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Summary record of the 1543rd meeting

Topic:
State responsibility

Extract from the Yearbook of the International Law Commission:-
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State B, even though that consent violated the right of a third State.

38. Mr. JAGOTA, referring to Mr. Schwebel's suggestion, said that it might be preferable to speak of "well known" rather than "notorious" constitutional prohibitions. He would certainly incorporate the words "well known" in his proposed form of words for insertion in the commentary, but they might also be interpreted as qualifying "international prohibitions", where there were no grounds for making the distinction between "notorious" and other kinds of prohibitions. Nevertheless, that point could also be explained very easily in the commentary.

39. With regard to the question raised by Mr. Tabibi, the fundamental principle was that consent must be given before the commission of the act, and, in cases where time was of the essence, consent might have to be sought and obtained only a very few seconds beforehand, either by "hot line" telephone or some other rapid means of communication. In establishing the rule in article 29, it was essential to specify that consent obtained after the commission of the act constituted waiver, and that the wrongfulness of the act could be precluded solely by obtaining prior consent.

40. Lastly, the fears expressed by Mr. Riphagen might be overcome by the provision to the effect that valid and explicit consent could not violate the rights of a third State without the latter's agreement, so that the wrongfulness of an act would be extinguished by consent between the parties *inter se*. The question whether consent could ever be given at all when it affected the rights or obligations of a third State would be dealt with in the commentary in connexion with the validity of the consent.

41. The CHAIRMAN, speaking as a member of the Commission, said that chapter V, entitled "Circumstances precluding wrongfulness", was necessary to the draft. In his preliminary considerations (A/CN.4/318 and Add.1–3, paras. 48–55), Mr. Ago had demonstrated that need, but the discussion on the first article of chapter V, namely, article 29, gave reason to fear a Pandora's box. In tackling the question of circumstances precluding wrongfulness, the Commission was running the risk of having to take a position on certain aspects of general international law for the first time, since it had not as yet had occasion specifically to consider those special circumstances. In several of its reports on previous sessions, the Commission had already made reference to the various special circumstances that it had intended to study. It was now confronted with preliminary issues that might make the elaboration of the articles in chapter V much more complicated.

42. To overcome those difficulties, it might perhaps be advisable to draft an article that could be placed at the beginning of chapter V and would explain the context in which the circumstances precluding wrongfulness were to be considered. Since the Commission was encountering serious difficulties and must complete its study of State responsibility for internationally wrongful acts as soon as possible, such an article would doubtless prove useful.

43. Mr. VEROSTA, referring to the amendment he had proposed earlier (para. 20 above), which had been taken up in a modified form in Mr. Jagota's proposal (para. 28 above), emphasized that the application of the exception of *jus cogens* was not confined to rules laid down in multilateral treaties. For example, in the matter of neutrality there was nothing to prevent Sweden from allowing German troops to cross its territory. The situation would be different in time of war, since Sweden's right to dispose freely of its territory would be limited by the rights of the belligerents, and Sweden would have to act in accordance with the rules of neutrality. During the Second World War, when Sweden had allowed German troops proceeding from Norway to Denmark to cross its territory, it had doubtless obtained the acquiescence of the Allies.

Organization of work (*continued*) *

44. Mr. SUCHARITKUL said that, as a result of his delayed arrival at Geneva, he had been unable to submit information on the progress of the preliminary report that he was to present in his capacity as Special Rapporteur on the topic of jurisdictional immunities of States and their property. He hoped that the suggestions by the Enlarged Bureau for the consideration of topics on the agenda (1539th meeting, para. 1) did not rule out the possibility that he might submit his preliminary report within three or four weeks' time and that the topic might be discussed at one or two meetings towards the end of the session.

45. The CHAIRMAN said that the topic of jurisdictional immunities of States and their property was included as item 10 of the agenda, and would certainly be discussed when the report became available. The suggestions by the Enlarged Bureau for the consideration of topics gave only approximate dates and simply represented the over-all framework for the Commission's discussions.

The meeting rose at 1 p.m.

* Resumed from the 1539th meeting

1543rd MEETING

Thursday, 31 May 1979, at 10.10 a.m.

Chairman: Mr. Milan ŠAHOVIĆ

Members present: Mr. Dadzie, Mr. Díaz González, Mr. Francis, Mr. Jagota, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Schwebel, Mr. Sucharitkul, Mr. Tabibi, Mr. Thiam,

Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Verosta, Mr. Yankov.

Also present: Mr. Ago.

State responsibility (*continued*) (A/CN.4/318 and Add.1–3, A/CN.4/L.291, A/CN.4/L.292)

[Item 2 of the agenda]

DRAFT ARTICLES SUBMITTED BY MR. AGO (*continued*)

ARTICLE 29 (Consent of the injured State)[1] (*continued*)

1. Mr. AGO, replying to the comments made on draft article 29, began by emphasizing that that provision was one of the simplest in the draft and that, although it had given rise to some misunderstanding, it did not present the difficulties suggested by the Chairman, when speaking as a member of the Commission at the preceding meeting. He was reluctant to subscribe to the Chairman's suggestion that an article should be inserted at the beginning of chapter V, specifying the circumstances precluding wrongfulness. The Commission had always been careful not to draft articles which did not state rules, but were merely explanatory. The proposed article seemed to fall within the sphere of legal science rather than that of the codification of law. Moreover, chapter V had quite solid foundations, since the circumstances precluding wrongfulness had been established both by doctrine, and by State practice and judicial decisions.

2. Some of the comments on article 29 related more particularly to the theoretical aspect of the question how a circumstance precluding wrongfulness operated. From that point of view, there was no need to make a distinction according to whether the circumstance on which a State intended to rely in claiming that there was no wrongful act was the consent of the injured State, the legitimate exercise of a sanction, *force majeure,* a fortuitous event, self-defence, or even a state of emergency. In practice, the situation was that a rule was in force between two States, requiring one of them to perform a certain act or, conversely, to refrain from it. If the State under that obligation wished not to perform the act required of it, or to perform the act from which it ought to refrain, it requested the consent of the other State to its acting, in a specific case, in a manner not in conformity with its obligation. The consent given to it had a precise content; it was valid for only one particular case. As the consent was given in response to a request, it could no doubt be maintained, in theory, that an agreement had been formed between the two States. He declined, however, to go too far in that direction. Such an agreement related only to the commission or omission of a specific act. It was not a treaty having the effect of changing the rules. In reality, the rule from which the obligation derived remained in force. The State that was the beneficiary of the obligation was consenting, not to amendment, but to non-application. Admittedly, in exceptional cases the rules and obligations in question might be such that they no longer existed once it had been decided not to apply them. But normally, a State asking to be allowed to act, in a certain situation, otherwise than was required by an obligation, did not wish to amend the rule from which that obligation derived. The rule remained in force, and consent must be obtained again whenever the State under the obligation wished to act contrary to what the obligation required of it. Thus the consent merely made the obligation inoperative in a specific case.

3. When a State approached another State with a view to amending a rule in force between them, it was not a question of responsibility that arose, but a question relating to the law of treaties and, more particularly, to the amendment of treaty provisions. In the context of the draft under consideration, however, the Commission must confine itself to the question whether a State could consent to the non-application of a rule in a specific case, so that the act committed as a result of such consent would not be considered as wrongful.

4. The reason why he had referred in his report to politically controversial cases was that they were generally known. It had not been his intention to settle such cases, or to examine, for example, whether the consent had been real or not in a given case. What he had wished to be noted was that in all those cases the question of the reality of the consent had been debated, but that the principle itself, namely, that validly given consent to commission of conduct not in keeping with an obligation constituted a circumstance precluding the wrongfulness of such conduct, had not been challenged. Mr. Ushakov (1538th meeting) had very rightly said that the State which gave its consent released the other State from its obligation. Indeed, all that the first State did was to release the second State from observance of its obligation in the specific case. Contrary to what some of the examples mentioned in the report might appear to suggest, a State often gave its consent to another State acting in derogation of an international obligation in a specific case. If a smuggler pursued by an Italian police officer crossed the Italian-Swiss border and a Swiss police officer allowed the Italian police officer to pursue the offender on Swiss soil, there was agreement between the two States as to the lawfulness of the action taken in the specific case, but there was certainly no conclusion of a treaty or modification of existing rules. Mr. Reuter (*ibid.*) had taken the view that a rule could also be rendered inoperative by a unilateral act. However, in the case covered by article 29, it was in response to the request of one State that another State gave its consent, even if it gave that consent at the last moment. There was still agreement between the two parties. Furthermore, every case was different, and it would have to be determined in practice whether the operativeness of the obligation had simply been suspended in respect of

[1] For text, see 1537th meeting, para. 25.

a specific case or whether perhaps the obligation had thereby ceased to exist.

5. While it was true that in all cases there was formation of an agreement, as Mr. Verosta (1540th meeting) had pointed out, it would be wrong to go to extremes and maintain that a new rule had been established and that the obligation had been modified. As the obligation remained unchanged, the question was one of State responsibility, not of the law of treaties. Moreover, that had always been the conclusion reached by judges, States and writers. So far, the Commission had concentrated on establishing when there was an internationally wrongful act and on studying the two objective elements of such an act. It was logical for it now to consider situations in which one of those two elements was lacking. In that connexion, Mr. Francis (*ibid.*) had rightly referred to article 18 of the draft (Requirement that the international obligation be in force for the State).[2] In the case contemplated in draft article 29, the obligation could be considered as not having been in force in the specific case, so that the objective element was lacking.

6. As Mr. Riphagen (1542nd meeting) had observed, the real question was to determine how consent could be given to the execution of an act in spite of the existence of a primary obligation requiring a different act. One of the distinctions made by Mr. Riphagen was precisely one he had made himself, namely, that a State could ask another State for its consent either to the amendment of a certain rule and of the obligation deriving from it, or only to the commission or omission of an act in a specific case in derogation of an obligation. In the latter case, the consent did not affect the obligation and had the effect only of relieving the act in question of its wrongful character.

7. Many members of the Commission had emphasized the distinction between preclusion of wrongfulness and preclusion of responsibility. Some members had raised the question where the line of demarcation was to be drawn, or what became of responsibility when wrongfulness was eliminated. Others had thought that consent given *ex post facto* could produce its effects on responsibility, but not on wrongfulness. A number of English-speaking members had stressed the difference between the concepts of "consent" and "waiver". They had pointed out that, if consent were given before the commission of the act, the act could not be wrongful, since there was no violation of the obligation. As Mr. Jagota (*ibid.*) had observed, a really concurrent consent was inconceivable. The reason why he himself had used that expression was that it appeared in State practice, although in its general rather than its legal sense. It applied to situations in which consent seemed to have been given at the time of commission of the act. However, it was true that, ideally, it had been given in advance, and that it was on that condition that it could have the effect of precluding the wrongfulness of the act in question. If it were given subsequently, there could be no doubt that the obligation had been operative at the time of commission of the act, which was therefore wrongful. Of course, the State affected by the act was always free not to treat it as wrongful, which generally meant that it would not invoke the consequences to claim reparation. In that connexion, Mr. Sucharitkul (*ibid.*) had referred to the consent given by the Thai Government after the landing of Japanese troops on Thai territory, and the Government's subsequent renunciation of the right to invoke the consequences of an act which had begun before it had given its consent. Mr. Tsuruoka (1540th meeting) had raised the question whether consent given at a certain moment during the commission of a continuous act relieved that act of its wrongful character. The answer must be in the negative with regard to the part of the act committed before the consent, since there had been no consent at the time when the continuous act generating responsibility had begun. That part of the act therefore remained wrongful, even though the subsequent consent could mean that no reparation would be claimed. In short, logic required the conclusion that in the case of subsequent consent there was an internationally wrongful act, even if the right to invoke the consequences was renounced. It was in that direction that the line of demarcation should be drawn.

8. Mr. Pinto (1542nd meeting) had raised the question whether all possibility of responsibility was precluded when a State consented to the commission of an act which, without its consent, would be wrongful. In that connexion, it should be noted that consent could be given in very diverse circumstances. A State might consent to the commission of a certain act by another State, but on condition, for example, that the latter State agreed to compensate any persons who might suffer injury as a result. In that case, the right to compensation derived not from responsibility for an internationally wrongful act, but from the agreement reached between the two States. It might also happen that a State consented to a particular action by removing from it any character of wrongfulness, but that such action nevertheless involved risks entailing responsibility on other grounds, namely, for the injurious consequences of activities not prohibited by international law.

9. The term "injured", which he had generally taken the precaution of placing in quotation marks, was currently used in legal theory and State practice. Actually, the State was not "injured" in the legal sense of the term. The State that gave its consent agreed not to exercise its subjective right to require the other State to act in conformity with an obligation. The legal nature of the act of that State was changed, since it was no longer wrongful, but the physical act remained, and could entail physical injury to the State subjected to it. The expression "injured State" was a practical expression used to designate the State which, by virtue of an international obligation, would have had the right to require that certain conduct was not adopted with respect to it. He had been able to avoid using that term in the body of article 29, but had found it more difficult to avoid in the title, which

[2] See 1532nd meeting, foot-note 2.

must necessarily be brief. Draft article 29 could be entitled "*Volenti non fit injuria*", as Mr. Verosta (*ibid.*, para. 19) had suggested, but it would also be possible to call it simply "Consent". As the members of the Commission all seemed to agree that the use of the term "injured State" should be avoided, the question could be settled by the Drafting Committee.

10. The problem of the limitations to be included in the rule laid down in draft article 29 had been discussed at length. In his view, it was quite consistent with the line taken by the Commission in preparing the draft to make an exception for peremptory norms of general international law. As to the historical example of the intervention of foreign troops in the Austrian Empire cited by Mr. Verosta (1540th meeting), an intervention that had taken place at the time of the outbreak of insurrectionary movements in Hungary, he said that, even in the case of a foreign initiative, it could be held that the Vienna government had given its consent, albeit implicitly, since in fact that intervention had corresponded to its wishes. However, if such a situation were to recur at the present time, an intervention of that kind would probably be considered wrongful despite any consent given, since it would be contrary to the right of peoples to self-determination, which formed part of *jus cogens*. After pointing out that, under the terms of article 19, paragraph 3 (*b*), of the draft, an international crime could result for example from a serious breach of an international obligation such as that prohibiting the establishment or maintenance by force of colonial domination, he referred to the case of a newly independent State which was in such a weak position that it would consent to the restoration of the colonial régime. In such a case, the obligation that the colonial Power would claim to be inoperative in the specific instance would be an obligation of *jus cogens*. The consent of the newly independent State would not relieve the act in question of its wrongful character, since consent to the violation of an obligation of *jus cogens* was invalid.

11. Some members of the Commission had wondered whether limitations other than those of *jus cogens* should not be imposed on the application of article 29. Mr. Ushakov (1542nd meeting) had mentioned the case of restricted multilateral treaties, which could be amended only with the consent of all the parties. In that connexion, two points should be borne in mind. First, draft article 29 had nothing to do with the amendment of treaties, and, secondly, wrongfulness must be distinguished from invalidity. If a treaty imposing a certain obligation had been concluded by five States, and one of those States asked another to consent to its acting contrary to that obligation, the consent, if given, would be invalid only if it derogated from an obligation of *jus cogens*. But the giving of the consent and the action taken in accordance with it constituted internationally wrongful acts with respect to the other States parties to the treaty. Such a situation should therefore be mentioned, but it should be distinguished from the case of *jus cogens*, since in the latter case the consent was invalid, whereas in the former case the wrongfulness of the consent and of the ensuing act subsisted with respect to the other States parties. As all the members of the Commission seemed to be in agreement on that point, it would be sufficient to find appropriate wording. Referring to Mr. Jagota's statement (1540th meeting) that he had found no specific example in volume 8 of the *Digest of International Law*, he explained that that was because that collection dealt only with responsibility for damage caused to private individuals. It would be inconceivable for a State to give its consent to an act that injured, not its own right, but that of a private individual. In such cases, negotiations could take place between the States concerned with a view to amending the rule in question.

12. As far as consent proper was concerned, he agreed that article 29 should be drafted in very strict terms that allowed of no abuse. History was full of abuses based on nonexistent consent. The rules of the Vienna Convention [3] relating to the defects of consent obviously applied to the cases referred to in article 29. Consent was not valid if there was error, fraud, corruption or violence. It remained to be decided whether the Commission should opt for brevity and proceed simply from the idea that, for there to be consent, that consent must not be vitiated—must have been "validly" given. But since future readers of article 29 would not necessarily have in mind the legal rules relating to the validity of consent, the Commission might also prefer to qualify consent in that provision. The latter solution, which thus offered certain advantages, could be adopted while taking into account the useful proposals submitted by Mr. Tsuruoka (1540th meeting, para. 4) and Mr. Jagota (1542nd meeting, para. 28). In any case, the essential point was not to presume consent. On the other hand, the possibility of implicit consent should not be entirely ruled out, since the conduct of a State sometimes constituted evidence of consent implicitly given. In short, consent must be real, freely given and free from defects. Appropriate wording should be sought in the light of those three considerations and drawing on the many expressions suggested by members of the Commission. As Mr. Quentin-Baxter (1540th meeting) had pointed out, it must not be possible to invoke the rule stated in article 29 to justify failure to fulfil an obligation not to commit certain wrongful acts.

13. There was a danger that the words "if it is established", which began the text of article 29 proposed by Mr. Tsuruoka, might make the rule stated appear to be a rule of evidence rather than a substantive rule. If those words were retained, the Commission would be obliged to insert them in many other provisions of the draft, which might otherwise be interpreted *a contrario* as not implying that certain facts were established.

14. Finally, as to the placing of the exception of *jus cogens* in the article under consideration, he would prefer it to follow the enunciation of the rule.

[3] See 1533rd meeting, foot-note 2.

15. Mr. USHAKOV said he was not entirely convinced by Mr. Ago's explanations. Why continue to use the term "consent" if it was really more a matter of agreement between two States? Moreover, Mr. Ago had stated that the rule and the obligation subsisted when there was an agreement relating to a specific case. In his own view, it was unimportant whether the agreement related to one or more cases. If a State authorized fishermen from another State to fish in its territorial sea for one day, one year or 10 years, no matter whether its consent was given orally or in writing, well in advance or at the last moment, there was in any case an agreement, in spite of which the rule subsisted. In that particular instance, the rule was that of the sovereignty of States over their territorial sea. Similarly, if the head of a diplomatic mission agreed to allow police officers of the receiving State to enter the premises of the mission, in derogation of article 22 of the Vienna Convention on Diplomatic Relations,[4] because of the presence of terrorists in the mission, the situation was the same as if the receiving State and the sending State concluded a treaty under which the police forces of the former were authorized for one year, or for an indefinite period, to enter the premises of the mission of the latter if terrorists found their way in. In either case, the pertinent rule of the Vienna Convention subsisted.

16. With regard to restricted multilateral treaties, he thought the subjective right which such a treaty conferred on one party was no different from the subjective right of the other parties. The rights and obligations deriving from such treaties were shared by the parties: one of them could not renounce one of those rights without the consent of the others.

17. Mr. FRANCIS said that the question of the expression of consent by an organ of the State continued to cause him some difficulties, particularly as it related to the *Savarkar* case (see A/CN.4/318 and Add.1–3, para. 63). From the report on that case, it seemed that the arbitral tribunal, although only asked to decide whether Great Britain should have returned Savarkar to France, had in fact recognized that there had been irregularity in his arrest. However, the French and British authorities had been in touch, and the French *préfet* had been authorized to carry out the necessary surveillance measures, which clearly showed that Savarkar's arrest should not have been questioned. In any event, he doubted whether an escape from a British ship, which was at anchor in a French port and therefore under French jurisdiction, could be equated with, for example, the pursuit of an offender by the police of one State across the borders of another State with its consent. He wondered, therefore, whether the irregularity found by the tribunal related to the presence of British police on French teritory and whether the French police officer's consent to that presence and to the assistance of the British police in arresting Savarkar was not an element of the irregularity. That directly raised the question whether a State organ, having exceeded the strict limits of its authority, could thereby render an unlawful act lawful. In the light of those considerations, and since the tribunal had found irregularity in the arrest, he did not see the direct relevance of the *Savarkar* case to the issue with which the Commission was concerned.

18. Mr. NJENGA said that he too was not altogether satisfied with the draft article in its existing form, as he thought it left the way open for abuses. In particular, he believed that, once consent had been given, it was no longer possible to speak of an injured State. That applied equally to cases of the Savarkar type and to those in which a State authorized the troops of another State to stay in or pass through its territory. He therefore considered that the article should be more narrowly drafted, possibly on the lines of Mr. Jagota's proposal (A/CN.4/L.292), and suggested that the two texts be referred to the Drafting Committee for consideration.

19. Alternatively, the matter could be approached from the standpoint of the consequences of the consent of a State to violation of its rights, rather than from that of consent alone. In that case, the Drafting Committee might perhaps consider some wording along the following lines:

> "Infraction of the rights of a State inflicted with its consent shall not be actionable at the instance of that State except where such infraction relates to a peremptory rule of general international law. Such consent shall be vitiated if it is obtained through fraud, error, corruption, coercion or violence, and shall in no case affect the rights of a third State."

20. Mr. USHAKOV wished to explain his position once again. He did not dispute the principle on which article 29 was based: that, if there was consent, there was no wrongful act. But he questioned whether it was necessary to state it expressly in an article and, if so, whether it was possible to describe the situation exactly in such an article. He hoped the Drafting Committee would be able to resolve that problem.

21. Mr. AGO observed that in common usage the terms "agreement" and "consent" were equivalent, and were both used in two different ways. One could speak of agreement or consent in a unilateral sense, when a subject gave its agreement or consent to something, but also in a bilateral or multilateral sense, to designate the consensus that was formed between parties. He thought it would be better not to depart too far from ordinary language, and to continue to speak of "consent", since that was the term used in legal theory and judicial decisions.

22. Furthermore, the consent of the State that precluded the wrongfulness of the act of another State was in most cases simple consent, not a formal agreement. For instance, if a criminal pursued by the police of a State took refuge in an embassy and the ambassador allowed the police to enter the embassy to arrest him, that was a case of consent rather than of true agreement between two States.

[4] United Nations, *Treaty Series*, vol. 500, p. 95.

23. In the *Savarkar* case referred to by Mr. Francis, the arbitral tribunal had not said that there had been no irregularity. It had only said that the British authorities had been under no obligation to return Savarkar, since a French police officer had consented to his arrest. Whether the police officer had been right or wrong in giving his consent was another matter.

24. He quite understood what was worrying Mr. Njenga, but he thought it would be more dangerous to remain silent than to try to prevent abuses by a well-drafted article. The second part of Mr. Njenga's proposal had convinced him that it was possible to qualify consent rigorously in order to prevent improper interpretations. On the other hand, it seemed difficult to say that the consequences of a wrongful act were not actionable, since it was not the consequences of the wrongful act that were precluded by consent, but the wrongfulness itself.

25. The CHAIRMAN said that if there were no objections he would take it that the Commission decided to refer draft article 29 to the Drafting Committee.

It was so decided. [5]

Drafting Committee

26. Mr. RIPHAGEN (Chairman of the Drafting Committee) proposed that the Drafting Committee should consist of the following members: Mr. Barbosa, Mr. Francis, Mr. Njenga, Mr. Ushakov, Mr. Quentin-Baxter, Mr. Reuter, Mr. Schwebel, Mr. Sucharitkul, Mr. Tsuruoka, Mr. Verosta and Mr. Yankov, it being understood that Mr. Dadzie, as Rapporteur of the Commission, was an *ex officio* member of the Committee.

27. The CHAIRMAN said that if there were no objections he would take it that the Commission decided to accept Mr. Riphagen's proposal.

It was so decided.

The meeting rose at 12.40 p.m.

[5] For consideration of the text proposed by the Drafting Committee, see 1567th meeting, paras. 1, 6, 7 and 40–49.

1544th MEETING

Friday, 1 June 1979, at 10.10 a.m.

Chairman: Mr. Milan ŠAHOVIĆ

Members present: Mr. Dadzie, Mr. Díaz González, Mr. Francis, Mr. Jagota, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Schwebel, Mr. Sucharitkul, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Yankov.

Also present: Mr. Ago.

Fifteenth session of the Seminar on International Law

1. The CHAIRMAN invited Mr. Raton, Senior Legal Officer in charge of the Seminar on International Law, to address the Commission.

2. Mr. RATON (Secretariat) said that the International Law Seminar would hold its fifteenth session from 5 to 22 June 1979. The Selection Committee, which had met at the end of April, had chosen 22 candidates, and two further participants were being sent by UNITAR.

3. In 15 years, 330 participants from 102 different countries had attended the Seminar, and 137 of them had been awarded fellowships by various Governments. For 1979, the Governments of Austria, Denmark, the Federal Republic of Germany, Finland, Kuwait, the Netherlands, Norway and Sweden had awarded fellowships in amounts ranging from $815 to $10,260. Partly as a result of the generosity of the Norwegian Government, which had more than trebled its usual contribution, the sum of $32,000 was available to the Seminar that year for distribution among about 10 candidates.

4. As every year, the Seminar would be organizing a series of lectures, which would be delivered by Sir Francis Vallat (The Vienna Convention on Succession of States in respect of Treaties); Mr. Ushakov (The most-favoured-nation clause); Mr. van Boven, Director of the Division of Human Rights (United Nations efforts to promote and protect human rights); Mr. Reuter (Narcotics and international law); Mr. Pinto (The development of customary international law through United Nations conferences); Mr. Sucharitkul (The crystallization of norms relating to the jurisdictional immunities of States and their property); Mr. Ferrari Bravo, Chairman of the Sixth Committee of the General Assembly (The work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization); Mr. Bedjaoui (Legal aspects of the New International Economic Order); Mr. Francis (The Commodity Producers' Association within the framework of the New Economic Order); and Mr. Njenga (The United Nations Conference on the Law of the Sea).

State responsibility (*continued*) (A/CN.4/318 and Add.1–3, A/CN.4/L.291, A/CN.4/L.292, A/CN.4/L.293)

[Item 2 of the agenda]

DRAFT ARTICLES SUBMITTED BY MR. AGO (*continued*)

ARTICLE 29 (Consent of the injured State) [1] (*concluded*)

5. Mr. USHAKOV proposed that draft article 29 should be replaced by the following text (A/CN.4/L.293):

[1] For text, see 1537th meeting, para. 25.