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SUMMARY RECORD OF THE 14th MEETING

Chairman: Mr. ROSSIDES (Cyprus)

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The meeting was called to order at 11.10 a.m.

AGENDA ITEM 106: THE REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS TWENTY-EIGHTH SESSION (A/31/10) (continued)

1. The CHAIRMAN emphasized that the work done by the Sixth Committee in co-operation with the International Law Commission must form the basis for the development of international law within the United Nations system, and must play an increasingly important role in strengthening law and order and international security. Acts of terrorism and other forms of aggression committed by groups of individuals or even by States were increasing.

2. Mr. SETTE CAMARA (Brazil) said that he was pleased to note that the International Law Commission, as a result of the constructive work done at its twenty-eighth session, had been able to conclude its programme of work in accordance with paragraph 3 of General Assembly resolution 3495 (XXX) and complete the first reading on the topic of the most-favoured-nation clause. It had also achieved substantial progress on the subjects of State responsibility and succession of States in matters other than treaties. Furthermore, work on the item concerning the non-navigational uses of international watercourses had begun well with the examination of the first report by the Special Rapporteur on the subject. The Commission had not been able to consider the fifth report of the Special Rapporteur on the question of treaties involving international organizations but it would devote a substantial amount of its next session to that subject so as to conclude the first reading by 1978.

3. Reviewing the various chapters of the Commission's report, he welcomed the election of Mr. Njenga to serve on the International Law Commission, as mentioned in chapter I.

4. Concerning chapter II, dealing with the most-favoured-nation clause, he recalled that at the thirtieth session of the General Assembly, the Sixth Committee had discussed the 14 articles adopted by the Commission at its twenty-seventh session. Those 14 articles, together with the seven articles previously adopted, constituted a basic draft of 21 articles. He would confine his comments to the articles presented in revised form, in the light of the observations made by delegations at the thirtieth session of the General Assembly, and the six new articles and the new subparagrpah (e) to be added to article 2, as proposed by the Special Rapporteur. His delegation supported that new subparagraph, which contained a definition of material reciprocity which was essential to a proper understanding and interpretation of the draft articles.

5. Article 21, which dealt with the most-favoured-nation clause and a generalized system of preferences, was one of the highlights of the present draft. His delegation felt that the language of the article could be improved to reflect, in more effective terms, the exception it sought to establish in favour of developing

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countries. Generalized systems of preference put into practice by developed countries stemmed from the principle of preferential status treatment, approved by UNCTAD II in 1968. At the previous session of the General Assembly the Sixth Committee had discussed the characteristics and limitations of those systems. He recalled that the Tokyo Declaration adopted by the ministerial meeting of GATT on 14 September 1973 had set forth the basis for the current multilateral trade negotiations, consecrating a new principle to secure additional advantages for the developing countries, the principle of differentiated or more favourable treatment. His delegation felt that that principle should be reflected in the draft. The concept of differentiated treatment was broader than that of preferential treatment, which had been limited to tariffs. Unlike preferential treatment, differentiated treatment should be applicable to a vast range of areas of economic co-operation between developed and developing countries. His delegation suggested that article 21 should be amended to read: "A beneficiary State is not entitled under a most-favoured-nation clause to any treatment of a preferential or differentiated nature extended by a developed granting State to a developing third State". However, in view of article 27, a saving clause designed to avoid prejudice to the establishment of new rules of international law in favour of developing countries, his delegation would not press its suggestion.

6. Article 23 established an exception to the operation of the most-favoured-nation clause regarding special benefits accorded to land-locked countries on account of their geographical situation. That article, which dealt with a problem of which the international community had become increasingly aware, was particularly welcome. The exception it established already formed part of existing treaty law, as could be seen from the 1965 Convention on Transit Trade of Land-Locked States and the text of article 110 prepared for the third United Nations Conference on the Law of the Sea. He believed that article 23 was couched in well-balanced terms since the exception visualized only land-locked States in a special geographical situation vis-à-vis the granting State. He recalled that Brazil had always favoured access to and from the sea by its land-locked neighbours, Bolivia and Paraguay, and he emphasized the particular importance of article 23.

7. Article 22, concerning the exception relating to benefits granted to neighbouring States, in order to facilitate frontier traffic, also provided for a special treatment traditionally corollary to frontier régimes. Noting that it was a tradition among States to include such exceptions in treaties, and that no dispute had ever arisen in the absence of specific stipulations, the Special Rapporteur had arrived at the conclusion that an article dealing with the problem was not necessary. However, the International Law Commission had preferred to include an article which would make the exclusion the general rule. His delegation had no objection to the article although it felt that it was not indispensable.

8. With regard to problems relating to customs unions, and similar associations of States, the Special Rapporteur had reached the conclusion arrived at the previous year, namely, that there was no general rule of international law providing for the implied exclusion of benefits arising from the establishment of a customs union or

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similar association of States from the application of the most-favoured-nation clause. In that connexion the attitude of the members of the European Economic Community, which contended that there was a general rule establishing the implied exception was particularly surprising because, during the 20 years of EEC's existence, its members had frequently had recourse to the traditional practice of including exceptions in treaties.

9. His delegation therefore felt that the International Law Commission had been right not to attempt to formulate a rule establishing a general exception to the principle of application of the most-favoured-nation clause in the case of customs unions and other associations of States, which should be left free to establish treaty exceptions whenever they deemed it necessary.

10. Article 24, which reproduced the text of article 73 of the Vienna Convention on the Law of Treaties, contained a saving clause whereby cases of State succession, State responsibility and outbreak of hostilities were not covered by the draft articles. Some members of the International Law Commission had thought that the provision might not be necessary, since the articles on the most-favoured-nation clause were intended to complement the 1969 Vienna Convention on the Law of Treaties. However, since the draft articles were supposed to be autonomous and since States bound by those articles might not necessarily be parties to the 1969 Vienna Convention, most delegations, including his own, had felt that the inclusion of such an article was justified.

11. His delegation approved of the adoption of article 25, which was based on article 4 of the 1969 Vienna Convention and was designed to facilitate acceptance of the articles by Governments. Some members of the Commission had, however, pointed out that the rule of non-retroactivity of treaties was embodied in article 28 of the 1969 Vienna Convention and had considered article 25 to be superfluous.

12. Article 26, which established the principle of freedom of the parties to agree on different provisions, underlined the residual character of the provisions contained in the draft articles. His delegation considered that the article was very useful.

13. Chapter III of the report was devoted to State responsibility, a question which the Commission had taken up again on the basis of the fifth report by the Special Rapporteur (A/CN.4/291 and Add.1 and 2). It had adopted articles 16 to 19.

14. He had no objections regarding article 16, which defined the concept of violation of an international obligation, but he thought that the article was unnecessary.

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15. Article 17, entitled "Irrelevance of the origin of the international obligation breached", dealt with the problem of whether the origin of the obligation breached was likely to have a bearing on the establishment of different régimes of responsibility applicable to international wrongful acts of States. The Special Rapporteur, after a complete review of the practice of States, of decisions of tribunals and of learned writers' opinions, had concluded that there had never been any previous attempts to build up a categorization of types of responsibility on the basis of the sources of the obligations breached. According to the Special Rapporteur, the possible application to internationally wrongful acts of different régimes of responsibility, based on the difference in the source of the obligation breached, should not be taken into account unless general international law so provided, and that was not the case. The article proposed by the Special Rapporteur had been unanimously welcomed by the members of the Commission. It might, however, be asked whether the inclusion of such an article was necessary, since the principle underlying that article was already implicit in the wording of article 3 (b). His delegation did believe that there was some utility in article 17, for it would avoid any risk of confusion with another article in which a distinction was made between the applicable régimes of responsibility but on the basis of the contents of the obligations and not of their origins. His delegation was pleased, moreover, that the term "source", which had a long tradition of controversy in international law, had been replaced by the term "origin" and that the word "régimes" had been deleted.

16. Article 18, "Requirement that the international obligation be in force for the State", seemed at first sight to be very complex. It was in fact based on one single principle, namely, that an act of a State contrary to an international obligation constituted a breach if committed at a time when the obligation had been in force for that State. Every act must be assessed in the light of the rules of law in force at the time when the act had been committed. The single exception to that rule was the hypothesis envisaged in paragraph 2 of article 18. As some members of the Commission had pointed out, the retroactive application of jus cogens gave rise to extremely delicate problems and must be dealt with very carefully. In the case of international crimes, which were dealt with in article 19 of the draft articles, the application of the principle of retroactivity could be very dangerous. In fact, it would conflict with the principle of nullum crimen sine lege, which also could be regarded as constituting a rule of jus cogens. Therefore, his delegation was in favour of the present wording of article 18.

17. Article 19 constituted a very important innovation in the field of State responsibility, in so far as it dealt with the contents of the international obligation breached. Paragraph 1 stated that whatever might be the contents of the international obligation breached, its violation constituted an internationally wrongful act; that provision did not present any difficulty. However, the Special Rapporteur had then established a distinction between different kinds of internationally wrongful acts on the basis of the contents of the international obligation breached, and he had done so with a view to defining different régimes of responsibility. In proposing that revolutionary approach, the Special

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Rapporteur had himself recognized that the classical doctrine on responsibility did not accept such a categorization of different infringements of the international rules. He had added, however, that at the present time the traditional view had evolved in a much wider sense so as to encompass different régimes of responsibility for different types of violation. One type would be a violation that entailed an injury to the international community as a whole, and the other would be a wrongful act which was of immediate concern to a particular injured State. Indeed, the Special Rapporteur had been right in making that distinction, for he had been merely taking into account the trends of thought of the international community in distinguishing between some violations of the Charter of the United Nations and of treaties of a universal character which were regarded as extremely grave and violations of other international rules which were regarded as being less serious. Aggression, genocide, apartheid, gross violations of human rights and fundamental freedoms, and colonialism were international crimes that should be accorded more severe treatment than that given to internationally wrongful acts of less importance. Indeed the practice of States had shown a tendency since the end of the Second World War to recognize certain breaches of international law as crimes erga omnes. However, the numerous draft articles which had been drawn up in the aftermath of the atrocities committed during the hostilities had not concerned State crimes involving the responsibility of States in the terms of the draft before the Committee but rather crimes for which individuals and not States would be punishable. Even the Convention on the Prevention and Punishment of the Crime of Genocide, which dealt exclusively with crimes under international law, provided only for the responsibility of individuals.

18. Article 19 dealt with international crimes for which States were responsible, according to Article 2, paragraph 4, of the Charter of the United Nations. Although the draft articles were silent on the different legal consequences of international crimes, it was obvious that the ordinary forms of reparation must be replaced by new forms such as those provided for in Chapter VII of the United Nations Charter dealing with action with respect to threats to the peace, breaches of the peace and acts of aggression. A much more severe régime of responsibility would apply in the case of crimes of the types referred to not only in paragraph 2 of article 19 but also in the three subparagraphs of paragraph 3, since infringements of the right of self-determination, human rights and fundamental freedoms, for example, would necessarily constitute threats to peace.

19. His delegation fully supported the provisions of article 19, but it suggested that the Committee should deal separately with the matters contained in paragraph 1, on the one hand, and those in paragraphs 2, 3 and 4, on the other, so as to include paragraphs 2, 3 and 4 in a new article. In that way there would be a difference of treatment for the two régimes of responsibility. For example, ordinary breaches would continue to be the object of the traditional remedies of reparation, and, if other means of settlement of disputes failed, they would continue to be adjudicated by the International Court of Justice or to be the subject of an arbitral procedure. In the case, on the other hand, of international crimes, only a political body

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namely, the Security Council, would be authorized to act. To avoid confusion, it would be useful to deal with the two situations in two different articles.

20. He was not satisfied with the distinction made in paragraph 4 between an "international crime" and an "international delict". He would like to see the word "delict" replaced by another term since, in many systems of law, the word "delict" was synonymous with "crime". That remark was of a purely drafting nature. As for the substance, his delegation was prepared to support the text of article 19 proposed by ILC.

21. Chapter IV of the ILC report dealt with the succession of States in respect of matters other than treaties. ILC had considered the eighth report of the Special Rapporteur (A/CN.4/292), which was in many respects quite different from his previous report. Whereas in his seventh report, the Special Rapporteur had considered specific State property such as treasury, currency and archives, in his eighth report he had dealt with State property in the abstract, establishing a distinction only between movable and immovable property. Moreover, he had adhered strictly to the typology of the succession of States, as established in the draft articles on succession in respect of treaties. The Brazilian delegation was pleased that ILC had approved the latter decision of the Special Rapporteur.

22. Referring to the Special Rapporteur's draft article 12, he pointed out that it dealt separately with movable and immovable property whereas, for obvious reasons, article 13 did not make that distinction. The criterion of the linkage between property and the territory concerned was very sound, and was further balanced by the concept of the viability of the territory to which the succession of States and that of the predecessor State related, on the one hand, and on the other, by the principle of equity in the apportionment of property. However, some caution should be exercised in respect of the latter principle because States had always mistrusted it. For example, Article 38, paragraph 2, of the Statute of the International Court of Justice, which provided that the Court could decide a case ex aequo et bono, if the parties agreed thereto, had never gained acceptance by any State. Indeed, equity was the absence of law; it represented natural justice, as opposed to legal justice. The Special Rapporteur, taking as a basis the North Sea Continental Shelf cases, had established a certain nuance between the concept of "equity" as abstract justice or natural justice, and equitable principles applicable as a result of a rule of law. It would, however, be less dangerous to resort to some vague formulae which spoke of what would be "reasonable" and "normal", such as those contained in article 11, paragraph 1, of the Vienna Convention on Diplomatic Relations, and articles 14 and 46 of the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character.

23. Some members of ILC had questioned the need to include in the draft articles dealing with newly independent States, since the decolonization process was practically concluded. His delegation held that, despite the progress made in the decolonization process, there were still some Non-Self-Governing Territories which had yet to achieve independence. Moreover, independence often left many problems

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unsolved. The rules proposed by the Special Rapporteur in articles 14 and 15 might prove very useful in the future. The Commission also could not ignore the problem of newly independent States since it had made it the corner-stone of the whole draft on the succession of States in respect of treaties.

24. The structure proposed by the Special Rapporteur for article 14 was the same as that of preceding articles. The article dealt with property belonging to the predecessor State and not with property belonging to the territory itself. It should be recalled that colonial Territories sometimes had their own movable and immovable property, which was outside the scope of the succession. His delegation welcomed the inclusion of the idea in the third paragraph of article 14 proposed by the Special Rapporteur. Several General Assembly resolutions had proclaimed the permanent sovereignty of States over their natural resources and the wording of the paragraph was taken from Economic and Social Council resolution 1956 (LIX) and from the resolutions adopted by the General Assembly at its sixth special session. It might be argued that the attributes of sovereignty mentioned in paragraph 3 of draft article 14 had belonged to the territory even before independence. Nevertheless, the paragraph was necessary because history had shown that the attainment of independence was far from being always peaceful and easy and that devolution agreements of a leonine character abounded. Paragraph 3 contained a necessary safeguard clause.

25. With regard to the structure of article 16 proposed by the Special Rapporteur, his delegation shared the doubts expressed by members of ILC. The article seemed to be predicated on the notion that a uniting of States always resulted in a union of States. While it was true that recent cases of the uniting of States had usually led to the formation of a union, past history showed that a uniting of States had often resulted in the formation of a unitary State. In such cases, the exceptions referred to in paragraph 1 did not arise. At any rate, his delegation approved the renvoi to the internal constitutional law of the successor State to determine which powers devolved upon the union and which should belong to the constituent State, so as to establish the destination of State property on the basis of a direct link with such powers. With regard to the draft of article 16, paragraph 2, proposed by the Special Rapporteur, he agreed that no distinction should be made between movable and immovable property. The main reason for distinguishing between the two types of property in other articles had been the ease with which a movable property could be transferred from one territory to another and the consequent risk of dispossession when there was a succession of States. That risk did not apply when the predecessor States merged into a single successor State.

26. The text proposed by the Special Rapporteur for article 17 presented no difficulty for his delegation. It constituted the other side of the coin, so to speak, of article 16, in other words, a return to the situation prevailing prior to the uniting of States when the latter failed. However, in that case, it was not certain that there would be a return to the status quo ante; there could be

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a dissolution of a State which had never been a union, but a unitary State, although, as ILC had stressed, almost all precedents of a disintegration of a State resulting in its extinction had concerned unions of States. The distinction between dissolution and separation, the practical effects of which had been disputed by States commenting on the 1972 draft on the succession of States in respect of treaties, had some meaning for the issue being considered. It had to be recognized that the predecessor State either disappeared, in the case of dissolution, or survived apart from the successor State or States, in the case of separation. If the predecessor State survived the separation, it could demand at least that it be considered on a parity of terms with the other successor States in the distribution of State property. In providing for the destination of the property, article 17 again distinguished between movable and immovable property. Immovable property would be attributable to the State in whose territory it was situated, which was logical. The clause "except where otherwise specified in treaty provisions" constituted a reservation which preserved the autonomy and will of States in case they should decide to settle the problems of succession by treaty.

27. The text of article 17, paragraph 2, proposed by the Special Rapporteur dealt with movable property and provided that its destination would depend on the criterion of direct and necessary link or the principle of equitable distribution. It was not clear whether those criteria were mutually exclusive or could be applied concurrently. The apportionment, in the view of his delegation, should only take place if there was no direct and necessary link or if the direct and necessary link might apply to the various States disputing a succession.

28. With regard to article 17, paragraph 3, of the Special Rapporteur's text, which dealt with the apportionment of property situated outside the territory, his delegation did not understand why that provision, like article 16, did not take into consideration the rule that account must be taken of the contribution of each State to the formation of the property - a rule which appeared in several of the previous articles.

29. After explaining that, despite those few observations on chapter IV of its report for consideration by ILC, his delegation wished to express its full support for articles 12-17, he went on to chapter V, which dealt with the non-navigational uses of international watercourses. In his first report on the question (A/CN.4/295), the Special Rapporteur had shown prudence. The report had been a preliminary study intended merely to complete the general survey which was to emerge from the questionnaire prepared by ILC in 1974 and circulated by the Secretary-General in 1975. The Governments which had replied had made very interesting comments, particularly concerning questions A, B and C. In his report, the Special Rapporteur had summed up the prevailing trends of the replies. He had noted that a small majority felt that it would be desirable to begin the work on the basis of a less general concept than that of the international drainage basin. That conclusion seemed euphemistic in view of the categorical position taken by certain Governments, including the French Government.

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30. The conclusions drawn by the Special Rapporteur from the replies to questions A, B and C might be summarized as follows: the concept of international drainage basin was discarded as a dubious starting place; the Commission should not be held up by disputes on definitions pending the development of substantive provisions; the Commission should take a decision on the scope of its work, since its task was to formulate legal principles and rules concerning the non-navigational uses of river basins. The first two conclusions of the Special Rapporteur had raised no difficulties in the Commission. However, his delegation wished to point out that questions A, B and C of the questionnaire were concerned not only with definitions, but also with the preliminary delimitation of the topic. With regard to the third conclusion of the Special Rapporteur, the Commission had been wise not to act on it, and had taken no decision on the scope of the subject. The sharp divergencies revealed by the replies of Governments and the strong objections to any departure from the traditional concept of international watercourses had not allowed the Commission to adopt any other course. In that connexion, he referred to the reply from the Austrian Government, which had been drafted in particularly forceful language. In his delegation's view, it was clear that the Commission should confine itself to formulating rules relating to the non-navigational uses of international watercourses. Its task was to examine a traditional concept of customary international law, embodied in hundreds of treaties and conventions, namely, the concept of international watercourses, and not the purely territorial concept of river basins. According to the rules of customary international law, as enshrined in articles 1 and 2 of the Regulations of 24 March 1815 concerning the free navigation of rivers, and articles 108 and 109 of the Final Act of the Congress of Vienna of 8 June 1815, what were to be taken as international were the international rivers separating or crossing the territory of two or more States and not the physical portion of land contained within the divortium aquarum of an international river. The fact that such portion of the territory of a State was bathed by an international watercourse did not confer upon it a status other than that of being part of the national territory.

31. Nevertheless, his delegation recognized that the concept of "basin" was of relevance for the studies concerning the harmonious development and physical integration of river basins. It was in that sense that that concept had been incorporated in recent treaties, such as those concluded in Africa following the 1959 Treaty on the Nile River, namely, the Niger, Senegal, and Lake Chad treaties, in which the concept of river basin did not appear as a basis for formulating legal rules. None of the many treaties concerning the non-navigational uses of international rivers assembled by the Secretariat departed from the classical concept of international watercourses, a corollary of which was the distinction between successive and contiguous rivers. Consequently, his delegation was gratified that the Commission had taken no decision on the lines proposed by the Special Rapporteur.

32. It was also gratifying to note that the majority of the members of the Commission had felt that the rules to be formulated should not be more than basic

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principles which would apply to particular aspects of all rivers, and were therefore to be of a residual nature. Under one of those rules, the utilization of international watercourses would always be subject to the principle of legal responsibility, which would constitute a sort of application of the old rule "sic utere tuo ut alienum non laedas". Some members of the Commission had also suggested including the principles of international co-operation, the abuse of rights and good faith.

33. In his report the Special Rapporteur had also considered certain aspects of the exercise of sovereignty over water, taking account of its physical characteristics. In that connexion, he noted that if the Commission were to accept the exercise of sovereignty as capable of being conditioned by the physical properties of liquids, serious consequences might result in connexion with other liquid natural resources such as oil, not to mention the possible repercussions with regard to sovereignty over the territorial sea.

34. The replies concerning the other points in the questionnaire had shown a considerable amount of agreement. In general, Governments had replied favourably to the outline proposed in questions D and E on the uses of fresh water. Some Governments had suggested additional uses, such as livestock-raising, proposed by his own Government. Question F, dealing with flood control and erosion, and question G, on the interaction between navigational and other uses, had met with almost unanimous acceptance by the Governments replying, and had evoked no objections in the Commission. On the other hand, question H, on whether or not pollution should be given priority in the Commission's studies, had evoked differing views. His Government believed that the study of that problem should be given priority. Finally, on the subject of question I, he drew attention to his Government's view that the Commission should preserve its freedom to seek technical advice whenever necessary and opportune, by organizing an advisory committee of experts, or by calling in experts - which would be more practical - or by combining the two alternatives, while ensuring that the treatment of legal aspects was always left to the Commission itself.

35. His delegation welcomed the establishment at the twenty-eighth session of the Commission of a Planning Group for improving the methods of work of the Commission and developing guidelines to assist it in completing its work on the active subjects. The proposal to confer on the Group the status of a permanent organ of the Commission had not been adopted. The members of the Commission had, however, agreed on the mandate of the Group, as set out in paragraph 171 of the Commission's report. With regard to the time to be allocated at the following session to individual topics currently under consideration, the Group had suggested that the Commission should devote three weeks to each of the following questions: State responsibility, succession of States in respect of matters other than treaties, and the question of treaties concluded between States and international organizations. It had also been suggested that the Commission should reserve three meetings for discussion of the second part of the topic of relations between States and

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international organizations, it being understood that the Special Rapporteur on the subject would present a preliminary report on the status, privileges and immunities of international organizations, their officials and experts and other persons engaged in their activities not being representatives of States. The Planning Group had made other interesting suggestions, which were contained in section B of chapter VI of the Commission's report.

36. With regard to the question of the seat of the Commission, which had been raised in the report of the Joint Inspection Unit, his delegation welcomed the Commission's decision to reiterate the conclusions it had reached at its twenty-sixth session. It was essential that the Commission's procedures and patterns of organization should not be modified without its being allowed to express its opinion.

37. With regard to co-operation with other bodies, his delegation noted with satisfaction that the Commission had once again been represented by its Chairman at meetings of the Asian-African Legal Consultative Committee and of the Inter-American Juridical Committee, and that observers for the Inter-American Juridical Committee and the European Committee on Legal Co-operation had submitted reports on their recent activities. Such periodic contacts and exchanges of information were extremely useful.

38. His delegation supported the Commission's recommendation concerning the publication of a new revised edition of the handbook on "The Work of the International Law Commission". He welcomed the organization of another Gilberto Amado Memorial Lecture and a further international law seminar.

39. Mr. GANA (Tunisia), speaking on a point of order, proposed that the statement made by the Chairman of the International Law Commission at the preceding meeting should be reproduced in extenso and distributed as a working paper.

40. The CHAIRMAN said that at previous sessions the statements of the Chairman of the Commission had been summarized in detail in the summary records, with the original text being distributed to all delegations by the Secretariat. Since that procedure had the advantage of having no financial implications, he suggested that it should be followed again at the current session.

41. It was so decided.

AGENDA ITEM 107: CONFERENCE OF PLENIPOTENTIARIES ON SUCCESSION OF STATES IN RESPECT OF TREATIES: REPORT OF THE SECRETARY-GENERAL (A/31/144; A/C.6/31/L.2, L.4, L.5) (continued)

42. Miss AGUTA (Nigeria), introducing draft resolution A/C.6/31/L.4, outlined the successive steps in the work of ILC on the succession of States in respect of treaties, with which ILC had been concerned from its fourteenth to its twenty-sixth session and which had culminated in the adoption by it in 1974 of the final English, Spanish and French texts of draft articles on the succession of States in respect of treaties, which had been submitted to the General Assembly at the thirtieth session.

(Miss Aguta, Nigeria)

43. In its work on the subject the Commission had emphasized the relationship between the succession of States in respect of treaties and the general law of treaties, and the relationship between the principle of self-determination and the law relating to the succession of States in respect of treaties.

44. She referred to the decision taken by the General Assembly at the thirtieth session to convene a conference of plenipotentiaries to consider the draft articles on the succession of States in respect of treaties and to the invitation of the Austrian Government, which was prepared to act as host to the Conference from 4 April to 7 May 1977, and in that connexion she drew attention to paragraphs 2, 4 and 5 of draft resolution A/C.6/31/L.4, which was before the Committee.

45. On behalf of the sponsors, she announced some changes in the draft resolution. The third preambular paragraph should be revised to read: "Believing that the draft articles adopted by the International Law Commission at its twenty-sixth session represent a good basis for the elaboration of an international convention and such other instruments as may be appropriate on the question of succession of States in respect of treaties,". The sponsors of the draft resolution had also decided to add after paragraph 3 a new paragraph reading: "Decides that the languages of the Conference shall be those used in the General Assembly and its Main Committees". Finally, at the request of some delegations, the adjective "differing" in the penultimate preambular paragraph was to be deleted.

46. The sponsors of draft resolution A/C.6/31/L.4 hoped that the Sixth Committee would adopt it by consensus.

47. Mr. KOLESNIK (Union of Soviet Socialist Republics), referring to the statement of financial implications (A/C.6/31/L.5) of draft resolution A/C.6/31/L.4, said that he was surprised by the size of the difference between the estimated total expenditure ($707,200) and the figure given in the statement submitted at the previous session in document A/C.6/L.1026 ($451,317). He had noted that the increase was attributable to two items, summary records and the editing and printing of documents ($308,600). In 1975 it had been estimated that the preparation of summary records would require expenditure of only $98,000. He hoped that the Secretariat would provide explanations on the matter at the following meeting.

48. The CHAIRMAN said that the Secretariat would be requested to give an explanation of the matter.

49. Mr. VERCELES (Philippines) announced that Indonesia had become a sponsor of draft resolution A/C.6/31/L.4.

50. He drew attention to the fact that the statement of the financial implications of the draft resolution would have to be revised since, under the new paragraph 4 orally introduced by the representative of Nigeria, Arabic was to be a working language of the Conference.

AGENDA ITEM 111: RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS: REPORT OF THE SECRETARY-GENERAL (A/31/163 and Add.1; A/C.6/31/L.3/Rev.1) (continued)

51. The CHAIRMAN announced that Australia had become a sponsor of draft resolution A/C.6/31/L.3/Rev.1.

The meeting rose at 1.10 p.m.