Document:-
A/CN.4/SR.1424

Summary record of the 1424th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
1977, vol. I

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consent of the creditor, that should be made clear in article U.

23. Finally, he wished to raise the question of counter-claims held by the predecessor State against the creditor third State, of which the Special Rapporteur had said that they were rights and would therefore automatically pass to the successor State, pursuant to article 6 of the draft articles.[14] The matter would, however, require further study, for while the consent of the creditor third State would not be necessary for passage of the right of the predecessor State to receive money from it, it would be necessary for passage of the duty of the predecessor State to pay money to it. The predecessor State might therefore find itself in the difficult situation of having lost its set-off claim against the creditor third State while remaining responsible for its original debt to that State.

24. Mr. ŠAHOVIĆ said that he did not clearly understand the scope of the draft articles submitted by the Special Rapporteur in chapter II of his report; there was some doubt in his mind about the exact meaning of draft article R in particular. He thought that article R was intended as a general provision corresponding to article 6, which explained the legal effects of a succession of States, but in view of the triangular relationship described by the Special Rapporteur, the purpose of that general rule should be made clearer. What, for instance, was the actual relationship between the predecessor State and the successor State? The wording proposed by the Special Rapporteur was not sufficiently clear on that point and could be improved and further clarified, as suggested by Mr. Ushakov.[15] The link between article R and article U should be stressed, as Mr. Castañeda had said,[16] and, in article R, account should be taken of the triangular relationship between the predecessor State, the successor State and the third State, for the Special Rapporteur had shown that that relationship was essential.

25. As the Special Rapporteur had indicated in paragraph 58 of his report, the debts of the predecessor State were the basic subject-matter of the current study. After giving a very general definition of State debt in article O, however, the Special Rapporteur seemed to have lost sight of the primary objective of the study and to have immediately taken a position on the question of the third State. What was now needed, therefore, was first to define the boundaries of the concept of State debt and clarify the relationship between the predecessor State and the successor State, and then to consider the question of the debt-claims of private persons, whether natural or legal.

26. He understood the idea contained in draft articles S, T and U, but, like Mr. Riphagen,[17] he thought it could have been worded positively and expressed in a single article.

The meeting rose at 1 p.m.

[14] See 1416th meeting, foot-note 2.

[15] 1422nd meeting, para. 43.

[16] *Ibid.*, para. 10.

[17] 1418th meeting, para. 12.

1424th MEETING

Friday, 20 May 1977, at 10.10 a.m.

Chairman: Sir Francis VALLAT

Members present: Mr. Ago, Mr. Bedjaoui, Mr. Calle y Calle, Mr. Castañeda, Mr. Dadzie, Mr. El-Erian, Mr. Francis, Mr. Jagota, Mr. Njenga, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Schwebel, Mr. Sette Câmara, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

Succession of States in respect of matters other than treaties (*continued*) (A/CN.4/301 and Add.1)

[Item 3 of the agenda]

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

ARTICLE R (Obligations of the successor State in respect of State debts passing to it),

ARTICLE S (Effects of the transfer of debts with regard to a creditor third State),

ARTICLE T (Effects, with regard to a creditor third State, of a unilateral declaration by the successor State that it assumes debts of the predecessor State) *and*

ARTICLE U (Expression and effects of the consent of the creditor third State)[1] (*continued*)

1. Mr. EL-ERIAN said that, as he understood chapter II of the Special Rapporteur's report (A/CN.4/301 and Add.1) and the discussion on it, the articles which the Commission was now considering envisaged a situation in which there was succession according to the provisions of those articles in respect of a State debt—succession which gave rise to a triangular relationship between the predecessor State, the successor State, and the creditor third State. In formulating rules governing that triangular relationship, the Special Rapporteur had laid down two principles: the first, with which all members of the Commission seemed to agree, was that the succession led to the termination of the relationship between the predecessor and the successor States; the second was the general principle which applied in relation to personal status and obligations in civil law systems, namely, that there was a subjective element in the situation of debt. The Special Rapporteur appeared to have adopted that second principle out of a desire to co-ordinate the present draft articles with those the Commission had produced on succession in respect of treaties;[2] the consequence of that adoption was that he had made provision for the exercise of an option by the creditor third State. Articles S, T and U then showed how the situation of that State would be affected by an occurrence of succession. In

[1] For texts, see 1421st meeting, para. 32.

[2] See 1416th meeting, foot-note 1.

principle, he agreed with the Special Rapporteur's approach.

2. Mr Schwebel had said [3] that there were many other situations to be regulated than were at present covered in the draft articles. While all members of the Commission would undoubtedly like the articles to be as comprehensive as possible, that would raise problems of methodology. He would therefore like to hear the Special Rapporteur's views on how the articles could be broadened to cover the points Mr. Schwebel had mentioned. He differed from Mr. Njenga [4] in that he interpreted article U as giving the creditor third State not a "power of veto", but an option. Perhaps Mr. Njenga's fears could be allayed by the reformulation of the article by the Drafting Committee, which would also be the body to deal with the point raised by Mr. Ushakov [5] concerning the links between the articles now under consideration and subsequent parts of the draft.

3. Mr. DADZIE said the Special Rapporteur had said that the relationship between the States concerned by succession to State debt was necessarily triangular, involving the predecessor and successor States and the creditor, which could be a State, a legal entity or a private individual. The purpose of introducing such a relationship was said to be to secure the interests of the creditor, by giving him the option to accept or decline the transfer of the State debt. His own opinion, however, was that the existence of such an option could give rise to serious problems and retard or obstruct the succession, rather than advance it. If the concept of the triangular relationship was to be retained, he hoped the Special Rapporteur would make provision for such situations as that in which the creditor refused consent to a transfer to which the parties most closely concerned, namely, the predecessor and successor States, had agreed, or that in which the creditor refused consent and such refusal could be considered unreasonable or inequitable. To his mind, however, there were obvious advantages in retaining only the relationship between the predecessor State and the successor State and eliminating the requirement of consent by the creditor. The creditor should not be able to interfere in the passage of the debt. His interests would be sufficiently protected if the rules provided that notice be given him of where his debt lay after the succession had occurred. A further argument in favour of limiting the relationships considered to that between the predecessor State and the successor State was the fact that the Commission was concerned with no more than how responsibility for debt would pass between those two entities in the event of succession.

4. As a consequence of those views, his main objection to article R was that it included the phrase "in accordance with the provisions of the present articles", for articles S, T and U all referred in some way to a requirement of consent by the creditor. He hoped the Special Rapporteur would be able to reword article S so as to remove the impression it now gave that such a requirement existed; his own suggestion was to delete from the article the words "do not". Similarly, he hoped that article T could be reworded to obviate the necessity for the consent of the creditor to a unilateral declaration. Finally, he considered that article U should be omitted. Other speakers had already commented on the question of express or implied consent and the need for rules which, in keeping with the objective of the progressive development of international law, would ensure that, in the event of a succession, State debt passed smoothly from the predecessor State to the successor State.

5. Since the Commission's concern was with the fate, not of individual financial obligations of the State but of such obligations in general, he shared Mr. Ushakov's view [6] that it would be more appropriate if the draft articles referred to "State debt" rather than "State debts".

6. He could not agree that the Commission should automatically leave out of its study debts which had been contracted under domestic law. His own view was that, when a relationship could be established between a debt so contracted and international law, as when a private creditor sought a remedy through the intermediary of the State of which he was a national, the debt in question would come within the scope of the draft articles. On the other hand, since he agreed with the Special Rapporteur that a debt must be a financial obligation, he felt that no account should be taken of situations in which the debtor was obliged to do or not to do something other than merely reimburse or service a financial debt. The Commission would have to consider whether such situations came within its terms of reference only if the additional obligation could, in the final analysis, be resolved into a financial obligation.

7. Mr. RIPHAGEN said that if it was true, as he had already argued,[7] that the question of the impact of State succession on the State debt of the predecessor State arose in connexion with the facts that jurisdiction over territory, including in particular the right to levy taxes, and State property passed to the successor State, and that those facts in turn raised the problem of some degree of sharing by the successor State of the financial burdens of the predecessor State, it was, in principle, irrelevant whether the financial burden of the predecessor State consisted of debts towards third States or towards creditors of some other kind, even private persons. In either case, what was at issue was primarily the relationship between the predecessor and the successor States, or the question whether, and to what extent, the latter should assume the burden of the former. So long as the Commission dealt with only the legal relationship between the predecessor and successor States, it would encounter no insuperable problems. The difficulties would appear only if and when an attempt was made to project the legal relationship between the predecessor and the successor States on to the legal relationship between the predecessor State and/or the successor State and the creditor, in other words, to translate the relationship between the predecessor and successor States into what article R termed "the extinction of the obligations of the

[3] 1423rd meeting, paras. 6 *et seq.*

[4] *Ibid.*, para. 13.

[5] 1422nd meeting, para. 41.

[6] *Ibid.*, para. 43.

[7] 1418th meeting, para. 11.

predecessor State" and the "arising of the obligations of the successor State". At that point, the question would arise whether rules of public international law had anything to do with the relationship between the creditor and the predecessor or successor State. The Special Rapporteur contended that those rules were relevant when the creditor was a third State, but not when it was not a subject of international law. Personally, he doubted whether a distinction between creditor States and other creditors was useful in the context with which the Commission was concerned.

8. For one thing, the debt relationship between the predecessor State and a third State was not necessarily governed solely by rules of public international law. On the other hand, the relationship between the predecessor and/or the successor State and a private creditor was not necessarily entirely beyond the purview of rules of general public international law. It would be difficult, however, to spell out in detail in the draft what was the legal impact of the predecessor State/successor State relationship on the legal relations of each of those States with the creditor, whatever the latter's identity. For instance, doubts had been expressed with regard to article U, which was not completely parallel to the corresponding provision on succession in respect of treaties.

9. Under article U, the consent of the creditor State could result, *inter alia*, from "conduct engaged in by the third State", but that provision could give rise to problems in practice. For instance, if the successor State offered payment to the third State of part of a debt originally assumed by the predecessor State, the third State would, in his opinion, be well advised to accept that payment, subject only to the proviso that it did not thereby consent to the transfer of the debt. What interpretation should be placed on its conduct in such a case?

10. On the other hand, recognition that the relationship between the predecessor and the successor States also covered State debts vis-à-vis non-State creditors, including private persons, did not of itself bring the relationship between a State and a private person wholly or partly under the rules of public international law. Indeed, there were several questions relating to the legal impact of the predecessor State/successor State relationship on the State/creditor relationship with which the Commission was certainly not going to deal in its draft. They included the question of a possible impact on the currency in which the debt was expressed; the question of which municipal law would govern the debt after succession; and questions relating to the diplomatic protection which might be afforded to a private creditor by the State of which he was a national.

11. In those circumstances, he wondered whether the draft should not be limited solely to the relationship between the predecessor and successor States, leaving aside all questions of the possible legal impact of that relationship or the relationship of either of those States with the creditor. That would imply re-drafting article R so as to remove the mention of the extinction and arising of obligations, since those obligations were, of course, towards the creditor. It might also be advisable to leave out articles S, T and U, which dealt with the impact of the predecessor State/successor State relationship on the relationship of those States with others. If that suggestion were adopted, it would, of course, be necessary to state that the Commission was leaving out of the study the impact of the predecessor State/successor State relationship on all the other points he had mentioned.

12. Mr. TSURUOKA said that, both in the literature and in practice, there were differing views regarding the passing of State debts, as the Special Rapporteur had rightly pointed out. On the other hand, as Mr. Schwebel had noted,[8] transactions relating to debts were, nowadays, a developing field of international co-operation that was beneficial to creditors and debtors alike and to the world as a whole. The Commission's task, therefore, was to prepare a legal instrument that would meet contemporary needs. However, since such transactions were not yet governed by clearly established rules of international law, the Commission would have to go beyond codification proper and venture into the field of progressive development. It would have to elaborate flexible rules, easy to apply and to interpret, which would be acceptable to the majority of States. Practical value and flexibility were the essential considerations that the Commission must bear in mind in preparing the rules on succession of States in respect of State debts.

13. The Special Rapporteur had justified the title given to the draft articles proposed in his ninth report by presenting succession to State debts as the second aspect of the question of State succession, and drawing a parallel between State property and State debts, which he had defined as financial obligations. Like Mr. Ushakov, however, he (Mr. Tsuruoka) considered that "debt" and "financial obligation" were not necessarily synonymous and that, in the view of some, a debt existed only when a financial obligation had not been met. In his opinion, the draft must not deal solely with debts but with financial obligations in the broadest sense. The Drafting Committee might therefore consider replacing the word "debts" in the title of the draft articles by the words "financial obligations".

14. Mr. Dadzie had proposed, for the purpose of simplifying the draft, that there should be no reference to the consent of the third State.[9] He himself did not share that view. The primary concern of every creditor, whether a State, an international institution or a private company, was the stability and security of his investment, and the best means of ensuring the repayment of his investment was through an understanding with the debtor.

15. As regards articles R, S, T and U, he would confine himself to a few remarks of a drafting nature. The words "without the consent of the latter" should be inserted at the end of article S to make the meaning of the article clearer. In article T the words "vis-à-vis the creditor State" should be inserted after the words "debts of the successor State". Lastly, in article U, in order to take account of Mr. Riphagen's comments, at the end of the first paragraph, the phrase "can result from ... or tacit act by that State" should be replaced by the words "shall be expressed in a formal act by that State".

[8] 1423rd meeting, para. 10.

[9] See para. 3, above.

16. What was needed was a legal instrument that would have practical value. It should therefore be specified that the draft articles did not affect the relationships between private creditors and the predecessor or successor State, even when the draft articles dealt solely with State debts in the narrow sense of those of the predecessor State.

17. Mr. YANKOV said that the definition of "State debt" proposed by the Special Rapporteur might require further study. The reason was that, even though it might be appropriate for the moment to limit the concept to financial obligations, there would remain the problem of succession in respect of matters other than treaties, property and financial obligations. Perhaps the section of the draft devoted to "General provisions" relating to State debt should be supplemented by further articles on the main constituent elements of the concept of State debt, the parties concerned, the law applying to the origin of the debt, and the main legal implications following therefrom. He would be grateful if the Special Rapporteur would comment on that point.

18. On the question of the personality of the creditor, he agreed with the Special Rapporteur that the Commission should try to stay within the realm of public international law, and that the rule which it was elaborating should therefore apply only to subjects of international law. Perhaps that limitation should be made clear in article O. The interests of creditors who were natural or juridical persons would be adequately catered for by the rules governing diplomatic protection in the event of a denial of justice. Provision should, however, be made in the draft articles for the situation in which a loan granted by a natural or juridical person was guaranteed by a State, for such a case clearly involved a subject of international law.

19. With regard to the suggestion that the study would become too complicated if consideration were given to the triangular relationship between the predecessor and successor States and the creditor third State, and that it should therefore be limited to the relationship between the predecessor and successor States, he was inclined to agree with the view expressed by the Special Rapporteur in paragraph 96 of his report (A/CN.4/301 and Add.1) that it was "the status of the third State as a creditor of the predecessor State that makes the territorial change relevant to it". The novation occurred only in the relationship between the predecessor and successor States, and then only under certain conditions, as the Special Rapporteur had pointed out in paragraph 106.

20. Some speakers had questioned the attribution to the creditor third State of the right to select its own debtor, and he wondered whether the Special Rapporteur had been correct in making the right of choice a discretionary right only of the creditor. Mr. Njenga had made some very pertinent remarks concerning the possible "power of veto" which that right conferred on the creditor third State,[10] and he hoped that the Special Rapporteur would be able to resolve that problem.

21. The problem of a unilateral declaration by the successor State also required further study. The Special Rapporteur had argued, in paragraph 111 of his report, that the creditor third State had a subjective right to accept or refuse the legal effect of such a declaration in relation to the original obligation of the successor State, and that its consent was therefore required for the change of debtor to take place. That was a very logical view, which was entirely in line with the Special Rapporteur's basic premises and one which he could accept. He therefore supported the requirement of consent as expressed in article U. That article would, however, have to be deleted if the Commission adopted the approach favoured by Mr. Dadzie.[11]

22. He could support article R as proposed by the Special Rapporteur, but felt that it should be placed earlier in the draft, before the section dealing with the problem of the third State, since it made no mention of the third party to the debt. He had no problems in accepting article S, which made an obvious statement.

23. Mr. TABIBI said that the draft articles to be proposed by the Commission in connexion with State debt must attach equal importance to the three parties involved, namely, the predecessor State, the successor State and the creditor third State or party. The interests of the predecessor State must be protected because that State had incurred a financial obligation for the benefit of the territory for which it had been responsible. Consequently, once the territory became a successor State, the predecessor State should no longer be involved in any problem of payment of the debt to the creditor. But if the predecessor State had not used the loan or credit for the benefit of the territory that later became the successor State, the latter should not be under an obligation to pay off the debt. The criterion of validity was applicable not only in the case of succession in respect of treaties but also in the case of succession in respect of matters other than treaties.

24. Again, it was plain that creditor third parties which had contributed to the welfare of the territory were entitled to repayment of their loans. It should not be assumed that a successor State was entitled to decide not to repay a debt. Newly independent States were experiencing very serious economic difficulties and needed assistance from every source, whether States, international organizations, corporations or individuals. The Commission should, therefore, in its draft articles, prepare the ground for a smooth flow of financial assistance to the developing world. Creditor third States or parties played a vital role in such assistance and it was essential to avoid establishing a régime that would discourage creditors.

25. A devolution agreement or a unilateral declaration by the successor State of its assumption of debts of the predecessor State should not jeopardize the interests of the creditor third party. At the same time, in the case of devolution, the predecessor State should not create a situation in which the successor State suffered as a result of the arrangements made with regard to the debts incurred by the predecessor State. Moreover, in the case of a unilateral declaration, the successor State must not decide simply to accept the benefits that it had gained

[10] 1423rd meeting, para. 13.

[11] See paras. 3-4 above.

and to disregard the obligations of the predecessor State. Regardless of what decisions were reached by the predecessor State and the successor State, the consent of the creditor third party was vital. He disagreed with the view that such consent represented a power of veto on the part of the creditor third party, which, after all, had extended the credit or loan and was entitled to have its rights safeguarded. The number of articles might well be reduced, but the Drafting Committee should bear in mind that the interests of each of the three parties involved should be equally protected.

26. The CHAIRMAN, speaking as a member of the Commission, said that one of the great services rendered by the Special Rapporteur in a penetrating report that was rich in material and, in some respects, in humour, had been to call attention to the difficulty and the complexity of the subject of State debts. The lesson to be drawn from, for example, paragraphs 68-72 of the report, was that the Commission should adopt an approach in which caution was the essence of wisdom. Otherwise, it might, if carried away by enthusiasm for the codification and progressive development of international law, tend to enunciate concepts that were not yet ready to be crystallized. In articles R, S, T and U, the Special Rapporteur had, in fact, shown a measure of caution. In the modern world, international finance was of great importance to all States. The Commission's work should not check the flow of international finance and he would be inclined to proceed from the principle that, so far as possible, creditors, by which he meant creditors in general, should not suffer loss as a result of a succession of States.

27. As to the scope of the articles, he believed that both theoretical and practical considerations would have to be borne in mind. While the draft articles could, theoretically, be confined exclusively to State creditors, it could be asserted that, for practical reasons, such a course would not be reasonable and that the interests of non-State creditors must be protected as much as those of State creditors. Nowadays, it was sometimes difficult to say whether the agency which actually provided the finance was a State agency or not, and whether the debt was due to the agency as such or as an agency of the State. Thought should be given to the possibility of making provision not only for State creditors but also for other creditors that were subjects of international law. In that regard, the Commission need not be bound by the Vienna Convention [12] or the draft articles on succession of States in respect of treaties, for it was at liberty to extend the boundary between the two concepts, where it was appropriate to do so in the context. Whether it was feasible to make provision for creditors who were natural or juridical persons was perhaps a more controversial matter, but if the draft was to be confined to State creditors or creditors which were subjects of public international law, it should be made clear that it was not intended to prejudice the interests of creditors who were natural or juridical persons.

28. While he could agree that the draft should deal with State debts, he was somewhat troubled about the definition of State debt—a difficulty that arose because of differences between the concepts employed in civil law systems and common law systems. Broadly speaking, the common law system in the United Kingdom did not employ the concept of a financial obligation; rather, it drew a distinction between liquidated debts and non-liquidated claims. For example, a claim resulting from a motor-car accident would be regarded as a non-liquidated claim. On the other hand, if it was pursued in court and judgment for a particular sum was given against the defendant, it could be considered as a liquidated debt which had become a financial obligation within the meaning of the draft articles. In the field of property transactions, the distinction between a liquidated debt and a non-liquidated claim became less obvious. It was certainly not his intention to suggest that use should be made of the qualification "liquidated" or "non-liquidated", but he wondered whether the term "financial obligation" would suffice without some further explanation of what it was taken to mean.

29. In addition, it was not necessarily true that a financial obligation could be isolated as something that had an existence of its own. What might be termed the "bare" financial obligation could well be accompanied by various terms and conditions. For instance, the creditor might enjoy a currency option. If one of the conditions was a foreign exchange guarantee, a successor State which assumed responsibility for a debt might consider that its responsibility could be discharged in the currency of the successor State, but that would not be in keeping with the conditions attaching to the obligation. Other more complex terms and conditions were conceivable, for example, a debt that was conditional upon maintenance of, or free transit over, a highway. Obviously, the Commission need not legislate for such matters, but it must not adopt a course that would prejudice questions relating to the terms and conditions of a debt.

30. In the subject under consideration, there was a very subtle relationship between public international law and internal law. It could be affirmed that matters which might have been regarded 50 years ago as falling under private law had now entered an area in which they were protected by public international law and, in principle, he saw no reason why that should not apply in the case of State debts towards private creditors. Treaties and conventions on human rights clearly imposed obligations upon States, yet the beneficiaries were individuals, and no one would argue that those treaties and conventions did not operate as a part of public international law. Consequently, he was not convinced that State debts due to private corporations, for example, were a matter that lay outside public international law. Lastly, if the draft articles were confined to inter-State debts, they would tend to overlap with the draft articles on succession of States in respect of treaties. The Special Rapporteur was right to deal with debts on their own merits, but care must be taken to ensure that there would be no conflict between the two sets of draft articles.

31. Mr. BEDJAOUI (Special Rapporteur) said that many of the suggestions made during the discussion would certainly be helpful to the Drafting Committee. In order to save time, he would not comment on observations with which he agreed; he would reply only

[12] See 1417th meeting, foot-note 4.

to questions, criticisms and doubts to which chapter II of his report had given rise.

32. He would concentrate on one basic problem, namely, the scope to be given to the draft articles which the Commission was preparing for the international community. Nearly all the members of the Commission had referred to that problem, which could be summarized under three main heads: first, the definition of State debt; second, the legal nature of the relationship established by the transfer of the debt, which some considered to be a relationship between the predecessor State and the successor State while others considered it to be a triangular relationship between the predecessor State, the successor State and the creditor third State; and, third, the status of the creditor—must the creditor be a State or might it also be another subject of international law or a natural or juridical person in private law?

33. Members of the Commission had expressed different views on that last point. Some thought that, for reasons of principle or methodology, the relationship should be limited to subjects of international law, whether States, international organizations or unions of States. He shared that view, but, since he had realized that different opinions might be expressed in that regard, he had planned the draft in such a way that, without changing its structure entirely, its scope might be extended to cover private creditors. Members of the Commission had displayed great powers of imagination in their efforts to find a solution to that problem, but most of them had stressed the basic relationship which linked the predecessor State and the successor State. It was Mr. Dadzie who had perhaps gone farthest by stating that the triangular relationship should not be retained and that the requirement of the consent of the third State should be eliminated. Mr. Riphagen had been of the opinion that the triangular relationship was established only when the relationship between the predecessor State and the successor State was projected on to the creditor third State. He (the Special Rapporteur) accepted that view, but believed that the situation was actually more complicated than that.

34. The discussion of the articles proposed in chapter II of the report and of the basic questions of the definition of debt and the nature of the relations established for the transfer of the debt could be summarized in the following way. Some members of the Commission thought that article R alone should be retained and that its wording should be amended. They had said that the other articles which had been proposed were helpful, but not really necessary because they dealt with procedural matters. Other members of the Commission had expressed the view that articles R, S, T and U were necessary and adequate although their wording might need to be improved; they had also said that those articles might be further clarified and, possibly, combined. Still other members of the Commission had been of the opinion that those articles were necessary but inadequate, and that they should be rearranged and supplemented so that it would, for example, be clear that they applied to creditors in private law.

Appointment of a drafting committee

35. The CHAIRMAN said that, if there were no objections, he would take it that the Commission agreed to appoint a drafting committee consisting of the following twelve members: Mr. Tsuruoka as Chairman, Mr. Ago, Mr. Calle y Calle, Mr. Días González, Mr. Njenga, Mr. Quentin-Baxter, Mr. Reuter, Mr. Šahović, Mr. Schwebel, Tabibi, Mr. Ushakov, Mr. Verosta and, *ex officio*, Mr. Bedjaoui, the Commission's Rapporteur. It was, of course, understood that a special rapporteur was always entitled to attend meetings of the Drafting Committee when the latter was considering the topic for which he was responsible.

It was so agreed.

Appointment of a committee for the Gilberto Amado Memorial Lecture

36. The CHAIRMAN said, that if there was no objection, he would take it that the Commission agreed that the Committee for the Gilberto Amado Memorial Lecture should consist of Mr. Ago, Mr. Castañeda, Mr. El-Erian, Mr. Sette Câmara, Mr. Tabibi, Mr. Ushakov, Sir Francis Vallat and Mr. Yankov.

It was so agreed.

The meeting rose at 1 p.m.

1425th MEETING

Monday, 23 May 1977, at 3.05 p.m.

Chairman: Sir Francis VALLAT

Members present: Mr. Ago, Mr. Bedjaoui, Mr. Castañeda, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Njenga, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta, Mr. Yankov.

Succession of States in respect of matters other than treaties (*continued*) (A/CN.4/301 and Add.1)

[Item 3 of the agenda]

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

ARTICLE R (Obligations of the successor State in respect of State debts passing to it),

ARTICLE S (Effects of the transfer of debts with regard to a creditor third State),