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UNITED NATIONS CONFERENCE ON SUCCESSION OF STATES IN RESPECT OF  
STATE PROPERTY, ARCHIVES AND DEBTS

Report of the Secretary-General

Corrigendum

1. Page 1, table of contents, section II

After Czechoslovakia, insert Hungary

2. Page 3, section II

After the reply from Czechoslovakia, insert the following text:

HUNGARY

[Original: English]

[16 July 1982]

1. The Government of the Hungarian People's Republic values highly the work of the International Law Commission in the elaboration of the draft articles on succession of States in respect of State property, archives and debts and is of the view that the draft is suitable for discussion and, subject to appropriate modifications, for approval by the representatives of States at the diplomatic conference.

2. The Government of Hungary is pleased to note that some of the observations made by Hungary are reflected in the final draft elaborated by the International Law Commission.

3. The Government of Hungary is of the view that the content of the draft is well reflected in its reworded title and agrees with the correspondence maintained between the structural division of the draft with that of the 1978 Vienna Convention on Succession of States in respect of Treaties and with the resultant formulation of appropriate provisions for the different categories of succession of States.

4. In view of these considerations, the Hungarian Government wishes to make the following observations concerning some of the draft articles:

#### Article 2

5. It is proposed that, in addition to the general definitions, the meanings with which the basic terms of the three main parts, namely State property, State archives and State debts (articles 8, 19 and 31) are used be stated in this article. It appears necessary to determine here that the term briefly defined as State property should be understood to mean property, rights and interests throughout the draft.

#### Article 5

6. It is proposed to consider including in this article a reference to the relationship existing between the draft articles and the 1978 Vienna Convention on Succession of States in respect of Treaties.

#### Article 6

7. In view of the Commission's commentary to this article, it is proposed to consider inserting a formulation which, as in the case of article 12, intended to protect the interests of third States, would emphasize more strongly that the draft does not affect the rights and obligations of natural or juridical persons. With such a modification article 6 would provide adequate protection for the interests of natural or juridical persons, as was the intention of former article 16 (b), which was later omitted from the draft.

#### Articles 10 and 11

8. It is proposed to omit the words "or decided" from the phrase "unless otherwise agreed or decided" as the question may arise from which organ a decision might come besides the parties concerned or in the absence of an agreement between them. This observation holds also for the identical phrase in articles 21 and 22.

#### Article 24

9. The implementation of the important principle expressed in the title of this article is not subserved by the wording of the article. A wording is therefore proposed to the effect that the principle of unity shall be applied in accordance with the provisions of the present Part.

10. The inclusion of additional provisions is also suggested with a view to preservation of the unity of State archives. Considering that while certain

documents forming part of a collection may be of use by themselves, but their lack is likely to reduce the usefulness of the original collection, it would be advisable to give a more differentiated formulation of the provisions contained in section 2 of part III. Accordingly, it is proposed that only the archives found in the territory affected by succession should pass in their entirety to the successor State, whereas the documents found in the central archives of the predecessor State on the territory unaffected by succession but relating to the territory affected by succession should, e.g., in the case covered by paragraph 2, subparagraph (b), of article 25, be made available, instead of transferred, in appropriate reproductions, as provided for in paragraph 4 of article 28.

#### Article 26

11. The provisions of paragraph 4 are justified, but not only in this category of succession. It is therefore suggested that this paragraph be included as a separate article in section I of part III.

12. The provisions of paragraph 6 are found appropriate but it would appear more advisable to have them inserted in article 25.

#### Article 34

13. This article, like former article 18, provides that an agreement between the predecessor State and the successor State cannot be invoked against a third State or an international organization asserting a claim except in two alternative cases. The said formulation may create legal uncertainty and is inconsistent with the general rule that such an agreement shall not affect the rights and obligations of creditors. Consequently, it would be appropriate to reword this article to provide that an agreement between the predecessor State and the successor State cannot be invoked against a third State or an international organization asserting a claim unless the agreement has been accepted by the party or parties concerned and the agreement is in accordance with the concrete rules governing succession in part III.

14. The Government of Hungary believes that the suggested modifications will make the text of the draft more unambiguous, thus facilitating greatly the work of the conference on codification.

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