

**United Nations Conference on Succession of States
in respect of State Property, Archives and Debts**

Vienna, Austria
1 March - 8 April 1983

Document:-
A/CONF.117/C.1/SR.15

15th meeting of the Committee of the Whole

Extract from Volume I of the *Official Records of the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

43. The Spanish delegation, for its part, would have no objection to an article dealing with the questions raised in article 14 appearing in the future convention.

44. Mr. CHO (Republic of Korea) emphasized the need for separate provisions to deal with the special circumstances attending the succession of newly independent States and to meet the requirement of the principle of equity. Paragraph 4 was one of the International Law Commission's most commendable contributions to the progressive development of international law. The principle of the permanent sovereignty of every people over its wealth and natural resources was a widely accepted norm of international law which had been reaffirmed in many resolutions and instruments.

45. His delegation did not agree with the view that paragraph 4 deprived the parties concerned of the right to conclude agreements; it merely emphasized that such agreements should not infringe the principle of permanent sovereignty over wealth and natural resources. Accordingly, his delegation supported the draft of article 14 as proposed by the International Law Commission and opposed the amendments submitted by the Netherlands and the United Kingdom.

46. Mr. A. BIN DAAR (United Arab Emirates) said that the widely accepted principle of the permanent sovereignty of every people over its wealth and natural resources, which was at the forefront of United Nations doctrine, should not be compromised in an international convention, considering that that principle was in conformity with the actual practice of the vast majority

of States, thereby establishing it as a customary rule of international law.

47. As the International Law Commission had noted in its commentary, it had been fully conscious, when drafting article 14, of the precise mandate it had received from the General Assembly to examine the problems of State succession with appropriate reference to the views of States that had achieved independence since the Second World War. That position was clearly reflected in paragraph 4.

48. His delegation was unable to accept the United Kingdom amendment for reasons of principle, and found the Netherlands amendment to be too imprecise. It accordingly fully supported article 14 as drafted by the International Law Commission.

49. Mr. LEITE (Portugal) said that in his delegation's view paragraph 4 should have no place in a legal convention, since it was based on ideological and political considerations.

50. His delegation supported the principle of the permanent sovereignty of every people—and not only of newly independent States—over its wealth and natural resources. It could not accept a provision that made a limited attribution of what was a general right.

51. He emphasized that his delegation's position was based on legal considerations rather than arguments of a political or emotional nature, and he echoed the appeal for compromise made by the representative of Spain.

The meeting rose at 5.50 p.m.

15th meeting

Friday, 11 March 1983, at 10.10 a.m.

Chairman: Mr. ŠAHOVIĆ (Yugoslavia)

Consideration of the question of succession of States in respect of State property, archives and debts, in accordance with General Assembly resolutions 36/113 of 10 December 1981 and 37/11 of 15 November 1982 (continued) (A/CONF.117/4, A/CONF.117/5 and Add.1)

[Agenda item 11]

Article 14 (Newly independent State) (continued)

1. Mr. BEDJAoui (Expert Consultant) said that he would confine his comments to the more salient points raised during the discussion at the previous two meetings and would try to clarify the intentions of the International Law Commission in drafting article 14.

2. A radical solution had been proposed—to delete the article—and the Conference was of course fully entitled to do so if it wished. However, he pointed out that the General Assembly had given the International Law Commission a mandate to take into account the experience of the newly independent States and to accord them special treatment in the succession of States in order to further the codification and progressive development of international law. In drafting article 14

the Commission had endeavoured to comply with that mandate.

3. The deletion of the article, and of the corresponding articles 26 and 36, would cause a major element of the proposed convention to disappear, and hence its usefulness as an international instrument would be questionable. If that deletion were to be made, serious problems of interpretation would result when drawing parallels with the 1978 Vienna Convention on Succession of States in Respect of Treaties,¹ which contained special provisions to cover the case of newly independent States. In his view the question of the succession of States after decolonization was of such importance to the modern world that it could be ignored in the convention only at the risk of gravely undermining the scope and integrity of the draft.

4. It had been suggested that the process of decolonization was virtually complete and that the provisions of article 14 were accordingly redundant. He could not

¹ *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, vol. III (United Nations publication, Sales No. E.79.V.10), p. 185.

accept that point of view. All types of succession of States had in many instances given rise to disputes which had taken decades, and in some cases centuries, to resolve. For example, the archives of the Duchy of Savoy, which had become French territory in 1860, had not been transferred to France until 1947, while the succession of States after the dissolution of the Austro-Hungarian monarchy had led to a multiplicity of disputes. The persistence and complexity of such contentious issues amply justified the inclusion of article 14 in the future convention.

5. The amendment proposed by the United Kingdom (A/CONF.117/C.1/L.19) was at first sight interesting, and he had tried to see how it could be reconciled with the intentions underlying the International Law Commission's version of the article. He had concluded, however, that the amendment would have the effect of limiting the meaning of the terms "movable" and "immovable" property that would pass to a successor State. The International Law Commission's intention in its version was not to confer a gift on a newly independent State but rather to uphold the principle of equity by ensuring the return of property which had been taken by the predecessor State during the period prior to the independence of the successor State.

6. If the reference to "State property vested in the government of the territory" were to be retained, as suggested in the United Kingdom amendment, there was a risk of confusing the State property of the predecessor State held by the former administering Power in the territory for management and the separate property of that territory. The latter had already belonged to the territory before the succession of States; the succession did not affect it. It would continue to belong to the territory after independence. On the other hand, what was affected by the succession of States was the fate of the State property of the predecessor State.

7. The delegation of Nigeria had inquired (14th meeting) what happened to such property as antiquities and works of art that had been removed from the territory of the formerly dependent State. In his view the rules provided by the International Law Commission's draft of paragraph 1 were appropriate and dealt adequately with such property. In reply to questions concerning the assessment of the contribution made by the dependent territory to the "creation" of property, he said that, while the International Law Commission's formulation was not very precise, it would be difficult to draft the relevant provision in more specific terms. He suggested that perhaps the Drafting Committee might be asked to consider the drafting of the provisions in question.

8. Commenting on the amendment to paragraph 4 submitted by the Netherlands (A/CONF.117/C.1/L.18), he said that some delegations had wished to see a greater correspondence between article 14 and other articles, and in particular article 13, which accorded primacy to agreement between the States concerned. Those delegations seemed to consider that article 14 gave too little weight to agreements, but he felt that their concern was misplaced. As drafted by the Commission, the article did not say that there should be no agreement between predecessor and successor States; it merely required that such agreements should be in

conformity with contemporary international law, which contained certain new principles, such as the permanent sovereignty of each people and each State over its wealth and natural resources. In its commentary the International Law Commission cited a large number of such agreements, which had been a notable feature of the post-war period. However, the Commission had recognized that in many cases the agreements themselves had been unfavourable to the successor State and it had endeavoured to respond to the concerns of the General Assembly, as expressed in such resolutions as resolution 3281 (XXIX) containing the Charter of Economic Rights and Duties of States. The object of paragraph 4 as it stood was to ensure that agreements between the predecessor State and the newly independent State were compatible with respect for the latter's economic and political independence.

9. He felt that the scope and efficacy of article 14 would be impaired if paragraph 4 were to be removed and included as a separate provision of the draft, as had been suggested by the representative of Brazil (13th meeting): paragraph 4 could be said to establish the tone of article 14 as a whole and should thus be retained in that context.

10. On the question of the propriety of including a reference to international law in paragraph 4, on the lines of the formulation proposed in the Netherlands amendment, he said that those who advocated such a reference must concede that permanent sovereignty over wealth and natural resources was itself a principle of international law. He wondered, however, if that was in fact the position of those who wanted such a reference included. There was a contradiction in terms in that amendment. On the one hand, the sponsors stated that permanent sovereignty over wealth was not a principle of international law; on the other, in the text of the amendment that principle was appreciated "in accordance with international law". The International Law Commission had agreed that the draft should affirm that permanent sovereignty was indeed a principle of international law and had drafted article 14 accordingly. Paragraph 4 stipulated that agreements between the predecessor State and the newly independent State should not infringe the principle of permanent sovereignty and, in his opinion, it followed that the infringement of that principle would invalidate such an agreement.

11. The fact that the principle of permanent sovereignty formed part of international law was borne out by its incorporation in the 1958 Geneva Convention on the Continental Shelf² and, of course, in article 13 of the 1978 Vienna Convention, where it actually appeared in a more complete form than in the draft convention under discussion, the wording used being "... the permanent sovereignty of every people and every State over its natural wealth and resources". In that connection, he felt that it might perhaps be desirable to bring the draft convention fully into line with the 1978 Convention, for both dealt with the succession of States. He added that the principle of permanent sovereignty had undergone a process of gradual refinement over the years and was still evolving; for example, the Charter of

² United Nations, *Treaty Series*, vol. 499, No. 7302, p. 312.

Economic Rights and Duties of States, in its article 2, spoke of the State's "full permanent sovereignty . . . over all its wealth, natural resources and economic activities". Indeed, the representative of India had suggested (13th meeting) that a reference to economic activities might be added to paragraph 4 of article 14.

12. As paragraph (32) of the commentary made clear, the principle of permanent sovereignty applied not only to peoples of newly independent States but to all peoples in general; however, newly independent States quite naturally needed more protection in that respect. Mention of the word "people", regretted by some of the critics of the International Law Commission's draft, was taken from the Charter of the United Nations and had been introduced by the inviting Powers to the San Francisco Conference of 1945. In that connection, he reminded the Netherlands delegation that at the San Francisco Conference the Netherlands had been responsible for an amendment to Article 55 of the Charter in which the word "peoples" was to be found.

13. The Netherlands amendment was self-contradictory in that it appeared to recognize the principle of permanent sovereignty over natural resources and, at the same time, to deny it by introducing the phrase "in accordance with international law". Everyone was aware that international law was in constant process of evolution and that its contents today were not the same as they had been in the past or would be in future. The problem of the precise legal force of General Assembly resolutions was an old and still unresolved one.

14. In conclusion, he stressed that if the Conference decided to reject the reference to international law proposed in the Netherlands amendment, it would not, of course, indicate thereby that it lacked respect for international law, but only that it considered the reference to it inappropriate in such a context, since delegations did not give in the current forum the same tenor to that law.

15. Mr. ROSENSTOCK (United States of America) said that, like Algeria, the United States was among those States which had fought for its independence but that should not cause either to allow emotional or psychological factors to cloud legal analyses or produce a backward-looking text.

16. He stressed that article 14 was both unnecessary and unwise and created distinctions not founded in law, logic or balanced notions of justice. The United States had no current or foreseeable succession problems which were affected by the current draft and did not object to special treatment for newly independent States where a reasonable basis for special treatment existed, as in the case of treaties. Article 14 of the International Law Commission's draft was not an accurate statement of law or even a sufficiently compelling statement *de lege ferenda* to militate for its acceptance. Neither State practice nor any notion of justice would support such an article. In addition, the situations covered by article 14 would not be prevalent in the future and therefore it could be deleted without decreasing the importance of the convention.

17. Article 14 included highly controversial issues which were not essential to a meaningful convention and which were being dealt with in other forums. It was

consequently not necessary to have another discussion on whether any General Assembly resolutions or other instruments since General Assembly resolution 1803 (XVII) affected the legal requirements that any nationalization should be for public purposes and should be non-discriminatory and that prompt, adequate and effective compensation should be paid.

18. The United States objected to arguments which represented an attempt to give legal force to notions found in various merely recommendatory material emanating from the General Assembly. The Conference could not ignore the fact that General Assembly resolutions were purely recommendatory and did not give rise to legal obligations. That absence of obligation was especially clearly evident where, like the resolutions of the Assembly's sixth special session, they had given rise to strong reservations or, as in the case of the so-called Charter of Economic Rights and Duties of States, to negative votes and abstentions on the part of some delegations.

19. If, as some speakers argued, paragraph 4 of article 14 were to form part of *jus cogens*, its application would hardly depend on its inclusion in a particular text; in that connection, the dubious nature of its character as *jus cogens* could be seen by looking at the text of article 53 of the 1969 Vienna Convention on the Law of Treaties.³

20. Moreover, he could not accept the argument that special protection was required for newly independent States which might be forced to sign away basic rights by the predecessor State. That problem, if it existed, was too broad to be dealt with in the current context and was, in any event, covered in the 1969 Convention on the Law of Treaties, which provided all the protection that was necessary.

21. In conclusion, he reiterated the recommendation that article 14 be deleted and appealed to all participants in the Conference who were concerned with the effective application of the proposed convention to bear in mind that only a text which commanded broad support and respect could conceivably attract a sufficient number of accessions or ratifications to make the convention meaningful.

22. Mr. TARCICI (Yemen) said that his Government's views entirely coincided with those of the International Law Commission as expounded by the Expert Consultant.

23. The CHAIRMAN said that, in the absence of any objection, he proposed to close the list of speakers on the subject under consideration.

It was so decided.

24. Mr. BROWN (Australia) expressed some alarm at the extreme polarization of views which had become apparent in the discussion and which did not augur well for the success of a codification conference. His own delegation had reservations with regard to the wording of article 14, but they were mainly of a drafting nature and could partly be met by supporting the United King-

³ *Official Records of the United Nations Conference on the Law of Treaties, 1968 and 1969, Documents of the Conference* (United Nations publication, Sales No. E.70.V.5), p. 287.

dom amendment. It was to be regretted that the debate so far had been conducted along such rigid lines that it seemed inappropriate to raise the question of drafting inconsistencies at all at that stage.

25. A provision such as that contained in paragraph 4 did, in his delegation's view, have some place in the draft convention; however, in view of the wide divergence of opinion on the merits of the existing wording, a mutually accommodating provision would have to be sought either along the lines of the Netherlands amendment or, possibly, along those of article 13 of the 1978 Vienna Convention. In that connection, he noted the Expert Consultant's remark to the effect that the text of article 14 might perhaps be brought into line with that of article 13 of the earlier Convention.

26. If his delegation's reservations on the existing wording of article 14 were not met, it would support the article as drafted by the International Law Commission. However, the value of the text would be greatly diminished if, as seemed likely, there were a resounding negative vote against it. He therefore suggested that, should the Netherlands and United Kingdom amendments fail to be adopted, a final decision on article 14 might be postponed in order to give delegations an opportunity to engage in informal negotiations from which a more acceptable text might emerge. Without wide support, the convention that was being drafted would be of little value to anyone and the hope of elevating the principles it contained to the status of rules in international law would be frustrated.

27. Mr. KOREF (Panama) considered that article 14 should be included in the future convention in the form in which it had been drafted by the International Law Commission, which took account of the need to protect the rights of newly independent States as regards movable and immovable State property situated in the whole of their territory. In the light of recent experience, his country was convinced that such a provision was essential. Referring to the Expert Consultant's explanation that the principle of permanent sovereignty over wealth and natural resources applied not only to newly independent States but also to others, he emphasized that the notion "newly independent" State was open to various interpretations.

28. Mr. OESTERHELT (Federal Republic of Germany) said that, as stated on many previous occasions, his Government's position with regard to the permanent sovereignty of States over their natural resources corresponded to the basic General Assembly resolution on the subject, namely, resolution 1803 (XVII) of 14 December 1962. It regarded the principle as part of international law and held that the rights flowing from it were exercisable only in conformity with that law. Nevertheless, and despite the clarifications supplied by the Expert Consultant, his delegation still entertained doubts as to the juridical nature of the reference to the principle in paragraph 4 of article 14 and its legal consequences.

29. The clear emphasis given to agreement between the parties in articles 13, 16 and 17 and, by implication, in article 15 reflected a pragmatic approach which took full account of existing practice. His delegation would therefore have preferred a similar approach to be adopted in article 14. The reasons given against such a

course in the commentary and further expounded by the Expert Consultant were not wholly convincing. Both past and current practice indicated that a succession of States took place predominantly on an agreed basis. States might decide not to accept rules that failed to take account of past practice or to provide a true reflection of existing rules of international law.

30. He favoured the replacement of the phrase "connected with the activity of the predecessor State" by the wording proposed in the United Kingdom amendment. The practical applicability of the International Law Commission's draft was further seriously put in doubt by the vagueness of the provision concerning the passing of property to the successor State in proportion to the contribution of the dependent territory to the "creation" of the property in question. For all those reasons, his delegation would be unable to vote for article 14 as it stood.

31. Mr. HAWAS (Egypt) said that, as he had stated earlier, his delegation would support article 14 as it stood and would oppose the United Kingdom and Netherlands amendments. He welcomed the statement in which—if he had understood it correctly—the United States representative had said that he would not press for the deletion of article 14, but he deprecated that representative's attempts to minimize the value of General Assembly resolutions; Egypt expected those resolutions to be implemented and respected by all. Referring to the Netherlands amendment, he agreed with the point made earlier by the Brazilian representative that it was hardly conceivable that a principle of international law could not be "in accordance with international law". That being so, the purpose of the Netherlands amendment could perhaps be met simply by inserting the words "universally recognized" before or after the words "principle of the permanent sovereignty . . ." in paragraph 4. Referring to the Brazilian representative's suggestion that a text could be worked out in line with article 13 of the 1978 Vienna Convention on Succession of States in Respect of Treaties which could appear in the general provisions of the draft convention, with a special reference to it in article 14 and the other relevant articles, he said he was willing to consider the suggestion with an open mind at the appropriate time.

32. Mr. BEN SOLTANE (Tunisia) thanked the Expert Consultant for his enlightening analysis of the rationale underlying draft article 14. The useful explanations given had effectively dispelled many of his delegation's doubts, and he felt that the Committee as a whole was inclining towards a general acceptance of paragraphs 1, 2 and 3 of the article. He was confident that the remaining difficulty with respect to paragraph 4 could be overcome, given a spirit of mutual understanding and a more pragmatic and less doctrinaire approach than had so far been adopted by some delegations.

33. The addition to paragraph 4 of the words "in accordance with international law" proposed by the Netherlands seemed to imply a conception of the principle of permanent sovereignty of peoples over their natural resources different from the conventional view of the principle as a fixed and immutable rule. It might admittedly be argued that since international law, as the

Expert Consultant had observed, was an entity which evolved with the times, the principle of permanent sovereignty likewise must adapt and adjust to changing realities and to developments in world public opinion. That opinion with regard to the question of the succession of States had for the past 30 years treated the interests of newly independent States as paramount, and thus to fail to make any special provision for their needs would be to ignore reality.

34. He added that it would be regrettable if the Committee became entangled in technicalities. The Conference must not disappoint the hopes placed in it; it must take clear decisions so as to enable it to complete its work successfully.

35. His delegation would support the draft article as it stood.

36. Mr. CONSTANTIN (Romania) said that his delegation also favoured the adoption of draft article 14 unamended because, first, it safeguarded the rights of the peoples of newly independent States in respect of both movable and immovable State property; secondly, it contained a very important and necessary reference to the principle of permanent sovereignty over natural resources, giving States and peoples the freedom to take the measures they deemed appropriate to safeguard that sovereignty; and, lastly, it duly reflected recent General Assembly resolutions on related issues and in particular on the principle of permanent sovereignty. For those reasons, the article could be regarded as a genuine contribution to the development of international law.

37. Mr. MAAS GEESTERANUS (Netherlands) said that he wished to respond to some of the questions raised in connection with his delegation's amendment and to clear up a few misunderstandings.

38. He was grateful to the Expert Consultant for reminding the Committee of the proposal made by the Netherlands almost 40 years before, during the drafting of the Charter of the United Nations, for the inclusion of an article embodying a programme of action for the future organization of economic relations between producer and consumer States. He assured the Expert Consultant of his delegation's full support for the incorporation of such an article in some other convention, if not the one under consideration.

39. He agreed with the representative of the German Democratic Republic that a reference to the principle of permanent sovereignty over natural resources was indispensable, especially in connection with the birth of a newly independent State. It was that consideration which had prompted the Netherlands delegation to endeavour to redraft the pertinent paragraph in a way likely to be generally acceptable to the Conference.

40. The representative of Algeria had expressed surprise at the fact that the concept of natural resources could differ so remarkably from one treaty or legal study to another. He shared that surprise, and it was for that reason that he had raised the point and mentioned a few examples from among the many which might be cited.

41. The representative of Bulgaria had been mistaken in supposing, on the basis of the 1958 Geneva Convention on the Continental Shelf and the 1982 Convention

on the Law of the Sea,⁴ that the natural resources of the soil and subsoil of the continental shelf would be regarded as falling under the principle of permanent sovereignty. In fact, the 1958 Convention did not employ the term "permanent sovereignty", and the natural resources covered by that instrument were situated outside the territory of the State, where there was no population present by which such sovereignty might be exercised. The Convention on the Law of the Sea spoke only of "sovereign rights", whose scope, again, was confined to the exploration and exploitation of the natural resources of the sea-bed. That issue was quite distinct from that of the natural resources of a populated territory.

42. He had at first been surprised at the reservations expressed by a number of delegations regarding the words "in accordance with international law" in his delegation's amendment. However, if he had correctly interpreted their statements, he gathered that in their view the concept of permanent sovereignty over natural resources was outside international law; that it was not a legal notion in the strict sense but could better be understood as a moral notion. Although sympathizing to some extent with that view, he would still prefer to continue the efforts to couch the principle in legal language.

43. Some delegations had cited paragraph (30) of the commentary in support of their view that the principle of permanent sovereignty over natural resources had acquired the character of *jus cogens*. Actually, that paragraph reflected some internal debate within the Commission and did not reach any conclusion as to whether or not the principle was in fact a peremptory norm of international law. Indeed, since it was in the nature of norms of *jus cogens* that a State could not derogate from it by the conclusion of a conflicting treaty, it seemed clear that, if it had recognized the principle as a peremptory norm, the Commission would not have found it necessary to provide the safeguard embodied in paragraph 4. Thus it was plain that the principle could not be regarded as reflecting a rule of *jus cogens*.

44. The representative of India had drawn attention (13th meeting) to General Assembly resolution 37/103, which requested the United Nations Institute for Training and Research (UNITAR) to carry out the final phase of its analytical study of the principles and norms of international law relating to the new international economic order. His delegation had given that resolution careful study. Indeed, the Netherlands had been among its sponsors. Although General Assembly resolutions as such were not binding on States, resolution 37/103, which had been supported by the overwhelming majority of the Members of the United Nations, reflected the common conviction that it was high time to carry out such a study of all existing or nascent norms of international law, including the principle of permanent sovereignty. Nevertheless, the truth remained that there was nothing in the resolution to indicate that that principle was an established rule of law.

⁴ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII, document A/CONF.62/122.

45. The representative of Thailand had convincingly defended the view that the principle of sovereignty of States over their natural resources was a guarantee that a newborn State would be a freeborn State. His delegation fully recognized the significance of that idea.

46. The representative of Brazil had mentioned article 13 of the 1978 Vienna Convention. Having considered that article again, the Netherlands delegation agreed that reference to it might assist the Committee in resolving its present deadlock.

47. A number of delegations had made other suggestions which might usefully form a basis for compromise, and his delegation would be very glad to assist in any constructive effort to find a solution, either in the Committee or more informally.

48. Mr. FREELAND (United Kingdom) thanked delegations for their comments on his delegation's amendment. He had listened with great interest to all the views expressed but was rather disappointed that no cogent legal arguments had been offered for ways of rectifying the defects which his delegation saw in the Commission's draft articles. Nor had anything stated in the debate altered his delegation's belief that, if the article was to be retained, the solution proposed in his delegation's amendment was the most satisfactory one.

49. Much had been said regarding the relevance of agreement between the States concerned and about whether or not the consensual element of the passing of property should be given prominence in the draft article. It was a cardinal provision of his delegation's amendment that the issues connected with the passing of State property should in the first instance be settled by agreement between the States concerned. It had been suggested that, by its emphasis on agreement, the amendment would disturb the balance established by the Commission in its draft articles as a whole. In fact, in his delegation's view, it was article 14 as it stood which represented a departure from the pattern, for in all other cases of succession enumerated in the draft the concept of agreement was given its due place.

50. The Expert Consultant had stated that the Commission in its approach to the question had never said anything to indicate that there should not be agreement between the States. In the United Kingdom delegation's view, the mere fact that the draft did not prohibit agreement, or, at most, that it merely hinted at the

possibility of agreement, as implied in the draft article as it stood, was in no way sufficient to reflect the weight given to agreement in the long history of State practice.

51. It had been suggested that to stress the principle of agreement in the provision in question would not sufficiently take account of the requirements of equity. In the light of his country's experience that was not a valid comment, as the agreements of which it had had knowledge had always been negotiated freely and on an equal footing by both sides.

52. The point had been made that the scope of the United Kingdom's amendment appeared restricted because it focused on State property and did not cover all the categories enumerated in the Commission's draft articles. The reason was simple: his delegation regarded the article as part of a set prefaced by article 1, which defined the scope of the articles as being the effects of a succession of States on "State property, archives and debts", and it should be read in conjunction with article 8, which defined "State property" for the purposes of the Part in which article 14 appeared. That was why his delegation had used the term "State property" to comprise all pertinent property, both movable and immovable. There was nothing in his delegation's amendment which precluded the possibility of the question of the disposition of any other sort of property being dealt with by agreement; it had simply not appeared necessary to state that fact expressly. He saw difficulties inherent in making reference, along the lines of the Commission's article, to other forms of property.

53. His delegation firmly rejected any suggestion that its amendment introduced an element of politicization into the draft articles. The amendment was an attempt to reflect a long history of State practice and to establish a set of rules that would govern the subject simply and in a straightforward manner. Article 14 as it stood would introduce a fresh set of complications into an already difficult process. Since, as the Expert Consultant had underlined, the process of decolonization was almost complete, it was important not to render the remaining steps more difficult or to cast doubt on the practice successfully followed in the past. His delegation's aim was a pragmatic one and it regarded it as the best way of approaching the question.

The meeting rose at 1 p.m.