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Summary record of the 1669th meeting

Topic:
State responsibility

Extract from the Yearbook of the International Law Commission:-
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1669th MEETING

Wednesday, 10 June 1981, at 10.10 a.m.

Chairman: Mr. Doudou THIAM

Present: Mr. Aldrich, Mr. Calle y Calle, Mr. Dadzie, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Sucharitkul, Mr. Tabibi, Mr. Ushakov, Mr. Verosta.

State responsibility (*continued*) (A/CN.4/344)

[Item 4 of the agenda]

The content, forms and degrees of international responsibility (Part 2 of the draft articles) (*continued*)

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR (*continued*)

ARTICLES 1, 2 and 3[1] (*continued*)

1. Mr. USHAKOV pointed out, in connection with his statement at the previous meeting, that, to his mind, the concept of *restitutio in integrum* meant simply the return of the physical object seized by the person who had taken it. In his comments, it had not been his intention to maintain that the *statu quo ante* could not be re-established, since, in particular, the original legal situation which had ceased to exist as a result of the breach could be restored and, for example, a treaty that had been suspended because of certain circumstances could enter into force again.

2. Mr. ALDRICH said that, since the topic under consideration was a new one for him in the present context, he had carefully studied Part 1 of the draft,[2] which did not deal with primary rules but nevertheless gave a clear idea of the scope of the primary rules that would be covered by the remedies to be provided for in Part 2. The task now before the Commission was to formulate draft articles that would, if they came into force in the form of a convention, guide States and judicial and arbitral tribunals in deciding which remedies should apply in cases of breaches of international obligations.

3. The scope of such obligations was, in his view, staggering. Indeed, the Commission would face enormous difficulties if it tried to prescribe remedies for breaches of obligations such as aggression, questionable self-defence, injuries to aliens, expropriations of property, cancellations of concessions, violations of human rights, and even international crimes. It would face still greater difficulties if it tried to articulate the general principles that would apply to such remedies. Since he had a common-law background, he would be quite at ease with the case-by-case approach adopted by courts which fashioned remedies on the basis of precedent and practice, but he was somewhat sceptical about the possibility of formulating normative rules embodying remedies that might or might not be appropriate in every instance. He was therefore inclined to think that, if the Commission was to succeed in its task, it would have to devise remedies relating to particular types of obligations.

4. He agreed with the Special Rapporteur that, although articles 1 to 3 appeared to state the obvious, it was useful to enunciate them at the beginning of Part 2, if only as a means of identifying the problems to which they gave rise. He was not sure, however, that those provisions would have a useful role to play in the final draft, for the specific rules to be included in the future chapters II to IV would presumably make it clear how the rights and obligations of the author State, the injured State and third States would be affected.

5. Articles 1 and 3 would none the less serve a useful purpose in setting forth as concisely as possible the scope and effects of the provisions of Part 2. Articles 1 and 3 might therefore be combined and reformulated to read:

> "A breach of an international obligation by a State affects the international rights and obligations of that State, of the injured State and of third States only as provided in this Part."

6. Clearly, article 2 was intended to say something that should definitely be stated at some point in Part 2, and it merely had to be reformulated more in conventional terms than in textbook terms. It might, for example, read:

> "The provisions of Part 2 apply to every breach by a State of an obligation, except where the rule of international law establishing the obligation itself prescribes the legal consequences of such a breach."

7. Lastly, the Commission might wish to decide whether, instead of general principles applicable to all types of remedies covered by Part 2, it should not formulate provisions dealing with the scope and effect of Part 2, which would not apply to breaches of obligations which themselves prescribed special remedies.

8. Perhaps the Special Rapporteur could indicate whether the proposed amendments would fit into the general structure that he had in mind for the draft articles as a whole.

9. Mr. JAGOTA said that one of the prime concerns of the General Assembly, of States and of judicial and arbitral tribunals would be to determine whether Parts 1, 2 and 3 of the draft on State responsibility formed a coherent whole or whether they constituted separate bodies of rules. In accordance with the General Assembly's instructions, the Special Rapporteur had

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[1] For texts, see 1666th meeting, para. 9.

[2] See 1666th meeting, footnote 3.

proceeded on the assumption that Parts 1 and 2 should be interrelated, and had therefore begun Part 2 with a number of general principles similar to those contained in chapter I of Part 1. However, in view of the fact that general principles had been included in Part 1, his own opinion was that the Commission should take a decision on the matter of including general principles in Part 2 only after it had completed its consideration of Part 2 in its entirety. It would then be clear whether or not the general principles contained in Part 1 were comprehensive enough to cover the rules embodied in Part 2.

10. The provision in article 2 which, as the Special Rapporteur had explained, provided for the application of a special legal regime to the consequence of a breach of an international obligation, seemed to be a general provision that would apply to all three parts of the draft. It might therefore be placed elsewhere in the draft as a whole. The draft articles should, moreover, bring into sharper focus the relationship between the general principles enunciated in Part 2 and the topic of State responsibility, as well as the new legal relationships that emerged as a result of a breach of an international obligation. Accordingly, the wording of article 1 might be amended along the following lines:

> "A breach of an international obligation by a State does not, as such and for that State, affect the force of that obligation or the international responsibility of that State. Such a breach establishes new legal relationships between that State and the State affected."

11. Similarly, article 2 might be amended to read:

> "A rule of international law, whether of customary, conventional or other origin, imposing an obligation on a State, may determine also the legal consequences of the breach of such obligation by that State and establish its international responsibility."

12. In effect, article 3 provided that when a State committed a breach of an international obligation it did not thereby become an outlaw. It was still a subject of international law and still had sovereign rights, which nevertheless depended on the nature and quality of the obligation and the seriousness of the breach. Those two factors had been mentioned in the Special Rapporteur's report (A/CN.4/344) and would have to be examined carefully. Indeed, in the Commission's 1975 report, it had been stated that the quality of the obligation and the seriousness of the breach might make it necessary to divide possible remedies into "reparation" and "penalties".[3] However, the Special Rapporteur had indicated in paragraph 67 of his report that, because of the lack of clarity about what constituted "reparation" and what constituted a "penalty", "it would be more appropriate to start with a description of the various possible contents of the new obligations of the author State arising from its breach of an international obligation".

13. In articles 4 and 5, however, the Special Rapporteur had made a qualitative distinction on the basis of the seriousness of the breach and the intent of the wrongdoer, and had included the need for an apology and a guarantee against repetition of the wrongful act. Obviously, some reference to the quality of the obligation and the seriousness of the breach also had to be made in the general principles; otherwise, article 3 would imply that the author State was being afforded some kind of protection. The rights of the wrongdoer must therefore be placed in their proper perspective and seen as the rights which existed prior to the commission of the wrongful act, rights which would vary according to the quality of the obligation breached and the seriousness of the breach. In his view, Part 2 of the draft articles would be more acceptable to the General Assembly and to States if the Commission abandoned its descriptive approach and amended article 3 to take account of those qualitative factors.

14. Mr. PINTO said that, in describing the possible contents of the new obligations arising from the breach of an international obligation, the Special Rapporteur had indicated four possible types of new obligations: an obligation to stop the continuing effects of the breach *stricto sensu*, for example, by releasing persons or objects wrongfully held; an obligation to stop the breach *lato sensu*, by means of a substitute performance, such as the payment of money for loss suffered; an obligation to restore the situation which the original obligation had sought to ensure, in other words, *restitutio in integrum stricto sensu*; and an obligation to provide satisfaction of some kind through an apology or a guarantee of future conduct.

15. Those could be regarded as the main gradations in the scale of the author State's obligations, and the question of which obligation was to apply would depend on a number of factors, including the possibility or impossibility of fulfilling the original obligation. He agreed with the Special Rapporteur that it was the nature and seriousness of the breach and the character of the conduct of the State, rather than the nature of the obligation or the right infringed, which determined the content, forms and degrees of State responsibility.

16. The Special Rapporteur had indicated that, in essence, a breach of an international obligation was considered to create a new situation that was separate from the primary rule that had created the original obligation. That view seemed to form the foundation for the general principles enunciated in articles 1 to 3. Since article 1 provided that the original obligation continued to exist and was unaffected by the breach, that continuing obligation was presumably the basis for the author State's future obligation to make reparation or provide satisfaction. In article 2, the Special Rapporteur had contemplated the possibility

[3] *Yearbook ... 1975*, vol. II, p. 56, document A/10010/Rev.1, para. 43.

that a rule of international law itself might determine the legal consequences of the breach of an obligation, thus preparing the ground for articles which would specify legal consequences that were not, so to speak, predetermined. Article 3 appeared to be simply a somewhat oblique reflection of the rule of proportionality.

17. He had no objection to the statement of general principles in articles 1 to 3, but, like other members of the Commission, he experienced difficulties regarding the wording, particularly that of article 3, which was, at the very least, too concise. As he understood it, article 3 could be taken to mean either that, since the breach did not affect the legal force of the obligation or the legal rules which supported it, those rules continued to regulate the consequences of the breach and to protect or condemn the author State, or that the State which committed a wrongful act did not *ipso facto* lose all its legal rights and did not place itself outside the general protection of international law. If his understanding was correct, article 3 was bound to give rise to misinterpretations, and the wording should therefore be expanded.

18. He also had some difficulty with the Special Rapporteur's repeated use in his report of the term "quantitative" to convey the idea of seriousness or gravity. In his own view, the term "quantitative" introduced the idea of an accumulation, of an increasing number of things, whereas seriousness was qualitative. Similarly, the term "response" was rather confusing when used in connection with the arising of obligations under international law; so far as he was concerned, a "response" was an animate reaction.

19. In paragraphs 55 and 56 of the report, the Special Rapporteur referred to the "specific character" of a "true" legal obligation and indicated that such an obligation was not created by certain types of instruments or statements. The Commission might give some thought to the meaning and content of a "true" legal obligation and try to decide if it mattered whether such obligations were contained in statements of various kinds, in treaties or in other instruments. "True" legal obligations should also be considered in the context of the four types of obligations discussed in the report, so as to determine whether those obligations were comprehensive enough.

20. What he had in mind in that connection was the obligation to co-operate and the way in which it might fit into the categories of new legal obligations described by the Special Rapporteur. Obligations to co-operate were not necessarily confined to statements that were not formal agreements. For example, the draft Convention on the Law of the Sea contained a provision to the effect that States should seek to promote, through the competent international organizations, the establishment of general criteria to assist in ascertaining the nature and implications of marine scientific research.[4] He would hesitate to say that a statement of that kind was not a statement of a "true" legal obligation and that a breach of such an obligation did not entail some form of responsibility, but he was not quite sure where it would fit into the Special Rapporteur's classification. It might be useful for the Commission to consider that example in the context of the content of State responsibility.

21. Mr. REUTER pointed out that, in the topic assigned to him, any special rapporteur was inevitably bound by earlier decisions of the Commission. In the case in point, the Commission had embarked on a course that had fostered some extraordinary illusions.

22. Among the first three articles proposed, the most important one was certainly article 2. Mr. Ushakov (1668th meeting) had rightly pointed out that it was not the rule alone that had to be considered. In fact, article 2 called into question everything that had been done before, and led one to ask whether there was indeed a general rule of responsibility or whether there were simply special regimes.

23. Some systems of law yielded quite easily to the illusion that a general system of responsibility did exist, but not all legal systems adopted such an approach. For example, Roman law had begun with a number of special rules, and similarly, the construction of common law seemed to be based on a series of special norms. International law as taught some years before had, perhaps wrongly, envisaged the existence of general rules on responsibility. The Commission had yielded to that illusion and prepared Part 1 of the draft by laying down general rules on the origin of international responsibility.

24. In dealing with Part 2 of the draft, relating to the consequences of responsibility, the Commission was compelled to examine whether there really were any general rules in that matter. It realized that it might well have been somewhat hasty in Part 1, and was now experiencing some difficulty in clarifying the meaning of draft article 19,[5] which had nevertheless been adopted enthusiastically at the time.

25. In point of fact, it seemed extraordinary to assert that the State had a penal responsibility when not a single rule had been laid down in that regard, and when it was difficult to assume that a uniform system of responsibility existed in such diverse matters as air pollution and the protection of diplomatic personnel, for example. He had bowed before the logic of the Commission, which had taken a very serious step in stating that injury was not an element of responsibility. The traditional construction of international responsibility related essentially to cases of injury suffered by an alien in which equivalent reparation was possible and accepted. Yet the Commission had

[4] "Draft Convention on the Law of the Sea (Informal text)" (A/CONF.62/WP/10/Rev.3 (and Corr.1 and 3).

[5] See 1666th meeting, footnote 3.

deprived itself of recourse to that possibility by deleting the reference to injury and placing responsibility at its highest level—a choice that prompted some uneasiness and concern regarding the consequences of responsibility. The members of the Commission had strong doubts in view of the many types of responsibility that could be envisaged.

26. There were two possible solutions. The Commission could simply enunciate a few very general rules or principles of classification so as to draw up a list of the various types of responsibility possible. It could also take its analysis further and choose a "special case". On that point he agreed with Mr. Ushakov and did not see how it would be possible to lay down general rules that would apply to cases of aggression. Aggression was certainly a monstrous act, but it did occur in practice. If it could not be fitted into a general regime, it would have to be expressly excluded, something which could also lead to the exclusion of genocide, for example, which would likewise fall within the scope of special rules.

27. The Commission would therefore deal with the classic and most straightforward case, namely, the case in which reparation in pecuniary terms was possible, and it would have to decide whether that method was the right one. In actual fact, he feared that the Commission would be faced with a host of special cases that would require it to distinguish between a wide range of eventualities.

28. Some members of the Commission had made reference to the seriousness of the rule breached. Hitherto, the Commission had spoken of *jus cogens* with a great deal of faith, but it now found itself in a corner when it had to define the consequence of a breach of the rules of *jus cogens*. If, for example, a State decided to cut off the hands of its prisoners of war and it were acknowledged that the enemy State had the right to act in the same way, the assertion could certainly be made that there was no *jus cogens*. The Commission would have to make decisions on many extremely difficult problems of that kind.

29. Furthermore, some rules were extremely serious but did necessarily form part of *jus cogens*. For instance, the rules concerning diplomatic personnel fell within that category. If a State deprived a foreign ambassador of his freedom, could the injured State act the same way in reprisal? Such a possibility also brought to mind certain rules which, although they did not belong to *jus cogens*, could not be suspended in order to respond to a breach of a rule of another kind. Cases of that type occurred very often. In that respect, a decision had to be made as to whether certain rules formed a system and whether a breach of one of them produced effects first of all within that system—an idea that could be illustrated by the position adopted by the Permanent Court of International Justice in the case *Diversion of Water from the Meuse*.[6] Some rules were considered to form a whole within which the effects of the breach of a primary rule must be felt.

30. The position taken by the Commission in Part 1 of the draft articles also called for consideration of cases in which the effects of a breach of an obligation involved only one State. Jurisprudence recognized that a breach of a private individual's right of ownership concerned only the country of which the individual was a national. It acknowledged, however, that other breaches could involve consequences for a group of States. In the case of the breach of a customary rule, for example, there was no formal arrangement determining which States might be concerned; in actual fact, it was the international community as a whole that was affected.

31. Generally speaking, he wondered whether the Commission should, following the Special Rapporteur, agree that an attempt must be made to make a broad distinction, without going into detail, and then choose the most developed aspects of the subject-matter at the present time and proceed to more specific definitions, or whether it would be better to keep to a more general level.

32. With respect to draft articles 1 and 3, he reminded members that he had given his agreement to those provisions and wished to make it clear that he was not withdrawing it. Nevertheless, the wording was open to discussion.

33. Article 3 was both correct and incorrect, because it was too broad in scope. It could be admitted, although not without some hesitation, that the most heinous crime was aggression—and the mass destruction of an entire innocent civilian population was perhaps even more heinous—yet it was not possible to maintain that, because of such an act, the State was no longer a subject of international law; such a consequence would purely and simply eliminate the problem of responsibility, for lack of a responsible subject of law. Nevertheless, the State's wrongful act certainly deprived it of many rights, and even of the benefit of observance of certain rules of *jus cogens*. He could accept an article such as article 3, but felt that the wording should be clearer.

34. Again, article 1 was both correct and incorrect, and could be made completely correct if the expression "for that State" was replaced by the expression "at the initiative of that State". A State could not rid itself of its obligations by breaching its commitments, but the injured State could decide to deprive it of the benefit of a particular obligation contracted towards it.

35. Lastly, he noted that the three draft articles described the situation of the guilty State, and not the rights of the other States. In his opinion, it was also necessary to consider in the general principles the change in the legal situation of the injured States. The Commission should take account of the dispersal of the effects of responsibility under various systems, according to the nature of the obligations breached.

[6] Judgment, 1937: *P.C.I.J., Series A/B*, No. 70, p. 4.

36. Mr. QUENTIN-BAXTER said that the formulation of a rule of great generality and universal truth within the confines of a particular subject, wherever possible, could not fail to be enormously helpful. However, the Special Rapporteur himself had drawn attention to the distinction between judicial dicta or general statements by a political organ and a rule which might stand up under the most perverse tests. For example, the maxim *sic utere tuo ut alienium non laedas*, while of great value as a general guideline, did not constitute a rule that could be confined within the scope of a specific article.

37. By the same token, it could be argued that the ideas contained in articles 1 to 3, though valid within given limits, did not exactly express rules as such, and they could not be refined in order to do so. If the propositions that a State was not released from its obligations by breaking them and that even a State which breached its obligations did not cease to be a subject of international law were relevant to the draft articles, then an attempt should be made to express those principles in the form of rules. He, for his part, was not absolutely convinced that those principles were closely related to the subject-matter of the draft articles. Moreover, in concentrating on general principles at the beginning of Part 2, the Commission might find itself adopting new postulates and abandoning earlier ones.

38. It was possible that those responsible for planning the work on the topic of State responsibility might have underestimated the problems which would remain after the completion of Part 1 of the draft. Because of those difficulties, it might be necessary in the first instance to limit the Commission's consideration to a modest area of obligations. Part 1 had involved setting forth secondary rules that were sufficiently broad in scope to accommodate such aspects of primary rules as might develop in the future. That was the essence of the difficulty now confronting the Special Rapporteur. The development of primary and secondary aspects of rules was in itself an abstraction which had been necessary for the completion of Part 1. However, the necessity of envisaging the kind of primary rules which were to be accommodated in secondary rules impinged to some extent on the primary rules themselves. In this first report,[7] the Special Rapporteur had shown that he was aware of that problem and of the fact that the distinction between primary and secondary rules was not absolute.

39. No matter how the Commission decided to approach Part 2, it should not disparage what had been accomplished in Part 1, which was of enormous significance as a first attempt to present universal international law in a form that would attract the support of those who had good reason to be sceptical of the value of international law.

40. The Commission should not try too hard to equip itself with new general principles at the current stage of its work. It would be preferable to reduce such principles to statements of the kind suggested by Mr. Aldrich. The Commission could then go on to consider any range of obligations which the Special Rapporteur felt was manageable in the first instance.

41. Mr. ŠAHOVIĆ said he wished to complete his remarks at the previous meeting by commenting on the general problems raised in the course of the discussion.

42. He endorsed the views expressed by Mr. Reuter on the need to bear certain factors in mind throughout the consideration of the topic and also supported several of Mr. Reuter's suggestions regarding articles 1 to 3. However, Mr. Reuter seemed far too pessimistic in his approach. The point was not that the Special Rapporteur was in thrall to the Commission or the Commission in thrall to the set of articles in Part 1 of the draft, but simply that the Commission and the international community were dependent upon international law as it had developed in recent years. It was precisely that development that had caused the Commission to take certain positions when it had prepared the articles in Part 1, which were the outcome of an analysis of State responsibility as it had taken shape since the Second World War. Hence, those articles must serve as the basis for elaborating the provisions that were to supplement them.

43. In short, the difficulties being encountered by the Commission were the difficulties inherent in getting any ambitious and difficult project under way. It has to be recognized that in preparing Part 1 of the draft the Commission had overturned the traditional theory of State responsibility, by taking account both of the Charter of the United Nations and of the changes in the attitude of the States as a whole towards the establishment of an objective international legal regime of responsibility. Admittedly the sovereignty of States must be safeguarded, but it was no less true that States, as subjects of international law, were being brought under a much more general regime which, more and more, was determining their rights and duties independently of their will. Thus the Commission could not devise a universal regime of State responsibility without considering the relevant trends in international crimes and international delicts. It had been Commission had drafted article 19, relating to international crimes and international delicts. It had been well aware that such an article might raise many difficulties when the provisions for the content, forms and degrees of State responsibility came to be prepared.

44. Mr. Reuter had rightly wondered whether it was better to establish a universal regime of State responsibility or simply be satisfied with several regimes. For his own part, he thought there was undeniably a tendency to favour a single regime, which did not mean that the various rules applicable to injury and the consequences thereof should be scorned when that

[7] *Yearbook ... 1980*, vol. II (Part One), document A/CN.4/330.

regime was being built up. The Commission must therefore engage in major work of research, adaptation of the traditional rules, and progressive development of the law. It must move ahead and try to develop the general principles that would govern Part 2 of the draft. Various opinions had been expressed in that regard. Mr. Aldrich had thought that it might be possible to forgo general principles, whereas Mr. Jagota had suggested that the Commission should wait a little before formulating them. Personally, he considered that the Commission should first of all study the existing rules and their practical application. As he had indicated at the previous meeting, articles 1 to 3 could be broadened in scope so that they genuinely covered all of Part 2 of the draft. If the Commission agreed with that point of view, the work could be undertaken by the Drafting Committee in keeping with the Special Rapporteur's directions.

45. Finally, it was highly desirable that the discussion of the articles under consideration should be properly reflected in the Commission's report on the current session, as it would be very instructive for the international community and, in particular, for the Sixth Committee of the General Assembly.

The meeting rose at 1 p.m.

1670th MEETING

Thursday, 11 June 1981, at 10.10 a.m.

Chairman: Mr. Doudou THIAM

Present: Mr. Aldrich, Mr. Boutros Ghali, Mr. Calle y Calle, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Sucharitkul, Mr. Tabibi, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

State responsibility (*continued*) (A/CN.4/344)

[Item 4 of the agenda]

The content, forms and degrees of international responsibility (Part 2 of the draft articles) (*continued*)

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR (*continued*)

ARTICLES 1, 2 and 3[1] (*concluded*)

1. Mr. USHAKOV said he disagreed with the assertions by some members of the Commission that it was not possible to lay down general rules of international law on the regime of State responsibility.

2. Admittedly, while special rules applicable to internationally wrongful acts did exist, they were not detailed rules like those of domestic law but more general rules, applicable to specific categories of internationally wrongful acts. In addition to those rules, there were some truly general rules, which included special rules. Indeed, the special rules gave rise to the general rules, which were based on them, whereas the general rules were developed and clarified in the special rules. The principles on which international law was based constituted a category of particularly general rules. Such principles were stated, for example, in Article 2 of the Charter of the United Nations.

3. Mr. Reuter (1669th meeting) held the view that the study of the consequences of internationally wrongful acts led to the statement of special rules, but such rules necessarily implied general rules, under which they were grouped. The special rules contained in Article 11 of the Charter, for example, had no meaning except in relation to the general rule in Article 10, which defined in general terms the functions and powers of the General Assembly. Conversely, the special rules in Article 11 were essential in order to clarify the conditions of the application of the general rule contained in Article 10. Similarly, the general principles stated in articles 1 to 4 of chapter I of Part 1[2] of the draft embraced all the rules in the succeeding chapters.

4. As Mr. Jagota (*ibid.*) had suggested, the general rules to be formulated by the Commission with respect to Part 2 of the draft might possibly be inserted in chapter I of Part 1. In addition to those very general principles, there were general principles relating to each chapter of the draft articles. For example, article 5 of Part 1 of the draft articles, which marked the beginning of chapter II, stated the general rule of the attribution to the State of the conduct of its organs, a rule which was clarified in the other articles of that chapter. The three draft articles under consideration did not, as they stood, express general rules universally applicable to the effects of internationally wrongful acts. Even if special rules on the subject existed, it was important to begin by enunciating general principles. He had no doubt that the Commission would be able to derive such principles from the practice of States, from judicial decisions and from the doctrine.

5. Several members of the Commission had wondered whether the draft articles in Part 1 constituted the adequate basis needed for the formulation of the draft articles in Part 2. For his own part, he believed that, with a few minor exceptions, the draft articles already adopted provided a good working basis for the future work of the Commission. Mr. Reuter had

[1] For texts, see 1666th meeting, para. 9.

[2] See 1666th meeting, footnote 3.