

Document:-  
**A/CN.4/SR.1566**

**Summary record of the 1566th meeting**

Topic:  
**Cooperation with other bodies**

Extract from the Yearbook of the International Law Commission:-  
**1979, vol. I**

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State and the successor State". He had not wished to decide the question, for he had judged that the two parties were free to resolve as they wished the problem of succession to archives covered by paragraph 3 of article C.

36. He thought Mr. Reuter's proposal (see para. 2 above) for a general rule that would go further than article C by imposing on the predecessor State, and indeed on all States, the obligation to grant all archives of the successor State that might be in their territories the protection provided by their internal laws to their own archives, an excellent solution, similar to the one advocated by UNESCO and by a number of international conferences, such as the seventeenth international round-table conference on archives, held at Cagliari in October 1977. However, the problem had not yet been settled, and only a few attempts had been made in that direction through bilateral agreements. He would be very pleased if the Drafting Committee helped States to take a step forward by going beyond what he had himself proposed in draft article C.

37. The CHAIRMAN said that if there were no objections he would take it that the Commission decided to refer draft article C and Mr. Tsuruoka's proposal (A/CN.4/L.298) to the Drafting Committee.

*It was so decided.*<sup>4</sup>

*The meeting rose at 12.50 p.m.*

<sup>4</sup> For consideration of the text proposed by the Drafting Committee, see 1570th meeting, paras. 3-8, 15-35, and 36-40.

## 1566th MEETING

*Friday, 6 July 1979, at 10.30 a.m.*

*Chairman:* Mr. Milan ŠAHOVIĆ

*Members present:* Mr. Barboza, Mr. Bedjaoui, Mr. Dadzie, Mr. Francis, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Verosta.

### Co-operation with other bodies [Item 13 of the agenda]

#### STATEMENT BY THE OBSERVER FOR THE INTER-AMERICAN JURIDICAL COMMITTEE

1. The CHAIRMAN invited Mr. Herrarte González, Observer for the Inter-American Juridical Committee, to address the Commission.

2. Mr. HERRARTE GONZÁLEZ (Observer for the Inter-American Juridical Committee) said that the

Committee attached utmost importance to its co-operation with the International Law Commission, because of the significance for the progressive development of international law of the topics considered by the Commission and the scholarship each of its members brought to the study of those topics. He had closely followed the discussion on succession of States in respect of matters other than treaties and had noted that the subject had been analysed in all its aspects. It was that method of work that had enabled the Commission to achieve constructive results.

3. The question of succession to State archives was of particular interest because, as a UNESCO group of experts had rightly pointed out, archives were an essential part of the heritage of any national community.<sup>1</sup> At the Commission's previous session, the Special Rapporteur had cited a number of very interesting examples of historical archives. In that connexion, he would like to mention the "Archivo de Indias", preserved in Spain since the time of America's colonization. That archival collection had proved extremely valuable for research on the history of the Spanish-American countries and, in particular, for settling questions concerning boundaries. His country, Guatemala, held the "Archivo de Centroamérica", so called because, during the colonial era, central America had formed a single administrative unit, the Capitania General de Guatemala, which after independence had become a political entity called the United Provinces of Central America. Those archives contained an original edition of the first history of America, written by Bernal Díaz del Castillo and entitled "True history of the conquest of New Spain". They also included the original of the Popol-Vuh, the holy book of the Quiché Maya, written in Latin characters by a Quiché Indian, which had been translated into all languages and was of capital importance for a knowledge of pre-colonial America. Other documents, such as the famous Maya codes, were preserved in international museums.

4. Referring briefly to the work of the Inter-American Juridical Committee, he said that the Second Inter-American Specialized Conference on Private International Law, held at Montevideo in April and May 1979, had approved eight multilateral conventions drafted by the Committee on the following subjects: conflicts of laws concerning cheques; conflicts of laws concerning commercial companies; extraterritorial validity of foreign judgements and arbitral awards; execution of preventive measures; proof of information of foreign law; domicile of natural persons in private international law; and letters rogatory. Those eight conventions, which were designed to facilitate relations between the countries of the American community, would supplement the Convention on Private International Law known as the "Bustamante Code".

<sup>1</sup> See A/CN.4/322 and Corr.1 and Add.1 and 2, para. 25.

5. As every year, the members of the Committee would take an active part in the course on international law to be given in Rio de Janeiro in July and August under the Committee's auspices, to which eminent lawyers were invited. Mr. Barboza, a member of the Commission, had been invited that year.

6. The Committee was to hold its next session in July and August 1979. The main items on its agenda were: torture as an international crime (on which subject a draft convention was to be prepared in collaboration with the Inter-American Commission on Human Rights); transnational corporations and a code of conduct; revision of the inter-American conventions on industrial property; legal aspects of co-operation in transfer of technology; the principle of self-determination and its sphere of application; measures to promote the accession of non-autonomous territories to independence within the American system; jurisdictional immunity of States; and settlement of disputes relating to the law of the sea.

7. The CHAIRMAN thanked Mr. Herrarte González, Vice-Chairman of the Inter-American Juridical Committee, for his account of the Committee's work. He emphasized that co-operation between the Commission and regional bodies should be maintained and further strengthened. It was particularly important that the views of regional bodies should lead to concrete achievements, so that the Commission could take them into account in the codification and progressive development of international law, which it was pursuing at a universal level.

8. The Inter-American Juridical Committee was the first intergovernmental regional body responsible for codifying international law with which the Commission had established co-operative relations, in accordance with article 26, paragraph 4, of its statute. The Committee's achievements and the range and diversity of the subjects on its agenda showed the importance attached by OAS to the codification and progressive development of international law and to the work of its principal legal organ. Latin American lawyers had always been in the front rank of those who strove for the progress of international law in the service of peace and the promotion of friendly relations between States and peoples based on respect for the principle of sovereignty, as evidenced by their contribution to the development of the principle of non-intervention, the law of the sea and the right of asylum. The Commission was itself indebted to them on several counts. For example, it was on the basis of a draft submitted to the General Assembly by the delegation of Panama that the Commission had prepared, in 1949, a draft declaration on the rights and duties of States. And it was the system of reservations originating in Latin America that had prevailed in the Commission during the preparation of the draft articles on the law of treaties which had formed the basis of the Vienna Convention on the Law of Treaties.

9. He hoped that the Inter-American Juridical Committee would continue its work with the same success as in the past, in the interests of Latin America and of the rest of the world.

10. Mr. FRANCIS said that the work of the Inter-American Juridical Committee, like that of the other regional juridical committees, was an essential tributary to the mainstream of the codification process in which the Commission was engaged. The Committee was also a source of that process, as was clear from Mr. Herrarte González's account of its contribution to both public and private international law.

11. As one who came from the Caribbean region, he wished to convey to the members of the Committee his personal regards and his best wishes for the success of its 1979 session. He trusted that co-operation between the Committee and the International Law Commission would continue to flourish.

*The meeting rose at 11.20 a.m.*

## 1567th MEETING

*Tuesday, 10 July 1979, at 10.40 a.m.*

*Chairman:* Mr. Milan ŠAHOVIĆ

*Members present:* Mr. Barboza, Mr. Dadzie, Mr. Díaz González, Mr. Francis, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Valat, Mr. Verosta.

*Also present:* Mr. Ago.

**State responsibility (*continued*)\* (A/CN.4/318 and Add.1-3, A/CN.4/L.297)**  
[Item 2 of the agenda]

DRAFT ARTICLES PROPOSED BY THE  
DRAFTING COMMITTEE

ARTICLES 28, 29 AND 30

1. The CHAIRMAN invited the Chairman of the Drafting Committee to introduce draft articles 28, 29 and 30 adopted by the Drafting Committee (A/CN.4/L.297), which read:

**Article 28. Responsibility of a State for an internationally wrongful act of another State**

1. An internationally wrongful act committed by a State in a field of activity in which that State is subject to the power of direction or control of another State entails the international responsibility of that other State.

\* Resumed from the 1545th meeting.