisions and conclusions of the Commission, he noted with satisfaction that the important topics of State responsibility and of succession of States in respect of matters other than treaties were to be considered at its twenty-fifth session as matters of priority. He also considered that the co-operation of the Commission with other bodies concerned with the codification and progressive development of international law could only be beneficial. He expressed his appreciation to Governments that had made scholarships available for participants from developing countries to attend the International Law Seminar. Special thanks were due to the Government of Denmark for having more than doubled its contribution. The International Law Seminar would contribute to an exchange of views between the younger generation of lawyers, who might thus look upon the important legal problems confronting the international community, untrammelled, as far as possible, by considerations of ideology.

16. Mr. GHARBI (Morocco) congratulated the Commission on its important report on the work of its twenty-fourth session. A special tribute should be paid to Sir Humphrey Waldock for the veritable triumph of legal expertise which the draft articles on succession of States in respect of treaties represented, by and large. Unfortunately, not enough time had passed for the dialogue between Governments and the Commission—which alone could bring success to that body's work—to be instituted. Pending the results of his Government's in-depth study of the proposed draft articles, his delegation would merely make some preliminary general remarks on them.

17. Generally speaking, he had no fundamental objection to the draft articles on succession of States in respect of treaties, since they were a normal corollary to the Vienna Convention on the Law of Treaties which Morocco had just ratified. His delegation was pleased that the Commission had based its approach on the "clean slate" principle without, however, totally abandoning the principle of continuity, thereby taking account of the principle of self-determination contained in the Charter of the United Nations as well as the requirements of *jus cogens*. The distinction made between States resulting from the joining of States or the dissolution of a State, on the one hand, and newly independent States, on the other, was perfectly justified; however, the highlighting of the differences between the former colonial administrations in the newly independent States was not justified, since the sovereignty of such States had been limited in every case.

18. Since it became independent, Morocco had had to face problems relating to succession of States, particularly in respect of treaties, and it had done so in a spirit of conciliation and good faith, seeking constructive, forward-looking solutions based on the principle of self-determination and the principle relating to the precedent of States' contractual liberty. In so doing, it had always refused to acquiesce, after the event, to unilateral acts with international repercussions committed by the administering Power, whether in accordance with treaties or, even more so, without treaties. Although the draft articles were on the whole satisfactory, his delegation regretted that they did not provide for an exception to the "clean slate" principle so that newly independent States would automatically be parties to

[2] International Civil Aviation Organization, 1970, document 8920.

[3] *Ibid.*, *1971*, *document 8966.*

multilateral law-making treaties such as the Vienna Convention on the Law of Treaties or the proposed convention on succession of States in respect of treaties. That was a serious omission.

19. In addition, the wording of some of the draft articles should be clarified, particularly that of article 30, and provision should be made for arbitration in the event that the rules laid down in articles 29 and 30—which appeared to favour the disputed principle of the intangibility of boundaries—conflicted with the principle of the self-determination of the peoples involved or were disputed by a State as in the case of certain parts of Asia particularly, declaring itself not bound by a treaty considered to be unequal. The role played by arbitration and conciliation in boundary conflicts both in Latin America and, in a more limited way, in Africa should not be underestimated. It would probably be easier to find an appropriate solution for each particular problem that might arise in that field through arbitration rather than through the rigid framework proposed by the Commission.

20. His delegation wished to make some comments on the question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law, while reserving its right to return to the subject when the Committee considered item 92 of the agenda. Firstly, without wishing to minimize the importance and urgency of the problem, it was doubtful if the Commission's draft articles were anything more than a mere extrapolation of the Vienna Convention on Diplomatic Relations and if they represented any advance whatever over customary law. Morocco, like many other States, had already made provision for severe penalties in its domestic law for any attack on the person or character of diplomatic agents and other persons enjoying special protection under international law. Besides, he wondered if it was not paradoxical that States which had not even ratified the Vienna Conventions on Consular Relations and on Diplomatic Relations should place such emphasis on speedy conclusion of a new convention on the subject. His delegation considered that an international criminal law could not be developed in so fragmentary and circumstantial a manner and was sceptical of the results that might be obtained by such an approach. Effective and equitable measures, consistent with the letter and the spirit of the Charter of the United Nations and the Universal Declaration of Human Rights could be drawn up only after an objective study of the underlying causes of international crime.

21. Governments should give the draft articles very careful consideration, but it was doubtful whether any constructive action would result as long as the political aspects of the question were deliberately ignored and if the proposed punishment was to be transformed, purely and simply, into a global strategy for the suppression of legitimate national liberation movements. It was essential that the case of the perpetrators of crimes against diplomatic agents and other internationally protected persons should be considered *intuitu personae*, but it was equally essential to preserve the right to existence and international protection of the leaders of national liberation movements recognized by the United Nations and by regional political organizations. Otherwise, the proposed convention would give rise to more problems, and more serious ones, than it would solve, by impeding the achievement of the very purposes and principles of the Charter which it sought to consolidate.

22. Mr. DE ROSSI (Italy) offered his warm congratulations to the Commission on the remarkable results which it had attained during its twenty-fourth session. His Government would submit its written observations to the Secretary-General; in the meantime, he would confine himself to a few general remarks on the two sets of draft articles.

23. While mindful of the reality of the problems of the modern world, his delegation considered that the draft articles on succession of States in respect of treaties should not disregard traditional practices in that field. The draft dealt with a question of great topical interest; in considering it, the customary procedure which the representative of Iraq had referred to at the 1325th meeting should be adopted.

24. With respect to the draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons, the Commission had completed its task with remarkable speed. That question was not only very important but also very urgent. Although the Vienna Conventions on Consular Relations and on Diplomatic Relations had set forth the rights and obligations of States in that field, a dangerous aggravation of the situation had occurred in recent years. The special protection which was to be accorded to diplomatic agents, not *intuitu personae* but in virtue of the functions which they performed, was of great importance. Thus, without belittling the difficulties which might arise, his delegation considered that work on the question should go ahead rapidly and it hoped that a conference of plenipotentiaries might be convened as early as 1973 with a view to the speedy adoption of an international convention on the subject.

25. Mr. SHAHABUDDEEN (Guyana) congratulated the Commission on the important work which it had accomplished at its twenty-fourth session and accorded special praise to Sir Humphrey Waldock, Special Rapporteur for succession in respect of treaties. His Government would submit its views on the two sets of draft articles in writing; in the meantime, he would confine himself to preliminary observations on them.

26. With regard to the draft articles on succession of States in respect of treaties, he was not persuaded that the criticisms which had been advanced in relation to the boundary régime provisions of article 29 were well conceived. In his view, those provisions made sense not only in themselves but also with respect to the many instances of State practice given in the commentary. It had been argued that a succession of States was a fundamental change of circumstances which should be opposable to the continuance of a boundary established by treaty, regardless

of the contrary provisions of article 62, paragraph 2 (*a*), of the Vienna Convention on the Law of Treaties. It had also been maintained that the continuance of such a boundary in the case of a newly independent State was inconsistent with the right to self-determination and the "clean slate" principle which derived from it. It was not clear to him how a succession of States could properly constitute a fundamental change of circumstances. If it was really true that the question of a fundamental change of circumstances could arise only between two States which had a subsisting treaty relationship, the problem at succession was not whether a fundamental change had occurred in a subsisting treaty relationship between the two States, but whether such relationship was still in existence. That there was some relationship could hardly be denied in the light of past practice. Equally unacceptable was the argument that a succession was a fundamental change of circumstances which released the successor State from all obligations of the treaty. Such treaties were made in full awareness that political control was transmissible and often transmitted. Thus, the very logic of the situation required that the treaties should endure, regardless of any transmission of political control over any part of a particular territory. It was, therefore, artificial to seek to divorce the question of succession of States from the essential framework of the Vienna Convention on the Law of Treaties, in particular article 62, paragraph 2, of the Convention, which provided that "A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty: (*a*) if the treaty establishes a boundary; . . ." The rule set forth in the Commission's draft was obviously analogous, but it should be noted that the Commission had been careful to avoid saying that a succession of States was a fundamental change of circumstances and that it had simply referred, in paragraph (10) of the commentary on articles 29 and 30, to the considerations which had led it to make that exception to the fundamental change of circumstances rule. The various instances of State practice set out in the commentary amply supported the distinction made in the draft articles between a boundary treaty as such and the boundary régime derived from it. Boundary treaties, which were intended to define the limits of sovereignty throughout the world, must be capable of enduring, regardless of any transfer of sovereignty. It seemed, in fact, that sovereignty could be transferred only on the basis of the boundaries which defined it.

27. As to the contention that article 29 ignored the principle of self-determination, it was not a question of the status of the principle, which was one of *jus cogens*, but of its scope. The principle of self-determination could not be extended to the point of removing the very foundation of the existence of the new State from the moment of its creation. Were it otherwise, the old colonial world would have become an unbounded chaos. No one maintained that such a birthright should be the consequence of the exercise of the right to self-determination. The Organization of African Unity had wisely perceived that the newly independent States would be the last to benefit from such an interpretation of the right to self-determination. It was clearly preferable to choose continuity, which offered them stability and strengthened world security.

28. The draft articles on the protection of diplomatic agents were generally acceptable, but certain features of them required comment. It was clear from paragraph (2) of the comentary on article 5 that the draft was intended to deal with he crimes specified even when they were committed in non-party States, yet the text of article 4 was suggestive rather that the draft dealt only with crimes committed in the territory of a State party.

29. Article 7, paragraph 4, gave priority to an extradition request if it was received within six months after the communication required under article 5, paragraph 1, had been made. An extradition request might conceivably be made even before that communication was made; the wording should probably be amended in order to avoid any ambiguity. Paragraph (3) of the commentary on article 9 stated that the provisions of that article were not intended to apply to States parties whose systems of criminal law did not contain rules on prescription. However, it did seem that the text of the article assumed the existence of rules on prescription in all States parties.

30. While the draft did not seek to impose obligations on non-party States, it applied to the crimes wherever committed and seemed, therefore, to give priority to an extradition request even from a non-party State. Article 10 envisaged co-operation between States parties but made no mention of non-party States.

31. His remarks in no way detracted from the value of the Commission's work, which his Government hoped would soon be brought to a successful conclusion.

32. Mr. LUKYANOVICH (Byelorussian Soviet Socialist Republic) said that he would merely give a preliminary opinion on the two sets of draft articles prepared by the Commission at its twenty-fourth session, which required thorough examination.

33. Referring to the work of the Commission as a whole, he emphasized that the Commission should concentrate on present-day international problems and contribute to the development of international law and the application of the principles of the Charter of the United Nations, rather than lag behind events.

34. He hoped that the Commission would soon take up the other pending questions, such as the most-favoured-nation clause, and State responsibility and give special attention to State responsibility for such grave international crimes as aggression and the use of armed force to repress national liberation movements.

35. With regard to the draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons, the Commission had worked fast, basing itself on recent international instruments, such as the Montreal and The Hague Conventions, and on the Vienna Conventions on Diplomatic Relations and on Consular Relations, under which States must take special measures to ensure the security of diplomatic and consular agents, members of their families and diplomatic

and consular premises. The sad experience of the League of Nations had also been taken into account. Paragraph 67 of the Commission's report showed clearly why special protection was necessary. He noted that the object of the draft articles was not only punishment but also prevention.

36. With regard to article 1, account should be taken of the fact that in many States the "Head of State" or "Head of Government" was a collegial body, and therefore all members of that body should enjoy the same protection as the heads of State or Government referred to in paragraph 1 (*a*).

37. Articles 4, 5, 6, 8, 10 and 11 were based on the Montreal and The Hague Conventions. Article 7, paragraph 4, rightly gave priority to an extradition request from the State in which the crimes had been committed; a similar procedure should be applied in all extradition cases.

38. As for article 12, it was not really necessary since any dispute between States could be settled through negotiation or by the application of other rules of international law.

39. In general his delegation considered that the draft articles were a good basis for further work.

40. With regard to the succession of States in respect of treaties, he recalled that the subject had been under review for 10 years. An appropriate settlement of that complex and topical problem would have a salutary effect on international law and would be most helpful for new States. For that reason the Commission, without diminishing the quality of its work, should speed up its preparation of draft articles on State succession still further. The draft articles currently before the Sixth Committee had many qualities but were also deficient in a number of ways. They made use of certain rules laid down in the Vienna Convention and contained new provisions, such as those relating to "succession of States" and "newly independent States". The term "succession of States" in article 2, paragraph 1 (*b*), transcended the scope of the present articles and could in principle be applied elsewhere in the work on succession of States. The definition of "newly independent States" which appeared in article 2, paragraph 1 (*f*), although it did not apply to all cases of newly-formed States, had been selected so that it could be applied to all cases of States freed from colonialism. The draft also specified that there was no succession in cases of a breach of the rules of *jus cogens* or of unlawful acts of aggression or occupation, and that the effects of the succession of States would operate only when the succession occurred in conformity with the general principles of international law and with the Charter. His delegation regretted that in paragraph 43 of its report, the Commission had not mentioned the need to make the agreements accord with recognized standards of international law. Similarly, he entirely approved of the "clean slate" principle laid down in article 11, since it was the corollary of the right of peoples to self-determination.

41. With reference to the deficiencies, it was unfortunate that the Commission had classified cases of succession into only three broad categories (see A/8710, para. 45), passing over in silence such important cases of succession as that occurring as a result of social revolution. He mentioned the treaty of military and economic union concluded in January 1921 between the Government of the Russian Soviet Federative Socialist Republic and the Government of the Byelorussian Soviet Socialist Republic, confirming the two parties, independence and sovereignty; article 2 of that treaty stated that the Byelorussian SSR was not under any obligation to any party whatsoever by virtue of its having previously belonged to the Russian Empire. The community of State structure, the military, political and economic union established and the mutual assistance provided had ultimately led to the formation of the USSR, which would soon be observing its fiftieth anniversary. It was unfortunate that in its commentaries the Commission had not given a single example of succession practice concerning other socialist States in which the "clean slate" principle had been specifically applied, and that it had devoted its commentary primarily to the policy of "decolonization" pursued by the former metropolitan countries. Lastly, article 19, paragraph 1 (*b*), might well give rise to conflicts which would be difficult to settle, where a successor State or a State party deemed that it had expressed its agreement by its conduct while the other party did not consider that its behaviour was a proof that succession had occurred; it would be preferable to envisage an obligation of notification for the successor State.

42. His delegation considered that the draft articles should be communicated to Governments for their comments. It also supported those representatives who wished the Sixth Committee to approve the report of the Commission on the work of its twenty-fourth session.

43. Mr. BOJILOV (Bulgaria) said that the two sets of draft articles appearing in the Commission's report which had been presented with great clarity by the Commission's Chairman, should be given careful consideration both by the Sixth Committee and by Member States. His Government would present its comments in due time, but meanwhile he wished to make some preliminary remarks.

44. With regard to the draft articles on the complex and controversial problem of the succession of States in respect of treaties, the Commission had been correct in defining the term "succession" on the basis of the law of treaties, the general principles of international law and the Charter of the United Nations, since, as the Commission itself had said, State practice afforded no convincing evidence of any general doctrine in the matter.

45. The provisions of article 1 and of article 2, paragraph 1 (*b*) and 1 (*f*), appeared to indicate that the scope of the draft articles was a rather limited one. It was true that the Commission had emphasized that article 2 excluded both succession of Governments and succession of other subjects of international law; however, it should at least have mentioned that the succession of States in the event of social revolution was also excluded. With regard to part III of the draft articles, the competing principles of "clean slate" and continuity of treaties had claimed the attention of international lawyers for many years. Bearing in mind the

principle of self-determination which was enshrined in the Charter and which applied to newly independent countries, the Commission had been correct, in article 11, in adopting the "clean slate" principle as a general rule. Articles 29 and 30, constituting part V of the draft articles, could be regarded as an exception to the rule. It was well known that the boundaries established by the colonial Powers had served only their interests; it was also true that if the "clean slate" principle was to be applied strictly to the boundaries and territorial régimes, it might give rise to international disputes. His delegation was inclined to favour the rules adopted by the Commission because they were designed to protect both the interests of the newly independent countries and those of the international community as a whole.

46. The draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons, which the Commission had prepared so expeditiously were generally satisfactory and represented an effective basis for the elaboration of an international convention which should command the widest possible support from all States in the world. In his delegation's view, the phrase "internationally protected person" in article 1 correctly covered not only the diplomatic agent in the classic sense of the term, but a wide range of persons who were regarded as internationally protected in view of the essential role they played in modern international relations. Some delegations had asked with good reason that the term "Head of State" or "Head of Government" in article 1, paragraph 1 (*a*), should also include members of collegial organs which functioned in the same capacity. Ministers of foreign affairs should also be included in the category of internationally protected persons. The usefulness of article 12 seemed to have been in doubt even for some members of the Commission. In view of the principle adopted in article 6, which gave the State the option between extradition or prosecution and was basic to the whole draft, it was unnecessary to include special provisions for the settlement of disputes.

47. He hoped that the Commission would continue its efforts to bring about a successful end to its work on other important topics, such as State responsibility and the most-favoured-nation clause.

The meeting rose at 12.50 p.m.