

Document:-  
**A/CN.4/SR.1415**

**Summary record of the 1415th meeting**

Topic:  
**Other topics**

Extract from the Yearbook of the International Law Commission:-  
**1977, vol. I**

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25. Mr. USHAKOV proposed Mr. Yankov, an eminent jurist, diplomat and politician, who had represented his country in the United Nations General Assembly for many years and had served as Chairman of the Third Committee of the United Nations Conference on the Law of the Sea.

26. Mr. REUTER, Mr. CASTAÑEDA and Mr. FRANCIS seconded the proposal. They also associated themselves with the congratulations extended to the Chairman and to the first Vice-Chairman and with the tribute paid to the outgoing Chairman for the masterly fashion in which he had conducted the work of the Commission at its twenty-eighth session and for the way in which he had represented it at the thirty-first session of the General Assembly.

*Mr. Yankov was unanimously elected second Vice-Chairman.*

27. Mr. YANKOV thanked the Commission for electing him.

28. The CHAIRMAN called for nominations for the office of Chairman of the Drafting Committee.

29. Mr. ŠAHOVIĆ proposed Mr. Tsuruoka.

30. Mr. USHAKOV and Mr. AGO seconded the proposal.

*Mr. Tsuruoka was unanimously elected Chairman of the Drafting Committee.*

31. Mr. TSURUOKA thanked the members of the Commission for electing him.

32. The CHAIRMAN called for nominations for the office of Rapporteur.

33. Mr. EL-ERIAN proposed Mr. Bedjaoui.

34. Mr. PINTO seconded the proposal.

*Mr. Bedjaoui was unanimously elected Rapporteur.*

35. Mr. BEDJAOUI thanked the Commission for electing him and congratulated the other officers of the Commission on their election.

#### **Adoption of the agenda (A/CN.4/297/Rev.1)**

*The provisional agenda (A/CN.4/297/Rev.1) was adopted unanimously.*

*The meeting rose at 5.25 p.m.*

### **1415th MEETING**

*Tuesday, 10 May 1977, at 12.10 p.m.*

*Chairman: Sir Francis VALLAT*

*Members present: Mr. Ago, Mr. Bedjaoui, Mr. Calle y Calle, Mr. Castañeda, Mr. Dadzie, Mr. Díaz González, Mr. Francis, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sette Câmara, Mr. Sucharitkul, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.*

#### **Communications from former members of the Commission**

1. The CHAIRMAN said that, before discussing the organization of work for the session, he wished to read out the text of a cable from Mr. Martínez Moreno and of a letter from Mr. Ramangasoavina expressing their best wishes to the Commission and, in particular, their congratulations to the newly elected members. He would, of course, send replies to Mr. Martínez Moreno and Mr. Ramangasoavina on behalf of the Commission as a whole.

#### **Organization of work**

2. The CHAIRMAN said that the Enlarged Bureau recommended that the Commission should not meet on Whit Monday, 30 May 1977, which was a public holiday in Geneva, but should meet on Ascension Day, 19 May, which was also a public holiday. If there was no objection, he would take it that the Commission agreed to that recommendation.

*It was so agreed.*

3. The CHAIRMAN said the Enlarged Bureau recommended that the Commission allot three weeks to the consideration of succession of States in respect of matters other than treaties (item 3 of the agenda), followed by four weeks for consideration of the question of treaties concluded between States and international organizations or between two or more international organizations (item 4 of the agenda), and three weeks for the topic of State responsibility (item 2 of the agenda). If there was no objection, he would take it that the Commission agreed to that recommendation.

*It was so agreed.*

4. The CHAIRMAN said that the Enlarged Bureau's recommendation regarding item 5 of the agenda (proposals on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by the diplomatic courier (para. 4 of General Assembly resolution 31/176)), was that a group of five members of the Commission be appointed to begin consideration of the item and prepare a number of draft articles. Such a course would not preclude the possibility of appointing a Special Rapporteur at a later stage, but that matter could be considered after the group had reported to the Commission. If there was no objection, he would take it that the Commission agreed to that recommendation.

*It was so agreed.*

5. The CHAIRMAN said the Enlarged Bureau recommended that Mr. Ushakov be appointed Special Rapporteur for the topic of the most-favoured-nation clause, to replace Mr. Ustor.

6. Mr. USHAKOV said that he would accept the appointment with great pleasure and would do everything possible to ensure that the Commission accomplished the task it had set itself.

7. The CHAIRMAN said that, if there was no objection, he would take it that the Commission agreed to appoint

Mr. Ushakov Special Rapporteur for the topic of the most-favoured-nation clause.

*It was so agreed.*

8. The CHAIRMAN said the Enlarged Bureau recommended that Mr. Schwebel be appointed Special Rapporteur for the topic of the law of the non-navigational uses of international watercourses, to replace Mr. Kearney.

9. Mr. SCHWEBEL said he would be pleased to accept the appointment, on the understanding that he would be allowed all the time necessary for the topic, but he was fully confident that that would be the case.

10. The CHAIRMAN said that, if there was no objection, he would take it that the Commission agreed to appoint Mr. Schwebel Special Rapporteur for the topic of the law of the non-navigational uses of international watercourses.

*It was so agreed.*

11. The CHAIRMAN said that the Enlarged Bureau had considered the question of relations between States and international organizations. Mr. El-Erian, the Special Rapporteur, had been requested to prepare a preliminary report,<sup>1</sup> which would be available shortly. It would be possible to allot two or three meetings to the topic, probably under item 9 of the agenda, organization of future work. If there was no objection, he would take it that the Commission agreed to that procedure.

*It was so agreed.*

12. The CHAIRMAN said that the special meeting to pay tribute to the memory of Mr. Edvard Hambro would probably be held on Monday, 16 May 1977. The Ambassador of Norway was now in the process of contacting Mr. Hambro's widow, for the Enlarged Bureau considered that she should have the opportunity to attend the meeting if she so wished.

13. The Enlarged Bureau had taken the view that it would not be fitting to proceed to fill the casual vacancy caused by the death of Mr. Hambro until after the special meeting had taken place. All pertinent information, including letters from the Asian Group, any communications from Governments indicating their choice, together with the curriculum vitae of the persons concerned and a copy of the so-called gentlemen's agreement, would be distributed to the members of the Commission. It was not customary to engage in a public wrangle on the choice of a candidate to fill a casual vacancy of the kind in question and he sincerely hoped that the Commission's practice in that regard would continue to be followed and that the matter could be settled in the course of the coming week. The best course would be for the Enlarged Bureau to decide as to the date on which the Commission should proceed to fill the vacancy.

*It was so agreed.*

14. In reply to a question from Mr. CASTAÑEDA, the CHAIRMAN said that, in view of the heavy programme of work, it was likely that only part of a meeting could be devoted to the topic of the law of the non-

navigational uses of international watercourses, chiefly for the purpose of bringing to the attention of Mr. Schwebel, the new Special Rapporteur, any points that the Commission might deem necessary.

*The meeting rose at 12.50 p.m.*

## 1416th MEETING

*Wednesday, 11 May 1977, at 10.10 a.m.*

*Chairman:* Mr. José SETTE CÂMARA

*Members present:* Mr. Ago, Mr. Bedjaoui, Mr. Calle y Calle, Mr. Castañeda, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

### Succession of States in respect of matters other than treaties (A/CN.4/301 and Add.1)

[Item 3 of the agenda]

#### DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR

##### ARTICLE O (Definition of State debt)

1. The CHAIRMAN invited the Special Rapporteur to introduce his ninth report on succession of States in respect of matters other than treaties (A/CN.4/301 and Add.1), and more particularly chapter 1 of the report and draft article O, which read:

##### *Article O. Definition of State debt*

For the purposes of the present articles, "State debt" means a financial obligation contracted by the central Government of a State and chargeable to the treasury of that State.

2. Mr. BEDJAOUI (Special Rapporteur) said that, in taking up the report before it, the Commission was leaving the study of State property and passing on to that of State debts. Its consideration of the draft articles relating to State property had been only provisional, and it had placed certain articles, and certain expressions used in the articles, between brackets. The questions of State debts was the third aspect of the subject of State succession, the other two being treaties and State property. The Commission had already dealt with the question of succession of States in respect of treaties in a set of draft articles<sup>1</sup> which had been considered by the Plenipotentiary Conference which had met at Vienna from 4 April to 6 May 1977. The question of succession in respect of State property had been dealt with in articles which he had submitted at an earlier stage.<sup>2</sup> The Commission should confine itself to those three main aspects of the topic of succession of States.

<sup>1</sup> *Yearbook ... 1974*, vol. II (Part One), p. 174, document A/9610/Rev.1, chap. II, sect. D.

<sup>2</sup> For the text of the articles adopted so far by the Commission, see *Yearbook ... 1976*, vol. II (Part Two), pp. 127-128, document A/31/10, chap. IV, sect. B, sub-sect. 1.

<sup>1</sup> *Yearbook ... 1976*, vol. II (Part Two), p. 164, document A/31/10, para. 173.