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Summary record of the 1629th meeting

Topic:
<multiple topics>

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

regional groups such as the European Community on Legal Co-operation.

55. The CHAIRMAN thanked the Observer for the European Committee on Legal Co-operation, on behalf of the Commission, for his interesting account of the Committee's work. Europe occupied a very special place so far as all forms of law and social organization were concerned, since much of the world lived by the social precepts that had been systematized and propagated by European countries. Possibly Europe's greatest gift to the world was that of a system, whether economic, legal or political, which helped to give life a minimum degree of predictability and hence increased the likelihood of survival.

56. The European Committee on Legal Co-operation was to be congratulated on its many achievements. It was in the vanguard of the move to develop systems to promote social progress, for it was concerned not only with environmental protection and family law but also—possibly most important of all—with protection of the individual against encroachment by the apparatus of the State and other concentrations of power, such as the transnational corporations, on life, liberty and privacy.

57. The Commission, which greatly valued its links with the Committee, would make every effort to send an observer to the Committee's session in November 1980.

58. He requested Mr. Harremoes to convey to the Secretary-General of the Council of Europe the Commission's highest esteem and the hope that the links between the two bodies would be strengthened in the future.

59. Mr. HARREMOES (Observer for the European Committee on Legal Co-operation) thanked the Chairman and members of the Commission for their kind and encouraging words.

The meeting rose at 12.40 p.m.

1629th MEETING

Wednesday, 9 July 1980, at 10.10 a.m.

Chairman: Mr. C. W. PINTO

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

Also present: Mr. Ago

Visit of a member of the International Court of Justice

1. The CHAIRMAN welcomed Mr. Sette Câmara, Judge at the International Court of Justice and former member of the Commission.

State responsibility (*continued*) (A/CN.4/318/Add.5–7, A/CN.4/328 and Add.1–4)

[Item 2 of the agenda]

DRAFT ARTICLES SUBMITTED BY MR. AGO (*concluded*)

ARTICLE 34 (Self-defence)[1] (*concluded*)

2. The CHAIRMAN invited Mr. Ago to reply to the questions raised in the course of the discussion of draft article 34.

3. Mr. AGO said that he wished first of all to remind the Commission of a number of considerations to which they had subscribed on more than one occasion, and particularly those that appeared in the report of the Commission on the work of its thirty-first session.

4. With regard to Chapter V (Circumstances precluding wrongfulness), the Commission had stated that the chapter was

> intended to define those cases in which, despite the apparent fulfilment of the two conditions for the existence of an internationally wrongful act, its existence cannot be inferred owing to the presence of a circumstance which stands in the way of such an inference. The circumstances usually considered to have this effect are consent, countermeasures in respect of an internationally wrongful act, *force majeure* and fortuitous event, distress, state of emergency [necessity] and self-defence. It is with each of these separate circumstances precluding wrongfulness that chapter V is concerned.[2]

The Commission had then stated that, in its commentary to draft article 2 (Possibility that every State may be held to have committed an internationally wrongful act), it had said that:

> the existence of circumstances which might exclude wrongfulness . . . did not affect the principle stated in article 2 and could not be deemed to constitute an exception to that principle. When a State engages in certain conduct in circumstances such as self-defence, *force majeure*, or the legitimate application of a sanction, its conduct does not constitute an internationally wrongful act because, in those circumstances, the State is not required to comply with the international obligation which it would normally have to respect, so that there cannot be a breach of that obligation.[3]

The Commission had thus shown that the existence of one of the circumstances contemplated in chapter V had the effect of suspending or doing away altogether with the duty of complying with an international obligation.

5. In the same passage in its report, the Commission had also referred to the replies given by certain Governments to the Preparatory Committee for the

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[1] For text, see 1619th meeting, para. 1.

[2] *Yearbook ... 1979*, vol. II (Part Two), p. 106, document A/34/10, chap. III, sect. B.2, para. (1) of the commentary to chapter V.

[3] *Ibid.*, pp. 106–107, para. (2) of the commentary.

Conference for the Codification of International Law (The Hague, 1930), concerning "circumstances in which a State is entitled to disclaim international responsibility". Among the States that had spoken of self-defence, mention should be made of the United Kingdom Government, which had stated that: "... self-defence may justify action on the part of a State which would otherwise have been improper."[4] On a more general level, the Commission had further stated the following:

> The act of the State in question cannot be characterized as wrongful for the good reason that, because of the presence of a certain circumstance, the State committing the act was not under an international obligation, *in that case*, to act otherwise. In other words, there is no wrongfulness when one of the circumstances referred to is present, because by reason of its presence the objective element of the internationally wrongful act, namely, the breach of an international obligation, is lacking. For instance, in the case of the circumstance known as "consent", the reason why the State incurs no responsibility even though it has engaged in conduct not in conformity with what is normally required by an international obligation binding it to another State is that, in that particular instance, the obligation in question is rendered inoperative by mutual consent. There can have been no breach of that obligation, no wrongful act can have occurred, and hence there can be no question of international responsibility. The same applies to "countermeasures in respect of an internationally wrongful act"; the reason why there is no responsibility is that the international obligation to refrain from certain conduct towards another State does not apply when that conduct is a legitimate reaction to an internationally wrongful act committed by the State against which the conduct is adopted. Here again, the conduct does not violate any international obligation incumbent on the State in that case and hence does not constitute, from the objective standpoint, an internationally wrongful act. Similar arguments apply to the other circumstances discussed in this chapter.[5]

6. It was of the utmost importance to bear all those considerations in mind when embarking on the examination of the various circumstances precluding wrongfulness which the Commission promised the General Assembly it would deal with in chapter V.

7. In the course of the discussion of draft article 34, Mr. Riphagen (1620th meeting) had first reviewed, but with the clear intention of excluding them, a certain number of circumstances which might theoretically have been studied in chapter V. What Mr. Riphagen had particularly stressed was the need not to leave any gaps in the draft. He had wondered if it was necessary to specify that the circumstances enumerated in chapter V were the only ones recognized by the Commission as precluding wrongfulness, and he had alerted the Commission to the risk of making an assertion of that kind in a draft article. In that connexion, he (Mr. Ago) wished to observe that, in its report on the work of its previous session, the Commission had referred to the circumstances dealt with in chapter V as "circumstances usually considered to have this effect",[6] without intimating that there could absolutely not be others. He himself had no intention of proposing a provision which would establish the exhaustive nature of the series of circumstances set forth in chapter V, although he was convinced that at present there were no other circumstances precluding wrongfulness—but he was too conscious of the evolutionary nature of law to believe that a circumstance which did not today preclude wrongfulness might not do so tomorrow. Since the Commission's work of codification must be made to last, the door should not be shut upon such a possibility.

8. In Mr. Riphagen's opinion, the Commission might still take into consideration the hypothesis in which a state of necessity was created by the State that suffered the consequences of the act dictated by the necessity. In fact, two cases could arise according to whether or not the situation of danger had been created by the victim State in breach of one of its international obligations. If the action which lay at the origin of the state of necessity did not constitute the breach of an international obligation, it was self-evident that the state of necessity could be invoked. In the contrary case—namely, if the State that was a victim had created the situation of necessity affecting another State by committing an internationally wrongful act—it would be more often the case that the wrongfulness of the action of that other State was already precluded because of other circumstances, such as the application of countermeasures. The situation mentioned by Mr. Riphagen certainly did not seem to him to constitute a separate circumstance precluding wrongfulness.

9. With regard to proportionality, Mr. Riphagen shared his (Mr. Ago's) opinion. Proportionality was an essential condition in the case of reprisals and countermeasures; in the case of a state of necessity, the notion arose in another form, which was to require that the interest sacrificed for reasons of necessity was less than the interest to be protected. On the other hand, when it came to self-defence, the assessment of the proportionality varied considerably from one case of self-defence to another. It was not impossible that the action taken in defence against an armed attack might be, and had to be, out of proportion to that attack. That was why he had emphasized that there must be proportionality in its purpose: the action taken in self-defence must aim at preventing the attack, and not at objectives going beyond that limit. Needless to say, the rule of proportionality in self-defence, however flexible that rule might be, would be breached if a State profited from an armed attack by another State to react not only by repulsing the attack, but also by annexing the territory of the attacker.

10. With regard to collective self-defence, Mr. Riphagen seemed initially to have expressed doubts as to

[4] *Ibid.*, pp. 107–108, para. (6) of the commentary.

[5] *Ibid.*, pp. 108–109, para. (9) of the commentary.

[6] *Ibid.*, p. 106, para. (1) of the commentary.

whether it existed, even though it was mentioned in Article 51 of the United Nations Charter; he had then suggested the possibility that a conventional instrument might enlarge the *casus belli*, and he had mentioned the Rhine Pact. There could be no doubt that the Pact made provision for collective self-defence. In the event of aggression along the Rhine frontier, it was provided that England and Italy could act in self-defence on the side of the victim State.

11. Mr. Riphagen had also been concerned about the situation of third States. It was clear that action taken in self-defence against State A might injure the interests of State C, and on that point he (Mr. Ago) endorsed the views expressed by the Commission in the commentary to article 30, relating to countermeasures. In one case as in the other, a third State might be injured, but its rights should certainly be fully safeguarded. In relation to countermeasures, the Commission had stated the following:

> ... there remains the question as to what happens if, in the application of legitimate countermeasures against a State which has previously committed an internationally wrongful act against another State, these countermeasures have the effect of infringing the rights of a third State towards which application of such a measure is in no way justified. This is by no means a theoretical case. It happens frequently in international relations that the action of a State which applies a legitimate countermeasure against another State, that is aimed directly at that State, nevertheless causes injury to a third State. In situations of this kind, the State that has taken the action sometimes invokes as justification vis-à-vis the third State whose rights have been unduly infringed the fact that in the circumstances it would have been difficult, if not physically impossible, for it to inflict the necessary reactive measure or sanction on the State that had committed the internationally wrongful act without at the same time injuring the third State. It has been argued, for example, that during the bombardment of a town or port of an aggressor State by way of reprisal it was not always possible to avoid injury to aliens or their property. It has also been argued that the aircraft of the State which were detailed to apply the sanction might, in the circumstances, find themselves in practice forced to cross the airspace of a third State, in violation of its sovereignty, in order to reach the targets of the punitive action in the territory of the State which was the subject of the sanction. It is hardly necessary to add that these cases of what might be called indirect infringement of a right of a third State may just as easily occur in cases of application of countermeasures involving no use of armed force ...
>
> Consequently, the legitimate application of a sanction against a given State can in no event constitute *per se* a circumstance precluding the wrongfulness of an infringement of a subjective international right of a third State against which no sanction was justified.[7]

In his view, that conclusion might be applied as it stood to the case in which the rights of a third State were injured by action taken in self-defence.

12. Lastly, Mr. Riphagen had considered that draft article 34 could serve as a working basis, but that its text should be corrected on a number of points and that the reference to Article 51 of the Charter was too restrictive.

13. Mr. Ushakov (1620th meeting) had made an appeal for caution. Although not disputing the validity of the commentary to the articles under consideration, he believed that the Commission should cast it in a shorter form. In particular, he did not see the need for an exposition of the origin of the two-fold rule of the prohibition of the use of force and the lawfulness of action taken in self-defence against the use of force. He (Mr. Ago), however, believed that the origin was important. It was interesting to note that the notion of self-defence had long been defined in internal law because, since time immemorial, individuals had been forbidden to protect their rights and interests by recourse to force; also, self-defence was recognized in internal law only in very precise cases where an individual was permitted, in order to defend his rights and interests, to act in the place of the bodies that had the monopoly of the use of force. The situation in international law was always different.

14. Another reason for caution, according to Mr. Ushakov, lay in the fact that, unlike self-defence, the other circumstances enumerated in chapter V had not already been codified in a provision such as Article 51 of the Charter. Admittedly, the Charter had codified the principle of self-defence, although, in his (Mr. Ago's) opinion, there was no difference in that regard between unwritten international law and the written law of the Charter. Nevertheless, not all writers recognized that, and some of them represented States in the General Assembly, where they put forward not their personal ideas but those of States. Consequently, the Commission should not fail to indicate that, in the view of some, international law contained a notion of self-defence broader than that in Article 51, which would simply give one example of self-defence.

15. For the rest, he supported Mr. Ushakov's appeals for caution. In regard to preventive self-defence, he (Mr. Ago) had resisted the temptation to refer to everything which divided States and writers. He had not given an account of the discussions on that question which had taken place in a number of United Nations bodies and from which two schools of thought emerged, each of which drew attention to a risk: the risk that self-defence might lead to abuse and the risk that a State might have to allow itself to be destroyed before being entitled to act in self-defence. The United Nations organs had come up against practical difficulties because of that. Those organs should therefore be allowed to retain their freedom of judgement. The Commission should limit itself to working from the premise that, if it was established that a State had acted in self-defence, the unlawfulness of its conduct was precluded. There was no need to define or codify self-defence, any more than the Commission had done with regard to consent, countermeasures and sanctions.

[7] *Ibid.*, p. 120, paras. (17) and (18) of the commentary to article 30.

16. There was no reason to suggest, as Mr. Ushakov had done, that the notion of self-defence was broader than that of a circumstance precluding wrongfulness. The Commission should take as a starting-point the fact that such a circumstance existed and draw from it a conclusion as to the non-existence of the objective element of a wrongful act in that specific case. Its task was solely to codify the rules relating to State responsibility.

17. Lastly, Mr. Ushakov had emphasized that self-defence differed somewhat from other circumstances precluding wrongfulness because the action taken in self-defence was lawful *ab initio*. The same was true of all the other circumstances precluding wrongfulness. For example, if a State occupied the territory of another State with the latter's consent, that consent constituted a prior suspension of the obligation which prohibited such an act, so that the occupation was lawful *ab initio*.

18. Mr. Reuter (*ibid.*), for his part, had referred to cases where there might be self-defence in the absence of armed attack. However, the example he had given of fishing vessels that entered a zone regarded by another State as an exclusive fisheries zone, thus provoking incidents with warships of that other State, did not come under the heading of self-defence. The other State confined itself to taking lawful measures against individuals who were acting in breach of internal law. In his own view, it was important to limit the notion of self-defence to the reaction which a State might have to an act of aggression by another State.

19. While concerned that the Charter should be respected, Mr. Reuter did not believe that international law was born with the Charter. He (Mr. Ago) also considered that the two-fold rule relating to self-defence antedated the Charter, although he would not make it go as far back as Mr. Verosta had done (1628th meeting). There was no doubt, however, that at the United Nations Conference on International Organization (San Francisco, 1945) States had merely given written form to an already existing principle. Mr. Reuter preferred that the article under consideration refer to the Charter as a whole rather than to Article 51.

20. Mr. Schwebel (1621st meeting), for his part, had suggested that it might be going too far to consider self-defence as being more or less the only exception to the prohibition of the use of force as laid down in Article 2, paragraph (4) of the Charter. But he (Mr. Ago) had never gone as far as that; he recognized that the use of force was permitted in other cases, particularly in that of countermeasures and sanctions as provided for in Chapter VII of the Charter. Moreover, Article 106 of the Charter, which was a transitional provision, also permitted the use of armed force. None the less, in all those cases, the use of force did not come within the realm of self-defence, which should be distinguished from the legitimate application of a sanction. The two notions were similar, but not at all identical. The application of a sanction might be undertaken in respect of a wrongful act other than an aggresion. Furthermore, because of its aim and raison d'être, self-defence was concerned with the commission of a wrongful act: a State that acted in a state of self-defence wanted to prevent an armed attack by another State from succeeding. Sanctions, however, were part of the phase of implementation (*mise en oeuvre*) of responsibility. The aim of self-defence was to prevent the adversary from acting, whereas a sanction might take the form of a penalty or compensation, or aim at preventing the repetition of the act condemned.

21. Moreover, Mr. Schwebel had wondered whether the article under consideration meant that a State did not have the right to act in self-defence in the event of attack by terrorists or terrorist organizations. In his own view, it was indeed lawful to react against such attacks, but on grounds other than self-defence, which had to be preceded by an armed attack by another State.

22. Mr. Francis (*ibid.*), for his part, had warmly welcomed draft article 34 and had insisted on the need to include it in chapter V. He had expressed the hope that the text of article 34 would not give the impression of constituting an amendment to the Charter. He (Mr. Ago) shared that point of view and saw in it one more reason that the article on self-defence should appear in chapter V, because if a separate chapter was to be devoted to the notion of self-defence that might be seen as an attempt to rewrite or to interpret the Charter.

23. Mr. Šahović (*ibid.*) had taken a courageous and at times almost audacious stand. He had pointed out that Article 51 of the Charter was at present the expression of general international law and had examined the meaning of the term "self-defence". He (Mr. Ago) found the term extremely clear in French. Mr. Šahović had also pointed out that, just as self-defence was in the forefront of circumstances precluding wrongfulness in internal law, it should be in the forefront of the circumstances enumerated in chapter V of the draft articles. He had even regretted that Mr. Ago had not gone further than had been the case in the positions he had adopted on some points of interpretation of the Charter. Actually, as the draftsman of a set of articles, he (Mr. Ago) had deliberately—although regretfully—shown the greatest caution in that respect. Lastly, Mr. Šahović had expressed his preference for a reference to the Charter as a whole rather than to Article 51 alone.

24. A suggestion to that effect had also been made by Sir Francis Vallat (*ibid.*), who had recognized the need to round off chapter V of the draft articles with a provision on self-defence. He had pointed out, however, that the use of force might be lawful in cases other than self-defence. He (Mr. Ago) shared that point of view, yet the Commission's task was not to indicate when force might be used but to establish the rule that the use of force in self-defence was a

circumstance precluding wrongfulness. Moreover, the Commission must definitely express that rule without having to interpret the Charter. Finally, Sir Francis had rightly recommended that draft article 30 should be the basis for the wording of the article under consideration.

25. Mr. Tsuruoka (1627th meeting) was another member of the Commission who favoured a reference to the Charter as a whole rather than to Article 51 alone. He had stressed that the task of the Commission was not to define self-defence and that it should take a primary rule on the subject as a basis for such conclusions as were applicable in the field of State responsibility.

26. The existence of unarmed aggression had been brought out by Mr. Díaz González (*ibid.*). Ideological, economic or political forms of aggression might admittedly exist, but even if their existence were recognized and they were condemned, it could not be concluded that in such cases a State was authorized to resort to armed force in self-defence. Under the United Nations Charter, self-defence was reduced to one hypothesis, namely, that of resorting to force in order to resist an armed attack, leaving all other possible means, including legitimate countermeasures, available for reacting against any other form of aggression which breached an international obligation.

27. Mr. Barboza (*ibid.*) had stressed the difference between self-defence as conceived in general international law and self-defence as defined in Article 51 of the United Nations Charter. He had noted that it should be remembered that internal law normally required the fulfilment of two conditions for there to be self-defence: on the one hand, the use of force had generally to be prohibited and, on the other, the defence of the individual had to be reserved for a centralized organ of the State. The first of those two conditions existed under international law, since Article 2, paragraph 4, of the Charter required Members to "refrain ... from the threat or use of force". Yet Chapter VII of the Charter provided for collective action by the Security Council in order to defend a State from an act of aggression. As envisaged in the Charter, therefore, the sphere of application of self-defence was limited in time, since it could be exercised only prior to intervention by the Security Council. But experience had shown the inadequacies of the collective system of action instituted by the Charter, since the Security Council rarely intervened to uphold the rights of States which were victims of an aggression. The scope of self-defence was therefore, in reality, broader in present general international law than under Article 51 of the Charter. Consequently, it might be contended that the notion of self-defence was not yet firmly fixed in international law and that it would not take its final shape until all the prerequisites for its existence in internal law were met in international law.

28. Mr. Pinto (*ibid.*) had advocated the inclusion of an article on self-defence in chapter V of the draft, also rightly pointing out that it was not a matter of codifying the rules relating to self-defence, but of providing for their consequences in regard to State responsibility. Like Mr. Barboza, Mr. Pinto felt that reference should be made to the Charter as a whole rather than to Article 51, which was perhaps too limited. Personally, although he had no objection to that, he (Mr. Ago) did not think the Charter contained any other provision relating to self-defence as such.

29. Mr. Verosta (1628th meeting) believed that the concept of self-defence had already existed in the nineteenth century, since international law had distinguished between just wars and unjust wars. Yet the notion of self-defence was something other than the consequence of distinguishing between just wars and unjust wars. The notion of just war—even admitting its "judicial" nature—is much broader than that of a defensive war. Self-defence consisted in permitting the use of force only in cases where a State was the victim of an armed attack and had to defend itself immediately to preserve its independence and territorial integrity. That concept had not emerged in international law until after the First World War, with the Covenant of the League of Nations and other instruments that had followed it. The main difference between the Covenant and the United Nations Charter was that the authors of the Covenant had above all, largely out of a concern for justice, sought a means for equitably settling disputes between States, whereas the authors of the Charter, with the experience of the League of Nations behind them, had above all laid emphasis on the need to preserve peace by avoiding any resort to force.

30. The fact that in the nineteenth century States had generally sought to justify their wars in no way meant that they were acting in self-defence; to them, war had been, for instance, the means of vindicating a right or vital interest which they considered to have been injured. Italy, for example, had been able to justify its war against Austria in 1866 on the grounds that it wished to retrieve Venice from Austria in order to complete its national unity, but it had not been able to claim that it was acting thus in self-defence.

31. Mr. Verosta would have been right to oppose the inclusion of article 34 in chapter V of the draft if the article had been an attempt in itself to define the rules concerning self-defence, but there was absolutely no question of that in the draft article; it was limited to presuming the existence of a general rule relating to self-defence and drawing the proper conclusions from it with regard to State responsibility. Self-defence was the circumstance *par excellence* which precluded wrongfulness, so it simply could not go unmentioned in chapter V of the draft, as Mr. Verosta suggested.

32. Mr. Tabibi (*ibid.*) was obviously right in pointing out that aggression need not necessarily be armed, and could also be economic or even political. Those other

forms of aggression were not, however, germane to the topic under discussion, since resort to force could be lawful only to resist an armed attack.

33. Mr. Sucharitkul (*ibid.*) had also rightly said that the Commission's task was not to define the notion of self-defence, which, moreover, might vary even in internal law from one legal system to another. That was why he had proposed keeping to the definition of self-defence given in general international law and in the Charter and drawing the necessary conclusions in regard to State responsibility.

34. Mr. Quentin-Baxter (1627th meeting) had shown that the notion of self-defence, which had once existed only in internal law, had become one of general international law. As he had quite correctly pointed out, the notion of self-defence in international law was not yet exactly the same as in internal law because, although international law had already taken the decisive step of prohibiting the use of force except in self-defence, it had not yet taken the other step of entrusting the monopoly of the use of force to an institution of the international community, as envisaged in the United Nations Charter.

35. In conclusion, the Commission was in agreement on the point that it did not have to define self-defence and its conditions, nor amend, interpret or restate the Charter on that point. It should, however, base itself on the Charter in stating that, when a State had committed an act which would otherwise have been wrongful because it involved the use of armed force, the wrongfulness of the act was precluded if the State had acted in a state of self-defence.

36. He also thought that the Commission should base itself on article 30 in formulating the principle set out in article 34. He recognized, however, that there was some difference between those two articles because, as Mr. Ushakov had pointed out, countermeasures were not always lawful, whereas there was no doubt about precluding the wrongfulness of an act committed in a state of self-defence—or, if preferred, in exercising its "right" of self-defence.

37. He agreed about the insertion in the article of a reference to the Charter as a whole, rather than to Article 51 alone, although he still considered that the question of self-defence as such was dealt with only in Article 51 itself. There were, admittedly, other cases in which the Charter contemplated a lawful use of armed force; they were, however, cases not of self-defence but of countermeasures or sanctions taken against internationally wrongful acts and decided on by a competent body of the United Nations, and entrusted for enforcement to a State or group of States. If there was to be any reference to the Charter as a whole, therefore, the commentary to article 34 would have to indicate that the other cases in which the Charter allowed recourse to armed force concerned different notions and not self-defence as such.

38. Nor could he see any difficulty in the article containing a reference to general international law, in so far as the Charter had merely codified a principle already embodied in general international law. He considered that his task had been completed with draft article 34.

39. The CHAIRMAN, speaking on behalf of the members of the Commission, thanked Mr. Ago for the admirable work he had accomplished. He said that, if there were no objections, he would take it that the Commission decided to refer draft article 34 to the Drafting Committee.

It was so decided.[8]

40. Mr. SETTE CÂMARA (Judge, International Court of Justice) said he was glad to have been able to attend the present meeting of the Commission, at which Mr. Ago had concluded the presentation of his report on State responsibility, a report which represented such an important contribution to the Commission's work. He was also happy to have been able to appreciate at first hand the Commission's search for the best solutions in the codification and progressive development of international law. It was a source of great satisfaction to him and to all friends of the Commission to note the prestige and respect commanded by its work and to inform the Commission that its draft articles and deliberations were being used and quoted, particularly at the International Court of Justice. He wished the Commission a successful conclusion to the work of its present session.

The meeting rose at 1.05 p.m.

[8] For consideration of the text proposed by the Drafting Committee, see 1635th meeting, paras. 53–61.

1630th MEETING

Thursday, 10 July 1980, at 10.10 a.m.

Chairman: Mr. C. W. PINTO

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

International liability for injurious consequences arising out of acts not prohibited by international law (A/CN.4/334 and Add.1 and 2)

[Item 7 of the agenda]

PRELIMINARY REPORT BY THE SPECIAL RAPPORTEUR

1. Mr. QUENTIN-BAXTER (Special Rapporteur)