Document:-
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Summary record of the 1239th meeting

Topic:
Succession of States in respect of matters other than treaties

Extract from the Yearbook of the International Law Commission:-
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clarified or amended. Secondly, they could do so under the organization's constituent instrument, and not under the agreement itself; if the statutes or practice of an organization included a rule that agreements concluded by the organization were binding on its member States, there was no derogation from the Vienna Convention, since that rule was none other than the *pacta sunt servanda* rule laid down in the Convention. A famous example was that of the constituent instrument of the European Economic Community, an article of which provided that agreements concluded by the Community were binding on Member States.[11]

74. At present he was inclined to favour the second solution, which did not depart from the principles of the Vienna Convention and reserved to each organization the right to model the effects of the agreements it concluded according to its own rules. For example, the member States of an international financial organization which borrowed or lent funds would never consent to the agreements concluded by the organization being directly binding on them. It was thus a matter of interpreting the relevant rules of the organization. Conversely, it was unthinkable that agreements concluded by an organization of the Customs union type should not be binding on the member States, for otherwise third States would never sign any agreement with the union. For the time being, therefore, he had adopted the position which afforded the greatest possible flexibility.

75. Lastly, he would like to have the Commission's views on a matter which was not entirely within the scope of the topic under study, but which might later lead the Commission to broaden it. That was the question, not of agreements concluded by an international organization, but of the effects on an international organization of agreements concluded by certain States. It was now very common for States to entrust a new function to an international organization by treaty. That had been done in all the major treaties on nuclear safety, for example. Unless they adopted that rational solution, States would only have a choice of two alternatives, both of which were impracticable: either to revise the constituent instrument of the organization, or to establish a new organization by the treaty whenever it created the need for one. The question was whether the provisions on third States in the Vienna Convention should be strictly applied to such treaties, that was to say whether the written consent of the organization was required. The practice was much more flexible. The consent of the organization was essential, but the formalities prescribed by the Vienna Convention for protecting States against the effects of treaties concluded without their consent seemed excessive. He himself would be in favour of recognizing the mechanism of the collateral agreement, but making it as flexible as possible.

76. Mr. USHAKOV asked the Special Rapporteur whether a distinction should not be made in the future draft articles between treaties concluded between States and international organizations and treaties concluded between international organizations.

77. Mr. REUTER (Special Rapporteur) replied that, if the Commission agreed that questions concerning the capacity of international organizations should be handled with discretion, it would seem unnecessary to distinguish between two classes of treaty. Apart from certain questions of drafting and difficult issues such as those of powers and the effects of agreements, the subject was very simple. Agreements between organizations or between States and organizations should, broadly speaking, be subject to the rules of the Vienna Convention, which established the consequences of the consensual principle. So far, he had found no reason to draw any distinction. Perhaps reasons for doing so would appear later, depending on what instructions he received from the Commission as to the questions it wished him to handle. In its work on the law of treaties, however, the Commission had always taken great care not to introduce any classification of treaties. Although a classification might follow indirectly from certain articles, it was never expressly established.

The meeting rose at 5.50 p.m.

1239th MEETING

Tuesday, 3 July 1973, at 10.5 a.m.

Chairman: Mr. Milan BARTOŠ

Present: Mr. Ago, Mr. Bilge, Mr. El-Erian, Mr. Hambro, Mr. Kearney, Mr. Martínez Moreno, Mr. Pinto, Mr. Quentin-Baxter, Mr. Ramangasoavina, Mr. Reuter, Mr. Sette Câmara, Mr. Tabibi, Mr. Tammes, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Francis Vallat, Mr. Yasseen.

Succession of States in respect of matters other than treaties

(A/CN.4/267; A/CN.4/L.196/Add.1)

[Item 3 of the agenda]

(resumed from the previous meeting)

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE *(continued)*

1. The CHAIRMAN, inviting the Commission to continue consideration of the draft articles proposed by the Drafting Committee (A/CN.4/L.196/Add.1), said that unfortunately, the Special Rapporteur was unable to be present, so Mr. Yasseen, the Chairman of the Drafting Committee, had been asked to take his place so far as possible.

2. He called on the Chairman of the Drafting Committee to introduce draft article 6.

[11] See article 228 of the Treaty establishing the European Economic Community, United Nations, *Treaty Series*, vol. 298, p. 90.

ARTICLE 6 [1]

3. Mr. YASSEEN (Chairman of the Drafting Committee) said that the drafts of articles 6, 7 and 8 adopted by the Drafting Committee the previous day, differed considerably from the corresponding articles in the Special Rapporteur's sixth report (A/CN.4/267). The main reason for the difference was that the provisions proposed by the Special Rapporteur had related to all public property, whereas the Commission had decided to deal, for the time being, with only one category of such property, namely State property.

4. Article 6 stated the rule that a succession of States entailed the extinction of the rights of the predecessor State and the simultaneous arising of the rights of the successor State to State property. Hence the article did not speak of State property "transferred to the successor State", but of "such of the State property as passes to the successor State". As the last phrase clearly showed, it was not the purpose of the article to determine what State property passed to the successor State. That would be done by other provisions in part I of the draft articles.

5. The text proposed by the Drafting Committee for article 6 read:

Article 6

Rights of the successor State to State property passing to it

A succession of States entails the extinction of the rights of the predecessor State and the arising of the rights of the successor State to such of the State property as passes to the successor State in accordance with the provisions of the present articles.

6. Mr. SETTE CÂMARA asked why the Drafting Committee had abandoned the traditional concept of the "transfer" of State property in favour of the wording "passes to the successor State".

7. Mr. YASSEEN (Chairman of the Drafting Committee) said that the word "transfer" was a legal term and described a legal operation. The transfer of a right presupposed the existence of that right and its continuation. Since the rule stated in article 6 confirmed the extinction of the rights of the predecessor State and the arising of those of the successor State, it would be difficult to imagine a transfer. The Drafting Committee had therefore looked for a neutral term which did not prejudge the question of transfer or evoke any idea of a legal operation. It had preferred to speak of property which "passed" rather than property which was "transferred".

8. Mr. SETTE CÂMARA thanked the Chairman of the Drafting Committee for his enlightening explanation; he himself had no difficulties with article 6, though he thought there was certainly some "transfer" of property involved.

9. Mr. QUENTIN-BAXTER said he could understand why the Drafting Committee had considered it advisable to avoid using the word "transfer", which would imply an act on the part of the previous owner. As he understood article 6, the succession in itself was what caused the passing of State property to the successor State, thus involving a certain element of automaticity. He had some doubts and hesitations about the article, but it would have to be read in conjunction with article 8. He was inclined to regret the disappearance of the Special Rapporteur's original article 8, since in his opinion all the draft articles should be based on the notion of a juridical order which continued even if it changed.

10. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had preferred the term "passing" to the term "transfer", as having the advantage of being neutral and of reflecting reality. True, the term was not confirmed by usage, but it did not have the same connotation as "transfer". As to article 8, he would reply to Mr. Quentin-Baxter's remarks when the Commission examined that provision.

11. Mr. MARTÍNEZ MORENO said he was glad to note that the Drafting Committee had eliminated the word "transfer". Most of the Latin American codes, which were based on the Code Napoléon, made a distinction between transfer *inter vivos (transferencia)* and transmission *mortis causa (transmisión)*.

12. Mr. REUTER said he accepted the draft article 6 submitted by the Drafting Committee, as the new text was an advance on the previous version. However, he had reservations on the general conception reflected in the article. In his view, the opening of succession entailed the extinction of the principle of sovereignty and the birth of a new principle of sovereignty. Immediately after that change, the content of the legislation remained the same. There was always a period, be it long or short, during which all the previous legislation remained in force in the name of another sovereignty. It could therefore be said that the legal order changed, but that the material content of the laws was not immediately modified on that account. What changed was the holder of certain rights deriving from the legislative system provisionally kept in force. Since it was very difficult to express those ideas succinctly, he was prepared to accept the text proposed, but he would try to find better wording at the second reading.

13. The CHAIRMAN expressed the hope that the Special Rapporteur would take Mr. Reuter's comments into account for the second reading of the draft articles.

14. Mr. SETTE CÂMARA reminded the Commission that Mr. Reuter had previously expressed the view that, in a case of succession, there was prolongation of one legal order into another;[2] perhaps something might be inserted in the commentary to deal with that transitory situation.

15. Mr. YASSEEN expressed his admiration of Mr. Reuter's penetrating analysis. For his part, however, he thought that from the point of view of substance it could not be held that the legal order in force immediately after the opening of succession was that of the predecessor State. The legal order in force, although identical with that of the predecessor State, was that of the successor State.

[1] For previous discussion see 1226th meeting, para. 29.

[2] See 1227th meeting, paras. 32-35.

16. The CHAIRMAN suggested that the Special Rapporteur should take account of the ideas expressed by Mr. Reuter and supported by Mr. Sette Câmara, and that he should include them in the commentary. If there were no objections, he would take it that the Commission decided to approve draft article 6 provisionally.

It was so agreed.

17. Mr. USHAKOV said that, although he had not raised any objection to the approval of draft article 6, that provision seemed to him to have a very limited effect, if any. It did not determine the moment at which the rights of the predecessor State were extinguished and those of the successor State arose. There was nothing to preclude the idea that the extinction and arising of rights occurred long before or long after the moment of succession. It would be retorted that it was self-evident that they occurred at the moment of succession, but for lawyers nothing was self-evident. However, he would not press for his opinion to be reflected in the commentary.

ARTICLE 7 [3]

18. The CHAIRMAN invited the Chairman of the Drafting Committee to introduce draft article 7.

19. Mr. YASSEEN (Chairman of the Drafting Committee) said that article 7 simply provided that the date of the passing of State property was that of the succession of States. The latter date was defined in article 3, subparagraph (*d*), [4] as "the date upon which the successor State replaced the predecessor State in the responsibility for the international relations of the territory to which the succession of States relates".

20. Article 7 was a residuary provision; in practice, the predecessor and successor States sometimes agreed to choose another date for the passing of State property. Some members of the Committee had therefore proposed the insertion, at the beginning of the article, of the proviso "Unless it may be otherwise decided". They had deliberately used the term "decided" and not "agreed" in that formula, because the date of the passing of property could be fixed not only by agreement between the States concerned, but also by a decision taken, for example, by the Security Council. Other members, without denying the residuary character of the rule stated in article 7, had thought that the proposed proviso had no place there. They had maintained that in some types of succession, for example decolonization, no agreement was possible between the predecessor State and the colonial territory, because the latter was not yet a State. Since article 7 was a provision of general scope it ought not, in their opinion, to contain any proviso for partial application. Since it had not been possible to reach any agreement on that point, the Committee had placed the proviso between square brackets, leaving it to the Commission to decide whether or not to retain it.

21. The text proposed by the Drafting Committee for article 7 read:

Article 7
Date of the passing of State property

[Unless it may be otherwise decided] the date of the passing of State property is that of the succession of States.

22. Mr. USHAKOV said that he approved of the proposed article, including the phrase in square brackets. With regard to its effect, however, he held views contrary to those of all the other members of the Drafting Committee. In his opinion article 7 was limited to determining the date of the passing of State property. It was not a substantive article, for it did not lay down any rule of law. In drafting that provision, the other members of the Drafting Committee had thought they were stating another rule which might be formulated to read: "Unless otherwise provided in these articles, the State property of the predecessor State is transferred to the successor State on the date of the succession of States". In its present form, however, article 7 did not lay down any obligation to transfer State property.

23. To illustrate his point he referred to the date of marriage as conceived in Soviet law. That date was the date of the registration of the marriage with the competent authority. The rights and duties of the spouses came into being on that date, but they were not derived from that date. In the case of article 7, the determination of the date of the passing of State property did not mean that the State property had to be transferred on that date; it could be transferred at any time before or afterwards. Incidentally, that was why the phrases in square brackets, "Unless it may be otherwise decided", had been added.

24. Article 7 in fact contained only a definition, which ought rather to be placed in article 3 on the use of terms.

25. In conclusion, he accepted draft article 7, because it contained a definition of the date of the passing of property which was entirely acceptable. But it did not contain anything else, and the commentary should not refer to a rule, which in fact was not stated.

26. Mr. SETTE CÂMARA congratulated the Drafting Committee on having found a new and simpler way to deal with the question of the date of the passing of State property. He did not consider it necessary to retain the words in square brackets "Unless it may be otherwise decided"; if they were retained, a similar proviso would have to be inserted in all the draft articles.

27, Mr. RAMANGASOAVINA said he approved of the principle that the date of the passing of State property should be that of the succession of States.

28. The phrase in square brackets stated a condition which was always understood in that type of article and was therefore unnecessary. As the Chairman of the Drafting Committee had explained, the word "decided" had been preferred to the word "agreed", because it was possible that a decision might be taken, for example, by the Security Council. He saw no reason why the word "agreed" should not be used, for even in the event of arbitration or of a decision by the Security Council, the two States concerned would have to agree on the date of the passing of the State property. The term "agreed" was appropriate even if a third party was involved. The word "decided", on the other hand, implied a unilateral act and might give the impression

[3] For previous discussion see 1228th meeting, para. 56.

[4] See 1230th meeting, para. 9.

that one of the two States concerned could take a unilateral decision on the date of the transfer of State property. The word "agreed", which would prevent any misunderstanding, would therefore be preferable to the word "decided".

29. Mr. REUTER said he approved of the text proposed for article 7 and was inclined to favour the deletion of the phrase in square brackets, for the reason given by Mr. Sette Câmara.

30. The meaning which the Commission proposed to attach to the article under consideration should be clearly reflected in the commentary. Personally he thought that what the Commission had in mind was not the physical passing of State property, but the replacement of one sovereignty by another. It was in fact possible that the predecessor State might retain physical responbility for the State property after the date set for its passing to the successor State. In such cases, the predecessor State administered the property for the successor State and had to give an accounting of its administration when the property was physically handed over. As Mr. Ushakov had pointed out, article 7 did not lay down a rule of law, but was more in the nature of a definition.

31. Under article 3, the date of the succession of States meant "the date upon which the successor State replaced the predecessor State in the responsibility for the international relations of the territory to which the succession of States relates". He doubted whether there was a single date in every case, particularly in cases of decolonization. It was conceivable that the replacement of the colonial Power by the new State might take place on different dates according to the third States involved. Article 7 assumed the existence of a single date. Hence it might perhaps be advisable to specify that the date of the passing of State property was the date upon which the predecessor State recognized its replacement in the responsibility for international relations. If article 7 was to be interpreted in that sense, that should be made clear in the commentary.

32. Mr. KEARNEY said he could understand Mr. Ramangasoavina's objection to the use of the word "decided", which was not consistent with the language used in the draft articles on the law of succession in respect of treaties. He suggested that perhaps a general article should be inserted at the beginning of the draft, to the effect that nothing in the following articles should be construed as placing a limitation on the rights of either the predecessor or the successor State.

33. Mr. TABIBI said that article 7 should be deleted; it would not solve any problems, but it might well create some. It was impossible in practice to lay down a clear-cut date of succession. Article 7, as now worded, could give rise to difficulties for successor States which were developing countries. For example, the State property in question might consist of installations or factories whose operation required technical knowledge, and the successor State would need some time to make the necessary arrangements for taking over such property.

34. More flexibility was required for other reasons as well. Succession to State property could give rise to some very complex problems, particularly where there was more than one successor State. An interesting example was provided by the British Embassy at Kabul, which had been paid for with money from the Indian Treasury and had been claimed in 1947 by both India and Pakistan. Each of those countries had put forward what it regarded as valid grounds for claiming that it should succeed to the property, but twenty-five years had elapsed and the matter was still unsettled. The Embassy thus remained in the possession of the United Kingdom.

35. In view of all the difficulties likely to arise, he urged that article 7, in its present wording, should be dropped. The only provision that could be adopted on the subject was one to the effect that the date of the passing of State property was for the successor State and the predecessor State to determine by agreement between them.

36. Mr. PINTO said that he had no objection to article 7, with or without the proviso in square brackets. He merely wished to express some concern regarding the wording of that proviso.

37. It was clearly useful to make provision for the parties concerned to agree otherwise regarding the date of the passing of State property. He had no strong feelings as to whether that provision should take the form of a separate article covering the whole draft or of a clause reproduced in each article. He had misgivings, however, about the use of the word "decided", although he well understood the reasons given by the Chairman of the Drafting Committee for using it instead of the word "agreed". A formula should be found which would not prejudge the way in which the date would be established. He suggested the phrase: "Unless it may be otherwise established as between the parties". That form of words would mean that the date would not necessarily be established by the parties themselves. But it would still leave the main problem to be solved, namely, between whom the agreement would be concluded, or by whom the decision would be made.

38. That remark applied not only to article 7, but also to article 8 and other articles of the draft. In some places the appropriate expression would be: "Except as the parties otherwise agree". Where the context left no doubt as to the identity of the parties, the short formula "Unless otherwise agreed" could be safely used. If it was intended to refer to an agreement between the successor and the predecessor States, the proviso should expressly say so. If other interests were involved, different language would have to be used. Those remarks applied with even greater force to the concluding proviso, also in square brackets, of article 8.

39. The problems to which he had referred would have to be solved in due course, either by means of a general article or by a suitable saving clause in each article.

40. Sir Francis VALLAT said that he agreed with the provision in article 7, as proposed by the Drafting Committee; in principle, the date of the passing of State property should be the date of succession.

41. Clearly circumstances would vary from one case to another and the date of succession might not be the appropriate date in certain cases. He was therefore

in favour of retaining the opening proviso. As the discussion had clearly shown, provision would have to be made in one way or another for a different decision on the question of the date. It could be done then or later; in the text of article 7, in the commentary or in a general article.

42. With regard to the technique of drafting, he did not agree with Mr. Ushakov that article 7 contained a definition, which would be better placed in article 3. Article 7 was a clarification of the contents of article 6. It was not an explanation of the sense in which a term was used in the draft as a whole, and therefore had no place in article 3 on the use of terms.

43. Mr. EL-ERIAN said he could accept article 7 as proposed by the Drafting Committee, with or without the opening proviso. He was inclined, however, to favour retaining the proviso, because it would introduce an element of flexibility into the article.

44. A distinction should be made between the transfer of the territory and the procedure for the passing of State property. He thought the proviso "Unless it may be otherwise decided" should cover cases of the type mentioned by Mr. Tabibi. From his experience with the 1953 Committee of Experts set up by the United Nations to deal with the problems arising out of the taking over of former Italian property by Libya, then newly independent, he could vouch for the complexity of the problems involved. In those cases, what mattered was to lay down a principle, and article 7 did so. The opening proviso was sufficiently flexible to cover all the difficulties that might arise in practice.

45. Mr. HAMBRO said he could accept article 7 as proposed by the Drafting Committee.

46. The opening proviso, however, was unnecessary. The Commission had already agreed that all the draft articles were residuary rules. It would therefore create confusion to insert a saving clause of that type in one article and not in others. All the provisions in the draft articles were subject to the condition that no agreement to the contrary should exist.

47. The Drafting Committee should be asked to frame a general article safeguarding the possibility of an agreement to the contrary, for application to all the provisions of the draft. It was wholly unnecessary to discuss the saving clause separately in connexion with each article.

48. Mr. BILGE said that he agreed with the general idea expressed in article 7, but wondered whether it was justifiable to speak of the "passing of State property", when the Commission had accepted, in article 6, the principle of the extinction of the rights of the predecessor State. It was no longer a matter of passing, but of acquisition of property. Subject to that terminological amendment, he accepted the residuary rules specifying or fixing the date of such acquisition.

49. He was in favour of retaining the clause in square brackets, provided that the word "decided" was replaced by a more neutral term expressing the idea of both agreement and decision.

50. Mr. USHAKOV said that in its present form article 7 was meaningless and had no legal effect. The date of the passing of State property would differ from one case of succession to another—transfer of territory, fusion or union and so forth—and might be fixed in various ways —for example, by agreement—in each specific case. Hence it was the subsequent articles which would have to indicate, for each case of succession, the date on which the property passed and the manner in which that date must be fixed.

51. Mr. QUENTIN-BAXTER said he supported the idea for including in the draft a general provision to the effect that parties having full capacity to do so could vary the rules laid down in the articles. In many cases, however—and they were by no means limited to cases of decolonization—there was no opportunity for the parties to conclude an international agreement to vary the rules governing the way in which succession occurred.

52. The use of the word "decided" constituted recognition that article 7 was intended to cover more than just the ordinary case; provision had to be made for practical arrangements to vary the date of the passing of State property. Thus although the opening proviso was valid, the word "decided" was unacceptable because, as Mr. Ramangasoavina had pointed out, it could be misleading. It could be construed as referring to a unilateral decision, which was not, of course, the intention of the drafters.

53. He therefore suggested that the opening proviso should be replaced by some such wording as: "Subject to arrangements made between the predecessor State and the successor State".

54. Mr. TSURUOKA said he was in favour of retaining article 7 as proposed by the Drafting Committee. In order to allay the misgivings of some members of the Commission, perhaps the word "decided" in the phrase in square brackets could be replaced by "agreed or decided".

55. The CHAIRMAN,* speaking as a member of the Commission, observed that the purpose of article 7 was to settle, in international law, situations which were not regulated by treaty; it was not, as some members of the Commission seemed to think, to provide for the case in which property passed under a treaty.

56. As to the phrase in square brackets, he thought it should be retained in the form proposed by the Drafting Committee. The reasons put forward by the Chairman of the Drafting Committee to justify the use of the word "decided" in preference to the word "agreed", which presupposed the existence of an agreement, were convincing and confirmed by practice.

57. As to the question whether or not the date of the passing of State property coincided with the date of the succession of States, the date of transfer of territory should not be confused with the performance of certain operations connected with that transfer. That point should be explained in the commentary.

58. Speaking as Chairman, he invited the Chairman of the Drafting Committee to reply to the objections raised.

59. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had tried to

* Mr. Bartoš.

draft a provision which would meet the wish, expressed by most of the members of the Commission, that the draft articles should indicate, but not expressly fix, a date for the passing of State property upon a succession. The date which the Committee had considered most appropriate was the date of succession, which was defined in another article. However, the rules the Commission were formulating were not mandatory; the parties could always decide otherwise. But since an agreement was not possible in some cases, it was also necessary to provide for the possibility that the date would be fixed by a competent body in the international legal order. The Drafting Committee had merely followed the trend of the discussion in the plenary Commission.

60. The clause in square brackets was a saving clause which derived from the very nature of the rule laid down. Whether the Commission decided to retain it or not, would really make no difference. States would always be free to fix, by mutual agreement, a date other than that of succession, just as a competent body in the international legal order could always decide on a different date. If the Commission decided to delete that clause, however, it would have to give the necessary explanations in the commentary.

61. The CHAIRMAN observed that the majority of the members of the Commission were in favour of retaining the clause in square brackets, subject to the replacement of the word "decided" by a more appropriate term. The Commission was only giving the draft articles a first reading, however, and would be free to go back on its decision later. At all events the Special Rapporteur would mention all the objections in the commentary.

62. Mr. KEARNEY said that the Commission should not rely on the commentary to indicate the need for correcting a word like "decided", to which valid objection had been raised by most of the members. His own suggestion was that it should be replaced by the word "agreed", which was used in article 8, and that the commentary to article 7 should indicate that the Commission nevertheless had in mind such special circumstances as decisions of United Nations organs which might deal with the passing of State property.

63. The CHAIRMAN said that the commentary would make it clear that the Commission's decision was not final and that it would take its final decision when it gave the draft articles their second reading.

64. Mr. BILGE said he maintained his reservation on the word "passing", which was not correct once the principle of the extinction of the predecessor's rights had been recognized.

65. Mr. EL-ERIAN said he shared Mr. Kearney's apprehensions regarding the use of the word "decided" in article 7, as opposed to the word "agreed" in article 8. It might perhaps be possible to construe the word "agreed" broadly enough to cover cases decided in United Nations organs, since in a sense those decisions represented agreements.

66. In any event, he was not in favour of leaving the opening proviso in square brackets. It was true that on a few occasions the Commission had adopted that method in the past to offer governments and the General Assembly alternative texts, but that had always been done by way of exception, and the practice should remain exceptional.

67. The CHAIRMAN said that the commentary would state that the Commission had hesitated between several terms.

68. Mr. USHAKOV said he was in favour of retaining the square brackets. The article did not specify who could take the decision in question. To delete the square brackets would be absurd from the legal standpoint. Their retention, on the other hand, would indicate that the Commission had deliberately selected a very vague form of words whose meaning it intended to clarify later.

69. The CHAIRMAN said the Commission need only ask the Special Rapporteur to state in the commentary that several members had opposed the opening proviso and that the Commission would take a decision on it at the second reading, when it had received the comments of governments.

70. If there were no objections, he would take it that the Commission decided to approve article 7 as proposed by the Drafting Committee, to retain the words appearing in square brackets and to delete the brackets.

It was so agreed.[5]

The meeting rose at 1 p.m.

[5] See also next meeting, para. 53.

1240th MEETING

Wednesday, 4 July 1973, at 10.5 a.m.

Chairman: Mr. Mustafa Kamil YASSEEN
later: Mr. Jorge CASTAÑEDA

Present: Mr. Ago, Mr. Bartoš, Mr. Bilge, Mr. El-Erian, Mr. Hambro, Mr. Kearney, Mr. Martínez Moreno, Mr. Pinto, Mr. Quentin-Baxter, Mr. Ramangasoavina, Mr. Reuter, Mr. Sette Câmara, Mr. Tabibi, Mr. Tammes, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Francis Vallat.

Succession of States in respect of matters other than treaties

(A/CN.4/267; A/CN.4/L.196/Add.1)

[Item 3 of the agenda]
(continued)

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE *(continued)*

ARTICLE 8

1. The CHAIRMAN, speaking as Chairman of the Drafting Committee, said that article 8 replaced articles 8 and 9 submitted by the Special Rapporteur in his sixth