United Nations
GENERAL ASSEMBLY
THIRTY-THIRD SESSION
Official Records *

UN LIBRARY
NOV 28 1978
UN/SA COLLECTION

SIXTH COMMITTEE
45th meeting
held on
Monday, 13 November 1978
at 10.30 a.m.
New York

SUMMARY RECORD OF THE 45th MEETING

Chairman: Mr. FERRARI-BRAVO (Italy)

CONTENTS

AGENDA ITEM 114: REPORT OF THE INTERNATIONAL LAW COMMISISON ON THE WORK OF ITS THIRTIETH SESSION (continued)

* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room A-3550.

Corrections will be issued shortly after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.6/33/SR.45
17 November 1978
ENGLISH
ORIGINAL: FRENCH

78-58419

The meeting was called to order at 10.55 a.m.

AGENDA ITEM 114: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS THIRTIETH SESSION (continued) (A/33/10, A/33/192; A/C.6/33/L.4)

1. Mr. AL-KHASAWNEH (Jordan), referring to the question of the most-favoured-nation clause, said it would be desirable to give States and interested international organizations enough time to study properly all aspects of the question, particularly its economic and trade aspects, before an agreement was concluded. With regard to the case of customs unions and similar associations of States, his delegation supported all the conclusions set forth in the observations submitted by the League of Arab States on the draft articles on most-favoured-nation clauses, as reproduced in the annex to the Commission's report (A/33/10).

2. His delegation had already stated at the thirty-first session of the General Assembly that the draft articles should include a provision on the settlement of disputes. That question should not be referred to the General Assembly and Member States and, ultimately, to the body which might be entrusted with the task of finalizing the draft articles, as proposed by the Commission, for that would be tantamount to prolonging the work of that body. It was common knowledge that a conference of plenipotentiaries - if that body were to take the form of such a conference - entailed substantial expenditure and that it was difficult for some States to participate in conferences of that type because they often lasted for a long time. It would therefore be preferable for the Commission itself to find time to study the question, especially since the experience acquired at similar conferences proved that it was difficult for them to find new solutions in that sphere.

3. Turning to the draft articles on State responsibility, he stressed the close link between article 23 and articles 20 and 21. Although it was difficult in some cases to draw a distinction between obligations of result and obligations of conduct, that distinction was nevertheless feasible and desirable. His delegation therefore supported article 23, and also articles 24, 25 and 26. The only article of chapter IV prepared thus far, article 27, which concerned aid or assistance by a State to another State for the commission of an internationally wrongful act, raised certain difficulties and should be studied more thoroughly when the Commission's work on chapter IV had reached a more advanced stage.

4. With regard to the draft articles on succession of States in respect of matters other than treaties, his delegation supported article 23, and in particular paragraph 2 thereof. The Commission should, however, re-examine the question of the protection of creditors during the second reading. His delegation also supported articles 24 and 25, which were based on the principle of equity.

5. Lastly, with regard to the organization of work, it would be preferable to give the Commission the greatest possible freedom of action and to allow it to establish its own priorities.

/...

6. Mr. ANOMA (Ivory Coast) said the report under consideration compelled admiration by reason of the quality of the work accomplished and the vast amount of material which had been studied in depth. Since the end of the Second World War, as a result of the decolonization process, the international community had grown and international law, which had to adapt itself to new situations, had taken on an entirely new meaning. The need for a new international legal order had become apparent, as had that for a new international economic order.

7. Turning to the question of the most-favoured-nation clause, he recalled that his country was one of the States associated with the European Economic Community (EEC); it was also a signatory member of the Yaoundé and Lomé Conventions and a member of the West African Economic Community, the Community of West African States and the Conseil de l'entente. The States associated with EEC, in exchange for special preferences, had unilaterally granted EEC most-favoured-nation treatment for its imports and exports in virtue of certain association and trade agreements. It therefore seemed that the development of regional and subregional economic co-operation had had a definite impact on the application of the most-favoured-nation clause. Articles 12-18 of the draft rightly rendered the clause very flexible. Articles 23-30 and the Commission's commentary thereon presented no difficulties for his delegation, but his Government would have to study the draft articles on most-favoured-nation clauses more carefully.

8. Turning to the question of State responsibility, he observed that in its report the Commission had stated that the international responsibility of the State was made up of a set of legal situations which resulted from the breach of any international obligation, whether it was imposed by the rules governing one particular matter or by those governing another. Draft article 1 provided that every internationally wrongful act of a State entailed its responsibility. However, article 18 stated that the obligation must be in force for the State in order for there to be a breach of that obligation. During the debate, it had been questioned whether it was preferable to use in the French text the term "fait internationalement illicite" or the term "acte internationalement illicite". Although there was a subtle difference between the concepts expressed by the words "fait" and "acte", the one being regarded in a static perspective and the other in a dynamic perspective, in the current case the two concepts tended to merge.

9. Articles 20 and 21 introduced a distinction between obligations of conduct or means and obligations of result. To illustrate that distinction he cited the example of a physician who, when he agreed to treat a patient, assumed an obligation of conduct in that he was obliged to do all he could to effect a cure, but could not assume an obligation of result.

10. His delegation was glad to see that the Commission had decided to include in its Yearbook the "Survey of State practice, international judicial decisions and doctrine on 'force majeure' and 'fortuitous event' as circumstances precluding wrongfulness" prepared by the Codification Division of the United Nations Office of Legal Affairs.

/...

(Mr. Anoma, Ivory Coast)

11. Articles 23 and 26 could be combined into a single article which would contain one definition. The first paragraph would concern the moment of the breach and would be subdivided into two subparagraphs dealing respectively with events having an instantaneous character and events having a continuing character, while a second paragraph would deal with the time of commission. The determination of the tempus commissi delicti was crucial with regard to certain issues, such as prescription, competent jurisdiction, the amount of compensation and the national character of the claim.

12. Although his delegation had not touched on the questions dealt with in chapters IV and V of the report, it wished to congratulate the members of the Commission on the productive work they had done in the fields covered by those chapters.

13. Mr. BAVAND (Iran) noted with satisfaction that in accordance with its mandate the Commission had carried out the second reading of the draft articles on most-favoured-nation clauses. However, with some exceptions it had not drawn a clear-cut distinction between the articles which involved codification and those which involved the progressive development of international law.

14. At the thirty-first session of the General Assembly, his delegation had stated in the Sixth Committee that in the light of the fundamental changes that had occurred in international relations, the most-favoured-nation treatment system should be reconsidered with a view to the establishment of the new international economic order. It had likewise stressed that although the application of the most-favoured-nation clause to all countries would satisfy the condition of formal equality, it would involve implicit discrimination against the economically weaker members of the international community. The Commission should therefore not focus its attention only on the question of trade and the generalized system of preferences, but, through the mechanism of differential measures, probe the wider areas of economic relations as well. Although some improvements had been made in the draft articles, the impact of the new international economic order and the developments relating to the most-favoured-nation clause were not adequately reflected. However, article 30 contained a residual clause which could no doubt be developed further by the plenipotentiary conference.

15. In drawing up the draft articles, particularly those providing for exceptions to the application of the clause, the Commission had taken account of a number of factors: the need to conduct international trade to mutual advantage without harming the interests of other countries, the existence of striking inequalities which created serious problems in connexion with the application of the most-favoured-nation clause, and the transitional character of the exceptions provided for in articles 23, 24 and 30, which were remedial measures aimed at overcoming the economic inequalities between developed and developing countries. Two questions then arose: was it advisable to introduce another exception concerning the case of customs unions and free-trade areas, which would be in contradiction with the spirit of articles 23 and 24, and what criteria should be applied in assessing the differences between developed and developing countries?

/...

(Mr. Bavand, Iran)

16. With regard to the question of State responsibility, the notion of tempus commissi delicti was defined in articles 24-26. Article 24 dealt with the breach of an international obligation by an "instantaneous" act, i.e. an act characterized by the fact that what preceded it and what followed it had no bearing on the determination of the tempus commissi delicti. Article 25 dealt with acts extending in time, which the Commission had divided into three categories: continuous acts, composite acts and complex acts. The question of the tempus commissi delicti was of great importance from the standpoint of determining the amount of prejudice caused by the act, the gravity of the act and its possible qualification as a "crime", the national character of the claim and the limitation ratione temporis of the competence of an international tribunal.

17. Article 27, which was closely related to article 19, paragraph 2, contained a primary rule and represented a step in the progressive development of international law. The notion of intent introduced in that article had given rise to controversy in the Commission. If, as some had suggested, the application of article 27 was confined to internationally wrongful acts which constituted international crimes under article 19, paragraph 2, that would mean questioning the validity of the notion of intent. His delegation felt that the draft should not be restricted to international crimes. It should also be noted that the Commission had introduced the notion of indirect responsibility in the case of a State which was in a condition of dependence upon another State.

18. With the adoption of articles 23-25 of the draft articles on succession of States in respect of matters other than treaties, the Commission had finished drafting the main provisions on succession to State debts, which were broadly parallel to the provisions on succession to State property. The latter provisions, particularly article 20, guaranteed the rights of creditors. In section 2 of part I of the draft, the Commission had dealt in turn with each type of succession of States. It should be noted in that connexion that article 21, which dealt with the transfer of part of the territory of a State, must be regarded merely as offering a classic example rather than as setting forth an existing legal norm. The legal and moral basis of such a transfer, if it was undertaken without the consent of the people concerned, was at variance with the purposes and principles of the United Nations Charter. The Commission should therefore seek to improve the provisions of that article in the second reading of the draft.

19. With regard to article 23 on the uniting of States, paragraph 1 set forth a basic rule which was generally accepted by jurists and paragraph 2 merely supplemented paragraph 1.

20. His delegation welcomed the progress made by the Commission on the other topics which it had studied.

21. Mr. KRISHNADASAN (Swaziland) said that rules of law governing world trade must of necessity recognize the diversity of levels of economic development and differences in economic and social systems. He felt that the draft articles on the most-favoured-nation clause did not sufficiently meet that requirement.

/...

(Mr. Krishnadasan, Swaziland)

22. In article 5, article 8, paragraph 2, and article 10, paragraph 2 (b), reference should be made to "the same kind of relationship" rather than "the same relationship", since, as was pointed out in paragraph 4 of the commentary on article 5, the nationality laws of States were very diverse.

23. The need for article 7 was questionable when one considered that article 1 clearly defined the scope of application of most-favoured-nation clauses contained in treaties between States. The same was true of article 28 and of article 27, the latter of which merely reproduced article 73 of the Vienna Convention on the Law of Treaties.

24. Articles 23 and 24 reflected recognition by the Commission that provision must be made for certain exceptions to the most-favoured-nation clause, but he wondered whether those exceptions were defined with sufficient precision.

25. The generalized system of preferences, which was dealt with in article 23, was based on the principle that donor countries had the right to select the beneficiaries of their system. With a few exceptions, such as the Soviet Union, the developed countries applied the generalized system of preferences in a restrictive manner so as to limit preferential treatment to manufactures and semi-manufactures. However, articles 18 and 26 of the Charter of Economic Rights and Duties of States called upon the developed countries to extend, improve and enlarge the system of generalized non-reciprocal and non-discriminatory tariff preferences to the developing countries and to give consideration to the adoption of other differential measures in areas where that was feasible in order to meet the trade and development needs of the developing countries. It was of interest to note in that connexion that the European Economic Community proposed that the exception provided for in article 23 should be extended to cover preferential treatment. Such preferential treatment should, in the view of his delegation, be extended to all areas of trade between developed and developing countries on a permanent basis. The current limitation under article 23 could be improved, if, as suggested in UNCTAD resolution 96 (IV), the developed countries agreed to take additional measures to increase the utilization of preferences. Finally, his delegation felt that, pursuant to UNCTAD recommendation A.II.1, preferential arrangements between developed countries and developing countries which involved discrimination against other developing countries should be abolished _pari passu_ with the effective application of international measures providing at least equivalent advantages for those countries. Article 23 would therfore have to be reviewed in the light of developments in that field.

26. With regard to article 24, he was pleased to see an exception made with regard to arrangements between developing States, but several points nevertheless required clarification. He did not see, in particular, why preferential treatment must be in conformity with "the relevant rules and procedures of a competent international organization of which the States concerned are members". That limitation presupposed the prior existence of such an organization. Moreover, it impaired the freedom of developing States to negotiate preferential treatment.

/...

(Mr. Krishnadasan, Swaziland)

27. The exceptions provided for in articles 25 and 26 were of vital importance to land-locked countries like Swaziland. As to customs unions and similar associations of States, his delegation had stated in the Sixth Committee in 1975 that it would be desirable to include in the draft a rule exempting them from the operation of the clause. The silence of the draft articles on that matter was regrettable, although it was arguable that articles 9 and 17 could be construed to mean that a State not a member of a customs union was not entitled to the treatment accorded by one member of the union to another. That matter concerned both the developing and the developed countries, and he noted that Swaziland belonged to a customs union composed of both developed and developing countries belonging to the same region.

28. Article 29 indicated the residual and optional nature of the draft articles, which should therefore take the form of a code of conduct and a guide to the interpretation and application of the most-favoured-nation clause rather than a convention.

29. He welcomed the Commission's decision to include in article 30 a general reservation concerning the possible establishment of new rules of international law in favour of the developing countries. It should be noted that GATT was currently considering the granting of differential and more favourable treatment to developing countries.

30. It would be appropriate for Member States and interested intergovernmental organizations to submit written comments on the draft articles, indicating, inter alia, whether they should take the form of a code of conduct or a convention, and for the Commission to give some of the articles a third reading before a final decision was taken at the thirty-fourth or thirty-fifth session of the General Assembly.

31. With regard to State responsibility, his delegation saw no need for the distinction made by the Commisison in draft articles 20 and 21 between obligations "of conduct" and obligations "of result". The fact that under article 20 a breach occurred through failure of the State to adopt a particular course of conduct and that under article 21 the breach occurred through its failure to achieve a specified result by means of its own choice could not obscure the fact that every international obligation, including obligations "of conduct" or "of means", had an object. Conversely, every international obligation, including an obligation "of result", required of the obligated State a certain course of conduct. In paragraphs 2 and 3 of the commentary on article 23, the Commission appeared to implicitly acknowledge the blurring of the distinction when it cited contradictory examples of what constituted an obligation of conduct or an obligation of result. When it was further considered that the obligation referred to in article 23 required the prevention of a certain event but left the State free to choose the means of achieving that result, it would appear that article 23 merely repeated article 21 by giving a negative formulation of the positive obligation referred to in article 21. Accordingly, while not disputing that a differentiation could arise in practice between obligations of conduct and of result, he wondered whether that

(Mr. Krishnadasan, Swaziland)

imprecise, subtle distinction did not serve to detract from the clarity of articles 16 and 17, which indicated what constituted a breach of an international obligation and set forth the principle of the irrelevance of the origin of the international obligation breached. The Commission stated, however, that the distinction in question was of great importance in determining the moment and duration of the breach of an international obligation.

32. With regard to the time element, articles 24-26 on the tempus commissi delicti did not seem strictly necessary nor did they seem to reinforce the practical importance of the distinction made in articles 20-23. The need for including such complicated provisions on the tempus commissi delicti when codifying the law on State responsibility could be questioned. His delegation for its part failed to see what paragraphs 1, 2 and 3 of article 25 added to paragraphs 3, 4 and 5 of article 18. Articles 20-26 in no way contributed to the progressive development of international law.

33. On the other hand, the rule concerning aid or assistance by a State to another State for the commission of an internationally wrongful act was a welcome addition to the progressive development of international law. However, article 27 as currently drafted did not adequately reflect the element of intent on the part of the State providing the aid or assistance.

34. With regard to the succession of States in respect of matters other than treaties, article 23, paragraph 2, relating to a purely domestic allocation of debt servicing did not appear strictly necessary. Articles 24 and 25, which brought out the often conflicting interests of States in the devolution of a State debt, indicated quite clearly the need for effective dispute settlement machinery in a future convention. With regard to the phrase "taking into account all relevant circumstances" in article 25, it would be preferable either to go back to the formula adopted in article 21, paragraph 2, or to specify the "relevant circumstances".

35. Concerning the question of treaties concluded between States and international organizations or between two or more international organizations, it might be advisable for the Commission to re-examine articles 35 and 36 in the light of current practice. As for article 36 bis, it was in substance an effort to make the system provided for in articles 35 and 36 more flexible. The rule set out in article 36 bis (d) served to protect the other party to a treaty concluded by an international organization in that third States members of the organization would be bound to fulfil their obligations under the treaty. Article 36 bis (b) seemed to reflect existing practice established in particular by the ACP-EEC Convention of Lomé. The principle contained in article 36 bis would, however, have to be formulated differently.

36. Concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, his delegation believed that a protocol on the subject would constitute a useful development of the Vienna Convention on Diplomatic Relations of 1961. Taking account of the many existing lacunae in that

/...

(Mr. Krishnadasan, Swaziland)

area that were brought to light in paragraph 144 of the commentary in the Commission's report, a future protocol should contain a definition of the diplomatic courier and the diplomatic bag and clearly determine the obligations of the transit State.

37. With regard to the Commission's programme of work, his delegation approved the choice of the three topics which had been given priority by the General Assembly: State responsibility, succession of States in respect of matters other than treaties and the question of treaties concluded between States and international organizations or between two or more international organizations. It would rather see a multiplicity of articles on a few topics than a multiplicity of topics and a few articles. Study of the other topics would of necessity depend on the long-overdue strengthening of the Codification Division of the Office of Legal Affairs.

38. Mr. ROSSIDES (Cyprus) observed that the Commission's accomplishments during its thirtieth session demonstrated that its methods of work were flexible enough to enable it to complete speedily the tasks entrusted to it on a priority basis by the General Assembly provided that the number of subjects on its agenda was not so great that there was no time for significant progress on any of them. The thirtieth anniversary of the establishment of the Commission was an opportune time for the Sixth Committee to reflect on the manner of discharging its own responsibilities in the field of progressive development and codification of international law through the annual recommendations it made to the Commission. That was all the more important at a time of growing anarchy and near-chaos in the life of nations. If the Commission was to continue to fulfil its unique role as the principal organ established by the General Assembly for the development and codification of international law, it must proceed more expeditiously towards establishing a world legal order, without which international peace and security would forever remain unattainable goals.

39. Without in the least questioning the Commission's method of appointing special rapporteurs for the topics on its programme and without being opposed to having several special rapporteurs working simultaneously on the elaboration of reports on their respective topics, his delegation regretted that the Commission found itself compelled each year to give substantive consideration to a number of reports in order to comply with the General Assembly's recommendations. The inevitable result was the fragmentation of the Commission's annual debate, concretized in a small number of additional draft articles, to the detriment of the urgent completion of drafts on topics closely connected with the strengthening of international peace and security, especially the topic of State responsibility.

40. Now that the law of treaties had been codified, the codification of legal rules concerning State responsibility would complete the work of adapting the law to contemporary requirements. It was all the more urgent to codify the legal rules concerning that second fundamental pillar of international law, State responsibility, since the General Assembly had on its agenda for the current session an item entitled "Draft Code of Offences against the Peace and Security of

/...

(Mr. Rossides, Cyprus)

Mankind". The Draft Code dealt with the individual responsibility of State organs and thus covered a branch of international law which was distinct from that relating to State responsibility for internationally wrongful acts. The two were, however, complementary aspects of the legal regulation of internationally wrongful acts. In its commentary on article 19 on international crimes and international delicts the Commission had referred to the undivided responsibility aspect, not only because the development in international law of the criminal responsibility of individual State organs emphasized the increasing importance attached by international law to the subject-matter of certain international obligations on matters of peace and security, but also because it must be made clear that the punishment of organs liable to criminal prosectuion did not absolve the State from its international responsibility. Those two notions of responsibility were intended to discourage the commission of graver forms of wrongful acts affecting the vital interests of the world community as a whole on matters of international peace and security.

41. As could be seen from the "Survey of International Law: Working Document prepared by the Secretary-General" (Yearbook of the International Law Commission, 1971, vol. II (part 2), pp. 1-99), States sought increasingly to strengthen international law essentially because of the connexion between the maintenance of international peace and security, which was foremost among the purposes of the United Nations included in Article 1 of the Charter, and the development of international law; there was an immediate and basic link between the effective operation of a system of fundamental principles relating to the conduct of States - including the prohibition of the threat or use of force - and the progressive development and codification of international law, regarded as a process whereby efforts were made to translate those principles into specific legal obligations. Other major factors had led States to attach growing importance to the continuing process of adapting international law. Among them was the growing interdependence of States, technological progress, and the increase in the number of Members of the United Nations. Nothing less than co-operative action could serve the cause of international peace and security. In its resolution 2501 (XXIV), the General Assembly had emphasized "the need for the further codification and progressive development of international law in order to make it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations and to give increased importance to its role in relations among nations". In the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Charter principles embodied in Articles 1 and 2 were declared to constitute basic principles of international law. As for the Declaration on the Strengthening of International Security adopted by the General Assembly in 1970, it reaffirmed the Charter's prohibition of the threat or use of force against the territorial integrity and political independence of other States; it also reaffirmed that the territory of a State should not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. In that same resolution, the General Assembly recommended that the Security Council "take steps to facilitate the conclusion of the agreements envisaged in Article 43 of the Charter in order fully to develop its capacity for enforcement action as provided for under Chapter VII of the Charter".

/...

(Mr. Rossides, Cyprus)

42. Those issues necessarily encompassed the functioning of the system of international security created by the Charter and the interpretation of its provisions. They had an impact on international law, particularly with regard to the process by which international law was adapted to changing circumstances, and they should occupy the full attention of the General Assembly and the Commission in the progressive development and codification of international law. The General Assembly's next resolution on the work of the Commission should emphasize the absolute priority of the items relating to the maintenance of international peace and security.

43. In drawing up the general rules governing State responsibility, the Commission had taken an important step forward by recently adopting article 19 concerning international crimes and international delicts and, at its thirtieth session by adopting article 27 concerning aid or assistance by a State to another State for the commission of an internationally wrongful act.

44. The question of the tempus commissi delicti covered in articles 24-26 was also important since it involved the determination of the moment at which an internationally wrongful act of the State could be said to exist, i.e. the time at which the breach of an international obligation could be established and responsibility arose. That question was of great practical significance, especially in determining the gravity of the wrongful act and characterizing it under the provisions of article 19. It was equally important in the determination of the amount of prejudice caused by the wrongful act. In that regard, he referred to the cases of illegitimate military occupation or annexation currently taking place in violation and in defiance of the most fundamental provisions of the Charter and at the minimum standards of international morality. A striking example was offered by the continuance of foreign occupation of a sizable part of the territory of Cyprus, the wholesale expulsion of the majority population from that part of the territory and the implanting of an alien population transported from the outside; those events had continued for more than four years in constant violation of the relevant United Nations resolutions. In such cases, the time factor was essential in determining the gravity of the offence and the State responsibility. At a time when turbulence and insecurity were increasing internationally as well as within States because of the lack of the needed degree of legal order, the progressive development and codification of international law were of immeasurable value and urgency.

45. The need to develop enforceable legal norms of conduct was also reflected in the current report of the Secretary-General on the work of the Organization, which contained a warning regarding the effect of violation of the Charter and Security Council resolutions, which had no effective legal means of implementation. Such violations dangerously affected the authority and prestige of the Organization. That issue touched directly upon the functioning of the system of international security and the legal order created by the Charter. It was a vital legal and political problem which related to the effective functioning of the Organization in its primary responsibility for the maintenance of international peace and security and which was still very acute. If legal measures for collective

(Mr. Rossides, Cyprus)

United Nations action were not instituted and could not be applied where appropriate in order to compel implementation of Security Council resolutions, it would hardly be possible to curb the acts of aggression and other international crimes committed by States or groups of individuals using sophisticated weapons.

46. States Members of the Organization were gradually becoming conscious of that compelling need, but many of them were still hesitant. In the area of international security, the United Nations had tended up to the present to adopt more emphatic declarations and to draft new conventions affirming the rights and duties of States in order to strengthen the Organization and its Charter. However, the very core of the problem, which was to ensure the implementation of Security Council decisions, had been left untouched and unresolved. In some cases, the attitude of States could be attributed to the fact that, in the past, military alliances and competitive armaments had been relied upon to ensure security. That concept was outmoded, however, since in the nuclear age it defeated the very purpose of security.

47. Certain States, which wished to see the United Nations establish security based on legal order rather than military power, feared that that task was too difficult, and they were assuming an attitude of passivity which could ultimately have grave consequences. Other States were adopting a more positive attitude: they strongly supported the idea that international peace and security could, as provided in the Charter, be attained through the United Nations. That had been the attitude of Members of the Organization regarding the implementation of Security Council resolutions when the Charter had been adopted. It had remained the same at the time of the adoption in 1970 of the Declaration on the Strengthening of International Security, which provided that the Security Council should take steps leading to the conclusion of the agreements called for in Article 43 of the Charter in order to develop fully the capacity to enforce its decisions. Efforts along those lines must continue in both the political and the legal field.

48. In that connexion, the Commission should proceed as expeditiously as possible in its work on State responsibility. The need to appoint a new Special Rapporteur should not justify halting or changing the present direction of work on that item. The General Assembly should establish an order of priorities for the items currently on the Commission's programme so that at least part I of the draft articles on State responsibility could be speedily completed. Then, that set of draft articles should be submitted to Governments for their observations. In view of the contribution which the Codification Division of the Office of Legal Affairs would have to make to the Commission in attaining that goal, his delegation could not but endorse the Commission's call for the effective and prompt implementation of General Assembly resolution 32/151 as strengthening the Division.

49. In conclusion, he stressed the need to limit the Commission's work programme to a small number of items so as to achieve a more comprehensive presentation of the relevant drafts to the General Assembly. Appropriate financial arrangements would have to be made to permit the Special Rapporteurs to draw up their reports on the various priority items more speedily.

The meeting rose at 1 p.m.