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Summary record of the 1455th meeting

Topic:
State responsibility

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

29. Some of the international labour conventions imposed on States parties the obligation to enact or repeal particular legislative provisions. A commission had been appointed under article 26 of the Constitution of the ILO to examine a complaint filed by the Government of Ghana concerning the observance by the Government of Portugal of Convention No. 105 of 1957 (Convention concerning the Abolition of Forced Labour). The Commission had stated in its report that the international obligations placed on the State by certain conventions required the formal rescission of a particular legislative provision and that "a situation in which a legal provision inconsistent with the requirements of the Convention subsists but is regarded as obsolete" or as being superseded *de facto* could not be considered satisfactory for the purposes of the application of the Convention.[10] The Commission had therefore concluded that in that case there had been a breach of the obligation imposed by the Convention. The Commission appointed under article 26 of the Constitution of the ILO to examine the complaint filed by the Government of Portugal concerning the observance by the Government of Liberia of Convention No. 29 of 1930 (Convention concerning Forced or Compulsory Labour) had arrived at exactly the same conclusion.[11]

30. The distinction he had made between the two types of international obligation was also confirmed by doctrine, which on that point coincided with State practice. Writers, from Heinrich Triepel onwards, had stressed that, when an obligation required of a State conduct—whether active or omissive—"which must necessarily be carried out in certain ways and by specific bodies", any conduct of the State which was not in conformity with that specifically required constituted as such "a direct breach of the existing international legal obligation", so that, "if all the other requisite conditions exist, we are confronted with an internationally wrongful act".[12]

31. One might be tempted to adopt, in international law, language which was commonly used in civil-law countries and refer to "international obligations of conduct" or, if it was preferred, "of means", and "international obligations of result". However, it was necessary to ensure that the use of such terminology, which could be very useful in practice, did not give rise to ambiguity, for, as Mr. Reuter had shown, the distinction made in the civil-law systems of certain countries between "obligations of conduct" and "obligations of result" was not exactly the same. Moreover, civil-law systems were not in force in all countries. Accordingly, until the Commission's attitude was known on that matter, he had referred to an "obligation calling for the State to adopt a specific course of conduct" and an "obligation requiring the State to achieve a particular result".

32. The case covered by article 20—that of the breach of an international obligation requiring the State to adopt a specific course of conduct—was evidently the simpler of the two. The real difficulties would arise with article 21, which related to the breach of an international obligation requiring the State to achieve a particular result, because the situation was not as clear and precise in that case as in the first.

The meeting rose at 12.55 p.m.

[10] *Ibid.*, para. 9.

[11] *Ibid.*

[12] *Ibid.*, para. 11.

1455th MEETING

Thursday, 7 July 1977, at 10.05 a.m.

Chairman: Sir Francis VALLAT

Members present: Mr. Ago, Mr. Calle y Calle, Mr. Dadzie, Mr. El-Erian, Mr. Francis, Mr. Quentin-Baxter, Mr. Reuter, Mr. Šahović, Mr. Schwebel, Mr. Sette Câmara, Mr. Sucharitkul, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta.

State responsibility (*continued*) (A/CN.4/302 and Add.1-3)

[Item 2 of the agenda]

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

ARTICLE 20 (Breach of an international obligation calling for the State to adopt a specific course of conduct [1] (*continued*)

1. Mr. TABIBI said that the Special Rapporteur's excellent report and oral presentation provided a very illuminating introduction to article 20. The rule established by that article set out the obligation imposed on a State by international law; it related, first, to relations between States and, second, to matters of concern to the whole international community. The second of those elements was of the highest importance for inter-State relations were governed by many rules of international law. However, under the terms of the article, the interests of the international community took precedence, since a State was required to act or not to act in some specifically determined way.

2. The cardinal importance of that principle and, thus, of the article itself lay in the fact that it co-ordinated inter-State relations, which were important for world peace, and safeguarded the interests of the world community by demanding that a State should take legislative, administrative or judicial measures to satisfy a specific requirement, or should refrain from a particular course of conduct. As the Special Rapporteur had pointed out, international law in a sense invaded the sphere of the State by requiring some specific component of the State machinery to adopt a particular course of conduct. Most important of all, the article clearly established the supremacy of international law over internal law.

[1] For text, see 1454th meeting, para. 11.

3. Again, article 20 allowed the State to choose the means—administrative, legislative, judicial or even extraordinary action—of engaging in, or refraining from, an act required of it in inter-State relations under a treaty or under rules of general international law. The negative or positive course of action, in other words, to carry out or refrain from an act, was important not because the State was legally bound to meet a specific requirement but because it must fulfil its obligations in the interests of the international community.

4. The report cited as examples a number of instruments, such as the Convention relating to a uniform law on the international sale of goods (The Hague, 1 July 1964), certain international labour conventions and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination,[2] which clearly showed how a State was required to engage in or refrain from certain actions.

5. It was also evident from the works of writers such as Triepel and Anzilotti that international law prevailed over internal law and that, when treaty law imposed certain provisions on internal law, the non-adoption or abrogation of those provisions constituted a breach of an obligation. An obligation might well have been forced upon a State in time of war, however, and it could not then be treated in the same way as an obligation under international law.

6. He wished to emphasize that the importance of the article was that it protected the interests of the international community and ensured that international law would prevail over internal law. He was grateful for the Special Rapporteur's highly scientific commentary and for the simplicity of the formulation of the rule in article 20, which he warmly supported.

7. Mr. REUTER, after warmly congratulating the Special Rapporteur, said that he had no substantive objection to article 20. On first reading the article, he had thought that it stated a truism, but on reflection he had realized that the Special Rapporteur had no doubt been right to devote some articles to the effects of the nature of obligations on the mechanisms of responsibility; indeed, those articles were not so simple as they appeared. The article under consideration could therefore be referred to the Drafting Committee.

8. There were a few questions of terminology which might complicate the Drafting Committee's task. In that connexion, he pointed out that his proposal concerning the application of certain concepts of civil law to international law, to which the Special Rapporteur had referred in foot-note 27 to his sixth report, was probably lacking in terminological precision; he therefore concurred in the Special Rapporteur's views. The text proposed by the Special Rapporteur nevertheless raised a question of substance and one of vocabulary. Of the articles which would be devoted to the form of international obligations, article 20 was the one which dealt with the most precise obligations. The obligations referred to by that provision called for acts, either legal or physical, on the part of States. At a lower degree of precision, there were obligations which specified the final result and, at a third degree, obligations which required of the State neither specific acts nor definite results, but simply an attitude conducing to a result which was not mandatory. An example of an obligation in the third category was the general obligation to be vigilant, which international law imposed on States in the absence of a real obligation of result, in order to ensure the protection of diplomatic agents residing in their territory.

9. It was the English version of article 20 which had led him to make those distinctions. The word *comportement* had been ingeniously translated into English as "course of conduct". The word "behaviour" might have been expected, but that term would, precisely, have denoted an act in the third category, namely, an attitude. The expression "course of conduct" seemed to correspond fairly closely to the idea which the Special Rapporteur had intended to express. He would therefore prefer some expression such as *actes spécifiquement déterminés* to be substituted, in the French version of article 20, for the rather vague term *comportement*. Whereas all the examples of physical acts given by the Special Rapporteur were simple and precise, the examples of legal acts were more complex. In short, the latter examples all related to general protection of human rights. In that respect, he fully agreed with the Special Rapporteur: there was no domain exclusively reserved to internal law and no domain exclusively reserved to international law. Modern international law had penetrated internal law, and it was true that it sometimes required States to carry out certain legal acts within the framework of their internal order. In the case of labour legislation, it was indisputable that there was an obligation to enact laws. With regard to human rights, and leaving aside the Universal Declaration of Human Rights, the question arose whether regional conventions could require a State to refer certain matters to a judge. That question, on which there were already some judicial decisions, was very controversial. Consequently, if the Commission wished to take up such questions, it would have to draft the English and French versions of article 20 with great precision. In French, the word *comportement* was not sufficiently precise, and it was even possible that, in the English expression "course of conduct", the word "conduct" had a behaviourist connotation.

10. The CHAIRMAN pointed out that, from the outset, the present topic had raised numerous translation problems. In article 5 of the draft,[3] the French term *comportement* had been translated into English as "conduct". Again, for the term *fait de l'Etat*, the expression "act of the State" had been used in English although it had a special connotation.

11. Mr. FRANCIS said that the incisiveness of thought displayed by the Special Rapporteur in his excellent report would be of great benefit to the Commission and to the Drafting Committee. Article 20, which detailed the circumstances in which a breach of an international obligation existed, brought into sharp focus the basic principle of *pacta sunt servanda*. The fact that there had been omission was enough for the obligation to be

[2] See A/CN.4/302 and Add.1-3, para. 5.

[3] See 1454th meeting, foot-note 2.

regarded as having been breached. Mr. Tabibi had been right in affirming that the article was of great importance in regard to obligations of concern to the international community as a whole. While the same principle should of course be observed in good faith in bilateral relations, the damage was far too extensive to be taken lightly in the case of the breach of an international obligation towards the international community.

12. The essence of the rule set out in article 20 was to be found in the Special Rapporteur's comment that "The finding should not be influenced by whether or not the non-conformity of the conduct adopted with the conduct which should have been adopted had harmful consequences" (A/CN.4/302 and Add.1-3, para. 7). In other words, failure to perform an act prescribed, or performance of an act prohibited, by a treaty were in themselves enough to constitute a breach.

13. In his opinion, the rule set out in the article had a more direct impact in terms of the consequences of the breach. If a State was required to refrain from a particular act—for example, if it was required to prevent its police forces from entering the premises of a diplomatic mission—and failed to do so, it was clear that there were sufficient grounds for the breach to attract punitive consequences. Two situations were conceivable: one in which failure to perform an act might not have had any detrimental effect other than what might be termed the psychological effect of the failure to perform it, and one in which the performance of a prohibited act in itself resulted in damage. There would be punishment in both instances, but also two distinct areas of liability in the strictest sense.

14. He wondered whether, from the drafting standpoint, the wording of the article might not encompass both the positive and the negative elements of an obligation, that was to say, the requirement to perform a particular act and the requirement to refrain from performing a particular act. For the sake of precision, it might be possible to find a more suitable expression than "particular course of conduct". Another problem of language lay in the use of the word "exists", which implied a continuing situation. A breach might well have taken place and have been repaired, in which case the question of a continuing situation did not arise. The Drafting Committee could perhaps consider replacing the word "exists" by the word "occurs". Lastly, with reference to the comments by Mr. Reuter, he agreed that the word "behaviour" would not be appropriate in English.

15. Mr. ŠAHOVIĆ associated himself with the congratulations addressed to the Special Rapporteur, who had been right to propose an article on international obligations requiring the adoption of a particular course of conduct. After having doubted the need for such an article, because the notions of an internationally wrongful act and a breach of an international obligation had already been carefully defined, he had reached the conclusion that the article was justified in view of the purposes of the draft. Moreover, practice also told in favour of such a provision. The distinctions made by the Special Rapporteur were not new and deserved to be taken into consideration in the draft articles, in view of the need to strengthen international legality and to develop rules on responsibility.

16. He was not sure, however, what importance should be attached to the distinction between the result aimed at by an international obligation and the means used to achieve that result. Article 20 centred on specific means. However, from a general point of view, it should not be forgotten that it was the result which mattered. Admittedly, article 21 dealt expressly with obligations requiring the State to achieve a particular result *in concreto*, thus leaving the choice of means to the State, but it seemed that, even in article 20, the result should take precedence. It was true that the article was based on practice and that there were certain reasons which militated in favour of it. Furthermore, article 20 could play a not insignificant part in the development of the law relating to international obligations and State responsibility, and thus contribute to strengthening the rôle of international law in a world where the development of internal law and that of international law were interdependent.

17. With regard to the wording of article 20, like Mr. Reuter, he thought the Drafting Committee should give the fullest attention to the proposed text in order to make it express the Special Rapporteur's ideas more accurately. In particular, the expressions "specifically" and "particular course of conduct" might not be calculated to make the substance of the rule in article 20 clearly understandable.

18. Mr. SETTE CÂMARA congratulated the Special Rapporteur on his excellent introduction to article 20, which could be described, in words which the Special Rapporteur had rejected because of their overtones of internal law, as dealing with obligations of conduct as opposed to obligations of result. In the case of article 20, the State undertook to fulfil an obligation in a particular manner but, in the case of obligations of result, the State was free to choose the ways and means of fulfilling the obligation.

19. The type of obligation contemplated in article 20 might consist of an act or an omission and might relate to the conduct of the executive, legislative or judicial organs of the State. It should be remembered that there was a very delicate balance between those organs. The executive branch, which was normally competent to enter into treaty negotiations, should be very careful in assuming the type of obligation covered by article 20, for the future conduct of the legislative and judicial organs would be beyond its control. Of course, the responsibility of the State would none the less be engaged under the terms of articles 5 and 6 of the draft, but the executive branch should proceed carefully where obligations of conduct were concerned.

20. The Special Rapporteur had given many practical examples to illustrate the various possible situations and, from an investigation of abundant practice, he had come to the conclusion that, in the case of obligations of conduct, mere failure to adopt the prescribed and agreed conduct constituted a breach of an international obligation, regardless of the existence of any really delictual act. The Special Rapporteur had also preferred to use the phrases "internationally wrongful act of conduct" and "internationally wrongful act of result" (A/CN.4/302 and

Add.1-3, para. 12), rather than the distinction between obligations of conduct and obligations of result, which could be traced back to Roman law.

21. The text proposed for the article offered no difficulty, excepting the use of the word "different". A course of conduct might coincide with that prescribed by the obligation without being exactly the same. Measures adopted by the legislative or judicial authorities might slightly diverge from the requisite conduct, but nevertheless be fully satisfactory in regard to the result achieved. The best solution might be to use the words "not in conformity with", which the Special Rapporteur himself had used in his oral presentation. As Mr. Šahović had suggested, the Commission should consider the relationship between the ways and means of fulfilling an obligation and the actual result. For example, a State might be required under an international obligation to dismantle certain fortifications completely. If it used parts of those fortifications for the storage of grain and they could no longer be used for the military purposes, would the international obligation be regarded as having been breached? Such conduct might be different from that prescribed by the obligation but it would still bring about the desired result. He was sure, however, that the Special Rapporteur would clarify that question, and he agreed with previous speakers that the article could be referred to the Drafting Committee.

22. Mr. USHAKOV said that he endorsed the views expressed by the Special Rapporteur in his excellent commentary and brilliant introduction to article 20. Nevertheless, he had some doubts about the drafting of that provision. The article dealt with international obligations requiring a certain action or omission within the internal competence of States. As was clear from the commentary, either legislative measures or action by an executive or judicial organ might be required. But the Special Rapporteur went further, and even referred to the obligation which general international law placed on the police forces, and *a fortiori* on the armed forces of all countries, not to enter the territory of another country without its consent. Such an obligation no longer pertained to the internal sphere but to that of international relations. It was no doubt right and useful to draft a provision on the actions or omissions which an international obligation required of a State at the internal level, but it would be a very delicate matter to go any further.

23. With regard to drafting, he observed, first, that the expression "particular course of conduct" was not very satisfactory since any conduct required by an international obligation was a particular course of conduct, even if it was a general course of conduct such as refraining from the use of force. An international obligation which did not require a particular course of conduct of a State would no longer be an international obligation. Similarly, the word "specifically" was not essential since anything required by an international obligation was specifically required. In the expression "simply by virtue of", the word "simply" did not seem to be essential either.

24. With regard to the words "conduct different from", he asked what the notion of difference covered. In what way and to what extent must such conduct be different? The Commission had already laid down in article 16 that: "There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation". If the Special Rapporteur now intended to add a clarification of article 16 in regard to the acts or omissions which an international obligation required of a State within the sphere of its internal jurisdiction, that clarification should be expressed in terms similar to those of article 16. But the wording of article 20 was not as precise as that of article 16; it did not refer to an act which was "not in conformity" but to a different course of conduct.

25. In the commentary to article 16, the Commission had explained what was meant by an act not in conformity with what was required of a State by an obligation; it had pointed out that it could, for instance, be a complete or partial omission. In the case of article 20, it was conceivable that an international obligation might require a State to enact a law and that the law enacted by that State only partly fulfilled the obligation. In that case, the question arose to what extent the conduct of the State was "different from that specifically required". That was why he considered that the wording of article 20 should be as precise as that of article 16. It might also happen that an international obligation required a State to enact a law, but that, instead of doing so, it achieved the desired result by means of an order, an amendment to its constitution or an administrative act. Thus, it certainly seemed that it was the result which mattered but that result was determined by the internal organization of the State. Consequently, even the most precise international obligation could not prescribe entirely precise means.

26. The utmost caution should therefore be exercised in drafting a provision involving the domestic jurisdiction of States, in the sense given to that expression in Article 2, paragraph 7, of the United Nations Charter. It was obvious that the responsibility of a State was engaged if it did not respect its international obligations, but the question of the means of fulfilling those obligations was one which, in the last analysis, fell within its domestic jurisdiction. International obligations should never require of States any action or omission of a kind that would constitute an interference in their internal affairs.

27. In spite of the drafting difficulties he had pointed out, he had no doubt that a satisfactory text could be formulated, and he was therefore in favour of referring article 20 to the Drafting Committee.

28. Mr. AGO (Special Rapporteur) said he had used the word *comportement* in the French version of article 20 because it was a neutral word which denoted both an action and an omission or a set of actions or omissions. He was not sure whether the word *actes* suggested by Mr. Reuter covered both aspects, the active and the passive, of the course of conduct specifically required by the international obligations referred to in article 20. Instead of the single word *comportement*, it might be possible to use the words—*action ou omission*—as proposed by Mr. Francis, to distinguish between cases in which the international obligation required an action by the State and those in which it required an omission. Were there not, however, also some cases in which there was a set of actions or omissions?

29. The case covered by article 20 was more usual in some respects, particularly where the obligation had direct effects in the sphere of inter-State relations. In other cases, particularly where an obligation had effects in the internal domain of the State, the obligation generally only required the State to achieve a certain result without imposing on it a particular course of conduct. It was obviously easier to determine the existence of a breach of an obligation when the obligation was one of "conduct" or of "means" since, for a breach to exist, the State had only to adopt a course of conduct different from that specifically required.

30. The case dealt with in article 21, in which international law required the State to achieve a particular result but left it free to choose the means of doing so, was more complex from the point of view of establishing the existence of a breach, since the degree of freedom permitted for the fulfilment of the international obligation could differ widely.

31. It would be seen that, in some cases, the State was free at the outset to choose the means to achieve the required result. Once it had acted, however, it had no further choice of means; if it failed to achieve the result required by the means it had chosen, the breach was complete.

32. In other cases, however, the State had such freedom of choice of means, not only at the outset but also subsequently. If it did not achieve the required result by the means it had chosen at the start, it could subsequently achieve that same result by other means and, if it succeeded in doing so, there was no breach of the obligation.

33. In yet other cases, if the first action taken by the State did not achieve the required result and if that result had in fact become unattainable by reason of the conduct initially adopted, the State was still allowed to discharge its obligation by achieving an alternative result instead of that initially required—for example, a result that was the economic equivalent of the result initially required. In article 22, it would be seen that, if the beneficiaries of the international obligation were private individuals—natural or legal persons—their co-operation was, quite logically, required to ensure the fulfilment of the obligation. It was thus those individuals who must take the initiative to promote further action by the State to remedy the effects of its initial conduct, which had been incompatible with the internationally required result.

34. There was yet a fourth case mentioned by Mr. Reuter, involving the special category of obligations which required the State to take measures to protect foreign States or individuals from particular external events. In that case, did the breach occur before or at the time of the event which revealed the States negligence and acted as a catalyst for it? For example, if a State neglected for a long time to take the necessary steps to protect the embassies in its territory and one of those embassies was broken into owing to inadequate security services, was it at the time of the actual invasion of the embassy that the breach of the obligation could be said to have occurred or did the breach already exist before the event which had revealed the State's negligence? That question would be answered later in article 23.

35. It was evident, as Mr. Šahović had pointed out, that each obligation had a specific object but approached it in a different way. In some cases, as had been seen, the obligation specified the means to be used by the State; in other cases, it left the choice of means to the State and merely indicated the result to be achieved.

36. He had not sought to make a distinction according to whether the obligation had effects in the sphere of the internal legal order or in that of inter-State relations; he had only tried to distinguish what was important for assessing the manner in which the breach occurred.

37. With regard to the relationship between article 20 and article 16, to which Mr. Ushakov had referred, he pointed out that article 16 laid down a general principle whereas article 20 dealt with a special case. It was not therefore by chance that article 16 referred to an "act of the State" since that was a very broad expression, which included the fact of not having achieved a certain result. Article 20, on the other hand, referred to a very precise and concrete action or omission.

38. Mr. VEROSTA asked what was the exact position of articles 20 and 21 in the draft as a whole. Should they be regarded as an application of the general principle stated in article 16, even though they were separated from that article by three other articles? Should articles 16 to 19 be regarded as a group of general provisions, which would be followed by more specific rules deriving from article 16?

39. Mr. AGO (Special Rapporteur) said that article 16 provided a basic criterion by defining in general terms the notion of a breach of an international obligation, whereas the subsequent articles answered a certain number of specific questions.

40. Article 17 replied in the negative to the question whether the origin of the international obligation had any effect on the determination of a breach.

41. In article 18, the Commission had replied in the affirmative to the question whether, for an act of the State to constitute a breach of an international obligation, it was necessary for the act to have taken place at a time when the obligation was in force for the State. It had, however, considered the particular aspects of the case in which the act, which had been wrongful when it had taken place, had subsequently become mandatory by virtue of a peremptory norm of international law. The Commission had mainly considered how the principle stated in paragraph 1 applied in the specific cases of continuing, composite or complex acts.

42. After considering whether the content of the obligation was of any significance in the determination of a breach and also whether the breach of one and the same obligation could differ in gravity, the Commission had distinguished in article 19 between two categories of breach according to the subject-matter of the obligation breached and the gravity of the breach itself. It had thus distinguished between international crimes and international delicts.

43. On the basis not of the subject-matter of the international obligation but of the form it took, he now proposed to distinguish between the breach of obligations which required a particular course of conduct by the State

(article 20) and the breach of obligations which required the achievement of a particular result by the State (article 21).

44. Mr. DADZIE congratulated the Special Rapporteur on his sixth report and the very instructive introduction to article 20 he had given at the previous meeting. As Mr. Verosta had said, the new members of the Commission were at a disadvantage in discussing a topic with which the Commission had been dealing for some time, but the Special Rapporteur's introductory remarks had removed their difficulties.

45. While he agreed with the minor drafting changes to article 20 suggested by other members of the Commission, he saw no substantive improvements that could be made to that article, which related to the breach of an international obligation requiring a State to adopt a particular course of conduct. He therefore shared the view that article 20 could be referred to the Drafting Committee.

46. He was also grateful for the Special Rapporteur's reply to Mr. Verosta's question. The explanations the Special Rapporteur had given concerning the relationship between article 16 and article 20 had clearly demonstrated the importance of the subject of State responsibility as a whole.

47. Mr. CALLE Y CALLE associated himself with the expressions of appreciation concerning the clarity and accuracy of the Special Rapporteur's analysis of the rule relating to the breach of an international obligation requiring a State to adopt a particular course of conduct. He noted that that rule, which was stated in article 20, formed part of chapter III of the Commission's draft, articles 16 to 19 of which had been discussed at great length by the United Nations General Assembly at its thirty-first session. During that discussion, it had been generally agreed that those articles, and in particular article 19, marked an important turning point in, and made a valuable contribution to, the development of international law and its future application.

48. At the Commission's previous meeting, the Special Rapporteur had described the historical background to the question of the breach of an international obligation and, at the present meeting, he had given an extremely helpful account of the over-all structure of the draft articles relating to that question. Article 16 provided an introduction to chapter III and laid down a general rule, namely, that "There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation", whereas article 20 provided that an international obligation could entail more than an action or an omission, by requiring a State to adopt a particular course of conduct, which could extend over a period of time. Thus, in article 20, the purpose of the international obligation was to specify the means or, in other words, the course of conduct, by which a State could achieve a certain result. If, however, the State adopted a course of conduct different from that specifically required, it could be said to have breached the international obligation in question.

49. As stated in paragraph 8 of his report, the Special Rapporteur had drawn a distinction, in articles 20 and 21, between the nature of the international obligation which required of the State a specific activity and the nature of the obligation which required only that the State should achieve a certain result, leaving it to choose the means of doing so. Those two articles thus expanded on the very succinct rule embodied in article 16.

50. The wording of article 20, which did not require many changes, should not present any difficulties for the Drafting Committee. In his opinion, the expressions "a particular course of conduct" and "a course of conduct different from that specifically required" could not be clearer or more precise. He therefore supported the suggestion that article 20 should be referred to the Drafting Committee.

The meeting rose at 1 p.m.

1456th MEETING

Friday, 8 July 1977, at 10.10 a.m.

Chairman: Sir Francis VALLAT

Members present: Mr. Ago, Mr. Calle y Calle, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Quentin-Baxter, Mr. Reuter, Mr. Šahović, Mr. Schwebel, Mr. Sette Câmara, Mr. Sucharitkul, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta.

State responsibility (*continued*) (A/CN.4/302 and Add.1-3)

[Item 2 of the agenda]

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

ARTICLE 20 (Breach of an international obligation calling for the State to adopt a specific course of conduct [1] (*concluded*)

1. Mr. QUENTIN-BAXTER said that, like his earlier reports, the Special Rapporteur's sixth report on State responsibility had given him food for thought and illuminated some of the dark areas in his knowledge of the law. It had also caused him some surprise, for he had been under the impression that article 19 [2] was the last in the set of draft articles relating to the breach of an international obligation.

2. As the Special Rapporteur had pointed out, one of the main difficulties of the subject-matter was that, by its very nature, it called for careful study of the most basic situations. Thus, even a rule such as the one embodied in article 20, which might appear to state an

[1] For text, see 1454th meeting, para. 11.

[2] See 1454th meeting, foot-note 2.