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Summary record of the 1600th meeting

Topic:
State responsibility

Extract from the Yearbook of the International Law Commission:-
1980, vol. I

confusion, since the notion usually carried with it the idea of compulsion, as well as an element of punishment. To his mind, and no doubt to many lawyers who derived their thinking from the English legal system, the main objective, in the event of the breach of an obligation, was not to punish the wrongdoer but to repair the damage done; traditionally, the aim in international law had been to secure reparation rather than to inflict punishment.

33. The Special Rapporteur was to be congratulated on the thoroughness with which he had tilled the ground of international responsibility, for he had ploughed deep and exposed much of the subsoil. The ideas he had sown should now be reflected in a specific plan of action for the future, and it was to be hoped that the Commission would concentrate its thinking along those lines so that, in his next report, the Special Rapporteur would be in a position to provide an outline of the way in which he proposed to proceed. The task would be not an easy one, but it had none the less proved possible, even for so abstruse a subject as the origins of international responsibility, to develop a plan and to work systematically. He had every confidence that the Special Rapporteur would respond to what was a very real need.

34. A question that had to be considered, and one that caused him great difficulty, concerned the primary rules of international law which determined the obligations of States. He had long been faced with criticism from lawyers in the United Kingdom about the abstract nature of the Commission's work in that area. For example, he was asked whether the Commission, having spent approximately a decade on the draft articles in part 1, was going to spend another decade on an equally abstruse set of draft articles in part 2, and why the Commission was doing that kind of work when a start had yet to be made on codifying the rules governing one of the most basic aspects of international law, namely, the treatment of aliens on the territory of another State. It was very difficult to find a convincing answer to queries of that kind.

35. The Commission, too, was faced with a dilemma, since it would be extremely difficult in the present state of world affairs to make progress on the substantive rules. There had been a natural tendency to set aside the codification of the more substantive, and hence more complex, aspects of international law and to concentrate on areas which, without the content of the basic obligations, were rather in the nature of unconnected material. Having followed such a course for years, with the approval and indeed under the pressure of the General Assembly, the Commission would find it difficult to do an about-turn on the ground that it had been wasting its time. He was uncertain of the answer to that critical problem. However, in the world of politics, the Commission might well have no choice but to proceed in the same way, although his misgivings were, if anything, heightened by the statement in the Special Rapporteur's report to the effect that the content of responsibility must, to some degree, reflect the content of the primary obligations. If that was so—and he thought it must be—part 2 of the draft articles would have to take account of those obligations. He was not against the idea of categories mentioned by Mr. Ushakov. However, another possible approach might be to consider specific obligations as examples with a view to determining in each case how a breach of the obligation should be reflected in the definition of the relevant content or degree of responsibility. In a sense, the Commission was seeking to order the furniture for a house without knowing the size and shape of that house. In his view, some thought should be given to the ultimate size of the house.

36. Mr. RIPHAGEN said he wished to point out that, as indicated in paragraph 11 of his report, the term "guilty State" had been used before. He did not like the term, but had adopted it as a convenient shorthand way of referring to the State which committed the wrongful act. The term "transgressor State", however, would be quite acceptable.

The meeting rose at 1.05 p.m.

1600th MEETING

Friday, 30 May 1980, at 10.10 a.m.

Chairman: Mr. C. W. PINTO

Members present: Mr. Barboza, Mr. Calle y Calle, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Verosta.

State responsibility (*continued*) (A/CN.4/330)

[Item 2 of the agenda]

PRELIMINARY REPORT ON THE CONTENT, FORMS AND DEGREES OF INTERNATIONAL RESPONSIBILITY (PART 2 OF THE DRAFT ARTICLES) (*continued*)

1. Mr. THIAM said that the Special Rapporteur, in his excellent preliminary report (A/CN.4/330), had sought to encompass the subject-matter by considering in turn its scope, its substance and the method to be followed in dealing with it.

2. With regard to scope, the Special Rapporteur had asked whether there was not an overlap with the topics entrusted to two other Special Rapporteurs, Mr. Ago and Mr. Quentin-Baxter. The title of the topic being considered by Mr. Riphagen in his capacity as Special Rapporteur, namely "The content, forms and degrees

of State responsibility", might well suggest some overlap with the topic dealt with by Mr. Ago, for he had not found it possible to study the question of the origins of responsibility and to define the concept of the internationally wrongful act without reference to the content of responsibility. Mr. Ago had also had to take up the question of forms of responsibility in distinguishing between the conventional and delictual nature of responsibility, and he had been unable, particularly in proposing the text which became draft article 19, concerning international crimes and delicts, to avoid introducing elements relating to the degree of responsibility.[1] However, the impression that the topics overlapped vanished when the objectives pursued by the two Special Rapporteurs were borne in mind. While Mr. Ago had had to determine the origins of responsibility, Mr. Riphagen had to establish the consequences; seen in that light, the topics were in fact complementary.

3. The topic under discussion could be differentiated just as clearly from Mr. Quentin-Baxter's topic. Mr. Quentin-Baxter had been asked to study the injurious consequences of acts not prohibited by international law, whereas Mr. Riphagen had to consider the consequences of internationally wrongful acts, even if certain circumstances, such as consent, *force majeure* and fortuitous event, subsequently effaced the wrongfulness of the act. What counted was the fact that there had been wrongfulness in the first place.

4. The Special Rapporteur had also asked whether, to some extent, his topic did not concern international organizations. There was no problem in that regard, since the Commission was engaged in a study of State responsibility, regardless of whether the internationally wrongful act injured another State, an international organization or the international community.

5. With regard to substance, the main task consisted in identifying the consequences of internationally wrongful acts and determining the measures to be taken to deal with those consequences. The method to be followed would vary from case to case. Basically, the measures to be taken to deal with those consequences fell within the domain of reparation and sanction. An internationally wrongful act could call for both reparation and sanction, but the aims of the two responses were quite different. Reparation was designed to restore a temporarily disturbed equilibrium between two parties, whereas a sanction was punitive in character. If the parties could not agree upon reparation that would restore the equilibrium, they could turn to an external body, which would pronounce itself through an arbitral or judicial decision. A countermeasure, on the other hand, was decided upon and applied by the party which considered itself injured. Moreover, a countermeasure involved a punitive aspect that was purely subjective. How could the extent of a countermeasure taken in response to an act causing mainly moral injury be evaluated in material terms?

6. The Special Rapporteur suggested certain guidelines for resolving that delicate question, recommending that the countermeasure should be proportional to the seriousness of the consequences of the wrongful act, and making use of the concept of normality for that purpose. Proportionality and normality, taken together, would provide a criterion for deciding in each case whether a particular countermeasure was appropriate. The solution was an interesting one but very broad. Again, the Special Rapporteur proposed drawing up a list of values that were regarded as essential and indicating an appropriate countermeasure in each instance.

7. Personally, he considered that the task of assessing those values would compel the Commission to take a position on the importance of primary and other obligations. As in the case of internal law, where it was difficult to draw up an exhaustive list of a citizen's duties, it would be an arduous task to list the duties of States. All that could be said was that States had duties and that they committed a breach of an obligation whenever their conduct was not in conformity with one of those duties. Moreover, values changed. For example, in the past, a number of writers had defended the right to colonize, but under the terms of article 19[2] the maintenance of colonial domination by force was deemed an international crime. Given the changes in the conscience of mankind, the list advocated by the Special Rapporteur would simply be declarative. In his view, a solution to the problem of countermeasures should be found in State practice, despite the fact that such practice did not offer many examples.

8. Mr. FRANCIS said that the Special Rapporteur could perhaps be likened to a pilot who was steering his course not with the aid of any mechanical device but solely by relying on his intellectual faculties and inner convictions. The report was wide-ranging in content, and understandably somewhat difficult to come to grips with, because the Special Rapporteur had sought, at the outset, to lay bare his basic philosophy. The final product, however, would be the outcome of a blending of the views of the Special Rapporteur and those of the Commission as a whole. Moreover, in any new undertaking, there was always an initial preoccupation as to how to proceed and, as several members had already observed, the strength of the final superstructure would, of course, depend on the basic plan.

9. The reference, in paragraph 11 of the report, to the need to define the meaning of "international responsibility" was entirely in keeping with the conclusion

[1] See *Yearbook ... 1976*, vol. II (Part One), p. 31, document A/CN.4/291 and Add. 1 and 2, para. 97.

[2] See 1597th meeting, foot-note 1.

reached by the Commission in its report to the General Assembly in 1975, which stated that the aim of part 2 of the draft should be

> to determine what consequences an internationally wrongful act of a State may have under international law in different hypothetical cases, in order to arrive at a definition of the content, forms and degrees of international responsibility.[3]

Moreover, a nexus had already been established between parts 1 and 2, as was clear from the statement in the same Commission report that:

> It will first be necessary to establish in what cases a State which has committed an internationally wrongful act may be held to have incurred an obligation to make reparation, and in what cases such a State should be considered as becoming liable to a penalty.[4]

10. In paragraph 28 of his report, the Special Rapporteur had pinpointed the content of international responsibility by listing three parameters, but had gone on to affirm, in paragraph 62, that there were three exceptions to the third parameter, which concerned the position of third States in respect of the situation created by the wrongful act. As Mr. Ushakov had rightly pointed out (1599th meeting), the Commission should have a very clear idea as to what the term "third State" covered, and he therefore wondered, for his own part, whether the three exceptions in question were valid.

11. Lastly, he entirely agreed that, in view of its importance and relevance, the principle of proportionality should be reflected in part 2 of the draft and that, as recommended in paragraph 78 of the report, the specific case of a breach of an obligation by a member State of an international organization could more appropriately be dealt with in the context of part 3.

12. Mr. CALLE Y CALLE said that consistency between parts 1 and 2 of the draft was essential. Accordingly, in defining the content, forms and degrees of State responsibility, the Commission should bear in mind that a number of questions left open in part 1, and referred to in paragraphs 14 to 17 of the Special Rapporteur's report, would have to be dealt with in part 2. Moreover, the Commission had given an undertaking, in its 1975 report to the General Assembly,[5] to determine what consequences an internationally wrongful act of a State might have under international law in different instances.

13. He understood the expression "content of responsibility" to refer to the obligation to make reparation, and not to the primary obligation breached by the wrongful act. Responsibility, in its wider sense, meant a general duty or obligation; in its restricted sense, it meant an obligation which arose for a given subject of law as a consequence of its wrongful act. Once a wrongful act, as defined in part 1 of the draft, had been committed, responsibility was automatically incurred, thereby giving rise to certain legal circumstances.

14. Mr. Ago's concept of those circumstances was comprehensive, for it covered all forms of new international relations, ranging from those involving the directly injured State and other third, or indirectly affected, States, to the international community as a whole. Under article 19 of the draft, for instance, an international crime would involve the breach of an obligation towards the international community as represented by the United Nations. Professor G. Tunkin had affirmed that the maintenance of international peace was the primary concern of all States and that, consequently, States had a right to take certain measures even if they were not directly injured by a breach of international law. That notion, however, was somewhat different from the notion of the infringement of an interest of a State as a result of the breach of a peremptory norm of international law. As indicated in paragraph 41 of the report, the International Court of Justice had decided not to recognize Ethiopia's interest in the case of *Ethiopia* v. *South Africa*.[6] Thus, so far as relations between States were concerned, a State could not assert a claim unless it had been directly affected by the breach of an obligation or one of its citizens had suffered prejudice of a kind that constituted a breach of an obligation between States.

15. A point which had not received sufficient attention was that of damage as a constituent element of the internationally wrongful act. It had, of course, been maintained that a State was not held responsible unless its wrongful act caused damage and that where there was no damage there could be no redress. His own view, however, was that damage meant not only material prejudice, assessable in pecuniary terms, but the mere disturbance of a certain legal equilibrium. It was important to take account of that element in part 2 of the draft because, in their international relations, States had a very practical interest in securing compensation for damage suffered as a consequence of the wrongful act of another State.

16. Another matter that called for consideration was payment of compensation in cases where *restitutio in integrum* was not possible. Such compensation was payable either to a foreign private individual in compensation for property that had been nationalized or expropriated or to a State in cases where an act of nationalization resulting in damage to a citizen of that State also constituted a breach of international law. In some instances, the sums paid out to a State were far smaller than those paid out to a private individual. In that connexion, the Commission would doubtless recall

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

[4] *Ibid.*

[5] See foot-note 3 above.

[6] *South West Africa, Preliminary Objections, Judgment, I.C.J. Reports 1962*, p. 319.

that Mr. Bedjaoui had already had occasion to refer to a possible conflict of interests and to stress the need to protect the interests of the State.

17. Compensation, like reparation and sanctions, called into play the fundamental principle of proportionality. A very clear idea of what the principle entailed was reflected in an article of a draft treaty prepared in 1927 by Professor Strupp, to the effect that an injured State was not unlimited in its election of remedies; such remedies should not be incommensurate in severity with the original injury, nor by their nature should they be humiliating.[7] The reference to the idea of humiliation was particularly important and, in the case of private individuals who had suffered damage as a result of nationalization, it was essential to consider not only the position of the injured State but also the reasons that had caused the other State to act as it had.

18. Lastly, he had been particularly interested in the report's discussion of a possible non-neutral position on the part of third States. Should such States be regarded as having an interest which entitled them to take certain measures? He wondered, in particular, whether the measures adopted by certain States in the light of the current situation regarding the hostages in Iran should be viewed as a political response, or whether those measures had a legal basis inasmuch as they were a response to a breach of an obligation that indirectly affected the States in question.

19. Mr. TABIBI said that State responsibility was a very complex topic and, notwithstanding the keen interest it aroused among international lawyers, it had always been approached with caution. It was not until 1963 that the Commission had approved an outline of the topic and appointed a Special Rapporteur, Mr. Ago,[8] who had adopted the same cautious approach. Hence, despite the insistence of the General Assembly, only a few draft articles had been adopted each year. Fortunately, the Commission had been able to entrust part 2 of the draft to another eminent jurist who, like Mr. Ago, had wide practical legal experience in the field of State responsibility.

20. His own inclination would be to omit from the Commission's records any reference to the abstract nature of the topic or to the need for part 2 of the draft. Successive chairmen of the Commission had assured the General Assembly that consideration of part 1 of the draft would soon be completed and that a start would be made on part 2. When he had presented the Commission's report to the General Assembly in 1975, he had seen for himself the satisfaction felt by young jurists from the third world in regard to article 19, which reflected the very essence of the Charter of the United Nations and of many conventions. What would become of that work if the Commission were to go back on its undertaking?

21. As to the report itself, he entirely agreed with the statement in paragraph 27 that the primary object and purpose of part 2 of the draft articles on State responsibility was to determine the legal consequences of the breach of an international obligation entailing the responsibility of a State. The essence of the report lay in the three parameters indicated by the Special Rapporteur (para. 28) for the new legal relationships that would arise as a consequence of a State's wrongful act. In that connexion, he noted, in particular, the right of the injured State not to recognize a situation created by another State as legal if the situation was the consequence of a wrongful act by the other State. In his opinion, the question of measures taken within the framework of an international organization in respect of the rights of a member State under the rules of the organization in consequence of an internationally wrongful act of that member State, as mentioned in paragraph 77 of the report, was one that would have to be dealt with in part 2 of the draft. Among the other important matters discussed were the principle of proportionality between the wrongful act and the response thereto, a possible catalogue of new legal relations, and the methodology, for which the Special Rapporteur wisely advocated a policy of flexibility.

22. However, the report did not cite the teachings of publicists. In his view, future reports should include appropriate references, since Article 38, paragraph 1 (*d*), of the Statute of the International Court of Justice recognized the importance of those teachings, as did the General Assembly.

23. Lastly, on the matter of presentation, it should be remembered that each Special Rapporteur had his own approach. It was gratifying that the Special Rapporteur on the present topic preferred to proceed by way of an exchange of views and was seeking the guidance of Commission members. The last part of the report contained some valuable suggestions, which should help the Commission to provide the Special Rapporteur with the guidelines that would enable him to proceed with his work.

24. Sir Francis VALLAT, referring to the relationship between parts 1 and 2 of the draft articles, said that the Commission would experience few difficulties with part 2 if it refrained from considering the questions which had been left open in part 1 to be dealt with on second reading and if it also bore in mind the fact that part 2 should be a continuation of part 1 or, in other words, be built on the basis provided by part 1.

25. He was convinced that the key to success in part 2 lay in the right choice and use of terms. The Commission should be careful not to use any terms which had connotations of praise or blame. Terms attaching blame were of course permissible when a

[7] See *Yearbook ... 1969*, vol. II, p. 151, document A/CN.4/217 and Add.1, annex IX, art. 7.

[8] See *Yearbook ... 1963*, vol. II, pp. 223–224, document A/5509, paras. 51–55.

State's conduct could be labelled as an international crime, but it would not be wise to use such terms in referring to international relations in the traditional sense. International law was based not so much on the concept of sanction and punishment as on the concept of remedying wrongs that had been committed, more often than not in such a way that the State which paid compensation did so without necessarily having to admit that it had done wrong or was to blame.

26. It would also be advisable for the Commission to avoid terms which had specific technical meanings in particular legal systems. It could therefore follow the example set in part 1, which had been drafted in a neutral form of language and could be applied and interpreted in terms of international law rather than any particular system of internal law.

27. In that connexion, a distinction had to be made between the terms "responsibility" and "liability", which were closely related in the English legal system. "Responsibility", however, was used in a much wider and looser sense than "liability", a term which was normally found in phrases such as "liability to pay damages" or "liability to make good". "Responsibility", on the other hand, suggested the idea of being legally responsible for doing something or for something that had been done. It was also an ambiguous term in law because it could denote both the general idea of the responsibility of a parent for a child and the more specific idea of responsibility for the legal consequences of a certain act.

28. For the purposes of part 2, "liability" was much less acceptable than the broader term "responsibility", which could imply that the legal consequences of a wrongful act were to be seen both from the standpoint of the State which committed such an act and from that of the State affected by the consequent breach of a legal obligation. Although he agreed that international law must bear those two standpoints in mind, he did not share the Special Rapporteur's view that, in matters relating to responsibility for the legal consequences of an illegal act, account should be taken mainly of the possible responses on the part of the injured State. Rather, the first aspect to be examined was the responsibility that fell on the State which breached an international obligation.

29. Again, too much emphasis on countermeasures should be avoided. Ten or fifteen years previously, he would have said that international law tended to be opposed to the concepts of self-help and countermeasures and to favour requiring a State which breached an international obligation to make good the consequences of that breach. He still thought that, in the interests of international peace and security, that was a sound approach, other than in cases of aggression.

30. It was also questionable whether a breach of an international obligation should be viewed from the angle of the new legal relationship created. Admittedly, a new legal relationship did emerge as a result of the breach of an international obligation, but the essence of the matter was that the breach gave rise to new international obligations. The crucial point was not so much the emergence of a new legal relationship as the continued existence of the original legal relationship. The State which committed the breach of the obligation then had additional duties and the injured State had additional rights resulting from that breach.

31. It could well be said that the concept of proportionality was relevant in the content of part 2, but he very much doubted whether it should be stated in the form of a rule. The concept was indeed germane to questions of reparation and compensation, which involved the determination of what was required in order to rectify or put right—so far as was possible by way of compensation—the injury resulting from the breach of an obligation. However, the concept largely came into play in connexion with what he had previously referred to as self-help or countermeasures, which, as he had indicated, did not form the core of the topic under consideration.

32. He hoped it was clear from his comments that he had definite doubts about the approach to the topic suggested in paragraphs 99 and 100 of the report. In his opinion, it should be given further thought in the light of the views expressed by the members of the Commission.

33. Lastly, although he agreed with the Special Rapporteur that the question of loss of the right to invoke the new legal relationship established by the rules of international law as a consequence of a wrongful act might be dealt with in part 3, there were grounds for the view that it could also be covered in part 2, since the content of responsibility was very closely bound up with that right.

34. Mr. DÍAZ GONZÁLEZ said that, in complying with the Special Rapporteur's request for guidance on the approach to be adopted in dealing with part 2 of the draft, the Commission should bear in mind that it had decided to divide the topic of State responsibility into three parts. If it wished to maintain the unity of the draft, it should base its consideration of part 2 on the draft articles of part 1 already adopted in first reading. There were, of course, a number of gaps in part 1 that would have to be filled—for example, by including an article on the use of terms—but the wording of such an article would depend on the content of part 2.

35. Once parts 1 and 2 of the draft articles had been completed, the Commission would probably conclude that the entire text had to be refashioned. The draft would also have to be submitted to States and to the General Assembly for their comments and observations and further changes would then undoubtedly have to be made. For example, it would have to be decided whether the nature of State responsibility depended on objective criteria or, as many publicists maintained, on the idea of fault. A State could not be

criticized on moral grounds for a failure to act, where an individual could, and the agents, officials or organs of the State which might commit an internationally wrongful act would therefore have to be identified, and the question of the territoriality of acts committed by individuals would call for further examination.

36. In that connexion, the Special Rapporteur had drawn attention in paragraph 24 of the report to the inadvisability of formulating strict rules that would lead to extraterritorial legislation and/or control by the State over what happened within its territory, something which would be contrary to its obligation to respect human rights and fundamental freedoms. He agreed with the Special Rapporteur that that question should be left aside, particularly since it had already been dealt with in draft articles 11, 12 and 14.[9]

37. Lastly, he could but agree with other members of the Commission that use of the term "guilty State" should be avoided.

The meeting rose at 1 p.m.

[9] See 1597th meeting, foot-note 1.

1601st MEETING

Monday, 2 June 1980, at 3.10 p.m.

Chairman: Mr. C. W. PINTO

Members present: Mr. Barboza, Mr. Bedjaoui, Mr. Boutros Ghali, Mr. Calle y Calle, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Quentin-Baxter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Sir Francis Vallat.

State responsibility (*continued*) (A/CN.4/330)

[Item 2 of the agenda]

PRELIMINARY REPORT ON THE CONTENT, FORMS AND DEGREES OF INTERNATIONAL RESPONSIBILITY (PART 2 OF THE DRAFT ARTICLES) (*concluded*)

1. Mr. JAGOTA noted that the Special Rapporteur had defined his role as one of building a framework for the new legal relationships established by the breach of an international obligation and had indicated in paragraph 99 of his report how those relationships could be explained in terms of proportionality and of limitations on possible responses to a wrongful act. The report in fact focused on what were described as the three parameters of the new legal relationships (A/CN.4/330, para. 28). In his opinion; the second parameter was the heart of the matter to be dealt with in part 2, since the first parameter had been broadly covered in part 1 of the draft articles and, as the Special Rapporteur had indicated, the third parameter did not come within the scope of part 2.

2. The second parameter, namely, the injured State's rights, could be viewed in terms not only of its rights under a treaty specifying the effect of a breach of an obligation created in the treaty but also of its rights under general international law and its rights with regard to possible responses, which might be called countermeasures, reactive measures, measures of self-protection or sanctions. The concept of proportionality was relevant only in the context of that second parameter and was not germane to the rights and obligations of the guilty State, as dealt with in part 1, because the nature of a wrongful act could be described only in terms of its seriousness.

3. Consequently, part 2 of the draft should be confined to matters on which agreement had been reached in part 1, bearing in mind that the latter related solely to responsibility arising from internationally wrongful acts committed by States and not from internationally wrongful acts committed by international organizations, as was pointed out in foot-note 600 of the Commission's report on its thirty-first session.[1] The Commission should be careful not to go too far in its consideration of wrongful acts of international organizations, except in cases where such acts might help to establish State responsibility. Again, it should be remembered that part 1 dealt essentially with what article 1[2] termed "the internationally wrongful act of the State", while part 2 should deal with what the second part of article 1 termed "the international responsibility of that State". The function of part 2 of the draft would thus be to define such responsibility by spelling out its content, forms and degrees and, in particular, by identifying the new legal relationships arising out of a breach of an international obligation.

4. Such legal relationships would depend on the source of the international obligation breached, which could be a bilateral or multilateral agreement, a special multilateral agreement establishing an international régime, a rule of *jus cogens* or a rule of customary international law. Account would then have to be taken of whether, for example, the agreement stated how the new legal relationships were to be regulated. It might also be relevant to consider the question of countermeasures in discussing the regulation of the new legal relationships. A treaty might well allow certain responses or reactions, such as the withdrawal of privileges, the declaration of a person as a *persona non grata*, the severance of diplomatic relations, the withdrawal of State immunity or the imposition of a countervailing duty by an injured State when export

[1] See *Yearbook ... 1979*, vol. II (Part Two), p. 119, document A/34/10.

[2] See 1597th meeting, foot-note 1.