

Document:-  
**A/CN.4/SR.1774**

**Summary record of the 1774th meeting**

Topic:  
**Programme of work**

Extract from the Yearbook of the International Law Commission:-  
**1983, vol. I**

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21. Mr. FLITAN explained that he had raised the question of crimes against the maintenance of international peace and security from the point of view of incrimination—in other words, of attachment of guilt to an attempt at such crimes. He had not made any suggestion but hoped that the Special Rapporteur and members of the Commission would consider, on the basis of internal law, at what point an attempted crime could be viewed as a crime in international law.

22. He wondered, moreover, whether some form of recourse to the means afforded by the Charter—without, of course, modifying it in any way—might not be indicated in order to prevent the occurrence of a dispute as soon as preparations were made to commit a breach of a rule of international law or as soon as the breach was initiated. There again, it was difficult to make specific proposals. In referring (para.4 above) to the Manila Declaration adopted by the General Assembly in 1982, he had had in mind, like Mr. Reuter, the role that might be played by the Secretary-General, the General Assembly, the Security Council and the ICJ. In that text, the General Assembly drew the attention of States to all the means offered by the Charter for the peaceful settlement of disputes between States. In his view, questions of that kind fell within the mandate of the Commission, which was required to formulate any suggestions it might consider useful.

23. Mr. LACLETA MUÑOZ said that, by and large, he endorsed Mr. Flitan's remarks concerning the peaceful settlement of disputes. It was concern with the application of a régime of responsibility that had led Mr. Flitan to touch upon the problem of prevention. Consideration of the topic of international liability for injurious consequences arising out of acts not prohibited by international law had brought the Commission face to face with a similar problem. Indeed, the question of attempted crimes derived from that of prevention. However, while it was true that an attempt could be made to commit every crime, and the attempt itself constituted an offence, the study of attempted crime took the Commission back to the sphere of primary rules at a stage at which it should be considering secondary rules.

*The meeting rose at 11.50 a.m.*

## 1774th MEETING

*Friday, 3 June 1983, at 10 a.m.*

*Chairman:* Mr. Laurel B. FRANCIS

*Present:* Mr. Al-Qaysi, Mr. Balandá, Mr. Barboza, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Evensen, Mr. Flitan, Mr. Jacovides, Mr. Jagota, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ni, Mr. Ogiso, Mr. Quentin-Baxter, Mr. Razafindralambo, Mr. Reuter, Sir Ian Sinclair, Mr.

Stavropoulos, Mr. Sucharitkul, Mr. Ushakov, Mr. Yankov.

**Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (A/CN.4/359 and Add.1,<sup>1</sup> A/CN.4/372 and Add.1 and 2,<sup>2</sup> A/CN.4/374 and Add. 1-4,<sup>3</sup> A/CN.4/L.352, sect. E, ILC(XXXV)/Conf.Room Doc.7)**

[Agenda item 3]

DRAFT ARTICLES SUBMITTED BY THE  
SPECIAL RAPPORTEUR

ARTICLES 15 to 19

1. The CHAIRMAN invited the Commission to consider item 3 of the agenda and called upon the Special Rapporteur to introduce his fourth report (A/CN.4/374 and Add.1-4), and, in particular, draft articles 15 to 19, which read:

*Article 15. General facilities*

**The receiving State and the transit State shall accord to the diplomatic courier the facilities required for the performance of his official functions.**

*Article 16. Entry into the territory of the receiving State and the transit State*

**1. The receiving State and the transit State shall allow the diplomatic courier to enter their territory in the performance of his official functions.**

**2. Entry or transit visas, if required, shall be granted by the receiving or the transit State to the diplomatic courier as quickly as possible.**

*Article 17. Freedom of movement*

**Subject to the laws and regulations concerning zones where access is prohibited or regulated for reasons of national security, the receiving State and the transit State shall ensure freedom of movement in their respective territories to the diplomatic courier in the performance of his official functions or when returning to the sending State.**

*Article 18. Freedom of communication*

**The receiving and the transit State shall facilitate, when necessary, the communications of the diplomatic courier by all appropriate means with the sending State and its missions, as referred to in article 1, situated in the territory of the receiving State or in that of the transit State, as applicable.**

*Article 19. Temporary accommodation*

**The receiving and the transit State shall, when requested, assist the diplomatic courier in obtaining temporary accommodation in connection with the performance of his official functions.**

2. Mr. YANKOV (Special Rapporteur) said that, in his second report,<sup>4</sup> he had submitted draft articles 1 to 6, which constituted part I of the draft articles (General provisions).<sup>5</sup> In his third report (A/CN.4/359 and Add.1), he had presented the revised texts of articles 1 to 6 (with the exception of article 2, which was unchanged), and

<sup>1</sup> Reproduced in *Yearbook* . . . 1982, vol. II (Part One).

<sup>2</sup> Reproduced in *Yearbook* . . . 1983, vol. II (Part One).

<sup>3</sup> *Idem*.

<sup>4</sup> *Yearbook* . . . 1981, vol. II (Part One), p. 151, document A/CN.4/347 and Add.1 and 2.

<sup>5</sup> For the texts, see *Yearbook* . . . 1982, vol. II (Part Two), pp. 112-114, footnotes 304-309.

draft articles 7 to 14, which constituted the beginning of part II of the draft (Status of the diplomatic courier, the diplomatic courier *ad hoc* and the captain of a commercial aircraft or the master of a ship carrying a diplomatic bag). Draft articles 1 to 14 contained in the third report had been considered by the Commission at its previous session and referred to the Drafting Committee.<sup>6</sup>

3. In his fourth report (A/CN.4/374 and Add.1-4), his objective, as indicated in paragraph 4, was to complete the set of provisions constituting the draft articles on the status of the diplomatic courier and the diplomatic bag. He had therefore submitted in sections II and III of the report the draft articles that completed part II, in section IV the draft articles relating to part III (Status of the diplomatic bag) and in section V those of part IV (Miscellaneous provisions). He would first present draft articles 15 to 19 on the facilities to be granted to the diplomatic courier, and then, at a later meeting, draft articles 20 to 23 on the privileges and immunities of the diplomatic courier. Subsequently, he would deal with the remainder of part II of the draft (arts. 24-30) and, finally, part III (arts. 31-39) and part IV (arts. 40-42).

4. Achievement of the object of the fourth report would be facilitated by the fact that, in previous years, the Commission had made special efforts to determine the scope and parameters of the topic and to study its implications and the possible analogies between the status of the diplomatic courier and that of other diplomatic agents. Those efforts and the discussions in the Sixth Committee of the General Assembly had been extremely helpful to him in his attempts to devise the methods to be applied and the basic approach to be followed in carrying out the task entrusted to him, which was primarily one of codification but also involved some elements of progressive development.

5. The facilities to be granted to the diplomatic courier, dealt with in draft articles 15 to 19, were the heart of the law on the status of the diplomatic courier and offered evidence of the proper functioning of the legal rules of diplomatic relations. The further development and improved effectiveness of those rules would promote international co-operation and understanding. Indeed, in the area under consideration, the principle of reciprocity was perhaps the most effective remedy, since every receiving State was simultaneously a sending State and a transit State. Thus the relationship between receiving and sending State was reversible, but the end result should always be equality and balance.

6. Every topic had particular features which offered definite indications of the methods to be applied in its consideration. The examination of some topics tended to focus on general, theoretical and even political problems, while the conceptual framework of others was pragmatic and could best be worked out through the formulation of draft provisions based on existing law. In his view, the present topic was of the latter kind, being one on which modest but practical results in the form of draft articles

could be achieved. Hence the official functions and the confidential nature of the duties of the diplomatic courier required appropriate treatment that was functional both in nature and in application. It had been and continued to be his intention to follow a comprehensive and uniform approach to the many services performed by the diplomatic courier in connection with all kinds of official missions of the sending State.

7. He had decided, at the current stage, to refer only to diplomatic couriers and bags used by States. The Commission would later be able to determine whether the draft articles could also apply to diplomatic couriers and bags used by international organizations and other entities, such as recognized national liberation movements. The main consideration on which he had based his decision was that the status of diplomatic couriers must not be fully assimilated to that of diplomatic agents, especially as one delegation in the Sixth Committee had suggested that draft articles 1 to 14 tended to imply such assimilation.<sup>7</sup> He would take due account of that point and try to avoid giving any such impression.

8. In his work he had closely followed the relevant provisions of the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations, the 1969 Convention on Special Missions and the 1975 Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character.<sup>8</sup> The functions and status of members of special missions, in particular, were similar to those of diplomatic couriers, who were on temporary assignment and could therefore not enjoy all the privileges and immunities of diplomatic agents. In comparing the status of members of special missions and diplomatic couriers, however, it was necessary to bear in mind the functional approach, the restrictions that applied and the main trends in State practice.

9. It would also be seen, on examining the Vienna Convention on Diplomatic Relations, that the status of a diplomatic courier was similar to that of the administrative, technical and service staff of a diplomatic mission, who enjoyed certain privileges and immunities in the exercise of their functions, under article 37, paragraphs 2 and 3, of that Convention. And if the Vienna Convention on Diplomatic Relations granted such privileges and immunities, it would be logical for a diplomatic courier, who was entrusted with confidential duties that might in some cases be much more important than those of the administrative, technical or service staff of a diplomatic mission, to enjoy similar privileges and immunities for the purpose of performing those duties. His general approach had thus been not to go too far in assimilating the status of the diplomatic courier to that of diplomatic staff, but at the same time to provide adequate protection for the courier in the exercise of his functions.

<sup>6</sup> For the texts, *ibid.*, pp. 115 *et seq.*, footnotes 314, 315, 318 and 320-330.

<sup>7</sup> *Official Records of the General Assembly, Thirty-seventh Session, Sixth Committee, 52nd meeting, para. 37* (United States of America).

<sup>8</sup> Hereinafter called "Vienna Convention on the Representation of States".

10. He had therefore examined the main features of the facilities, privileges and immunities which might be granted to diplomatic couriers as being indispensable for the exercise of their functions and had tried to determine whether the existing rules embodied in the four conventions on codification of diplomatic law were applicable to diplomatic couriers. He had also assessed the comparability and compatibility of the status of diplomatic couriers with that of diplomatic agents, identifying common features that would offer a reliable basis for the codification and progressive development of international law on the topic. Whenever possible, he had examined the practice of States to see whether treaties, national legislation or case-law could be used to test the viability of the draft articles he was proposing. Although State practice with regard to the status of diplomatic couriers was inconclusive and limited, because Governments preferred to settle the problems that arose confidentially through diplomatic channels, there was some evidence that it followed the pattern set in the codification conventions.

11. Referring to paragraphs 6–21 of his fourth report, he said that the debate in the Sixth Committee at the thirty-seventh session of the General Assembly had given him the general impression that increased importance was being attached to the practical significance of the topic under consideration and that there was greater awareness of the need for its codification. He suggested that the points raised in the Sixth Committee regarding the actual wording and interpretation of the draft articles proposed thus far could be considered by the Drafting Committee.

12. In paragraphs 26–30, he had tried to explain the justification for draft article 15 on general facilities. In practice, the granting of facilities very much depended on circumstances, only a few of which could be determined in advance. He had therefore decided not to make article 15 too detailed or exhaustive. From a legal point of view he had considered it necessary to follow the pattern of the Vienna Conventions—in particular, article 25 of the Vienna Convention on Diplomatic Relations—and to take account of State practice, which supported the granting of general facilities to the diplomatic courier for the exercise of his official functions.

13. Draft article 16 on facilities for the entry of the diplomatic courier into the receiving State and the transit State was discussed in paragraphs 32–33, which noted, *inter alia*, that the admission of the diplomatic courier to the territory of the receiving State or the crossing of the territory of the transit State was an indispensable condition for the performance of his functions and an essential element of the principle of freedom of communication. The main obligation of receiving and transit States was thus to grant entry or transit visas to the diplomatic courier as quickly as possible, in accordance with the general régime applicable to the admission of foreigners. In that connection he had referred, in a footnote to paragraph 33 of the report, to Indonesia's practice of granting multiple entry visas; but many other examples of similar State practice were available.

14. Another essential condition for the performance of

the diplomatic courier's functions was freedom of movement and travel, which were dealt with in draft article 17 and discussed in paragraphs 34–37 of the report. That article stressed the importance of freedom of movement and travel, but also took account of the practice of States of prohibiting or regulating access to certain zones for reasons of national security. That practice, which was reflected in bilateral agreements, was mentioned in paragraph 37. One important aspect of the practice was that it operated very effectively on the basis of reciprocity.

15. Draft article 18 dealt with freedom of communication, which was considered in paragraphs 38–41 of the report. It was understood in that article that facilities relating to such freedom would be granted when the diplomatic courier was in difficulty or distress and required assistance to contact the sending State or the diplomatic mission of his destination. Although State practice in that regard was not very abundant, he thought that draft article 18 would be regarded as a practical provision and should not give rise to any difficulties for States since it applied to cases in which the diplomatic courier was travelling on official business.

16. With regard to draft article 19, he pointed out that the granting of assistance to the diplomatic courier in obtaining temporary accommodation should not be regarded as a routine obligation of the receiving State or the transit State. There might, however, be cases in which the diplomatic courier encountered difficulties during an official journey and required special assistance, as noted in paragraph 42.

17. Mr. AL-QAYSI said that the importance of the topic lay in the practical everyday difficulties that arose. The rules to be elaborated by the Commission would fill a number of gaps and amplify existing rules in the light of State practice, thereby removing a measure of uncertainty.

18. He congratulated the Special Rapporteur on the lucidity of his report (A/CN.4/374 and Add. 1–4) and on his efforts to demonstrate the practical importance of the topic. He shared the views expressed by many members of the Commission that the principles stated in the draft articles could form the basis of a complete draft, though care should be taken to maintain a proper balance between the rights and obligations of sending and receiving States. He hoped that the draft would be confined to the necessary amplification of existing rules; the Special Rapporteur had, indeed, said that his task would be essentially one of codification based on the consideration of practical needs.

19. Referring to section I of the report, which dealt with the consideration of the draft articles by the Sixth Committee at the thirty-seventh session of the General Assembly, and in particular to paragraphs 11–12 concerning the scope of the draft articles, he observed that the view of a number of representatives in the Sixth Committee, as shown by the summary records, had been that the rules to be formulated should apply *stricto sensu* only to the diplomatic courier and the diplomatic bag unaccompanied by diplomatic courier, without touching

on the question of whether the courier and the bag were being used by States or by international organizations. That would seem to be a desirable approach, since the measures of confidentiality and the exceptional circumstances which induced States to use diplomatic couriers or diplomatic bags could apply equally well to international organizations.

20. Referring to paragraph 13 of the report, he observed that the difference between the régimes established by the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations raised a problem which might not be easily solved. He wished the Special Rapporteur every success in attempting to find a solution.

21. The texts of the proposed articles were generally lucid and easily digestible, but a number of the terms used called for some comment. In draft article 15, for example, reference was made to the facilities “required” for the performance of the official functions of the diplomatic courier, whereas the relevant parts of the report referred to the facilities “necessary” for the performance of those functions. It might be preferable to replace the word “required” by the word “necessary” in the text of draft article 15, since it was for the diplomatic courier, rather than the receiving or transit State, to determine such necessity.

22. Draft article 19, concerning temporary accommodation, provided that the receiving and transit States must, when requested, assist the diplomatic courier in obtaining such accommodation in connection with the performance of his official functions. In paragraph 42 of his report, however, the Special Rapporteur emphasized that the receiving and transit States would be required to do so only in certain circumstances. If that was the case, it might be advisable to insert the words “in certain circumstances” after the word “requested” in the text of the draft article.

23. Finally, he noted that in paragraph 23, concerning the scope of the principle of protection of the diplomatic courier, it was stated that “the facilities, privileges and immunities accorded to the diplomatic courier should be the same as those of consular and other official couriers”. He wondered whether the Special Rapporteur had in fact intended to say that all those facilities, privileges and immunities should be the same.

### **Co-operation with other bodies**

[Agenda item 9]

#### STATEMENT BY THE OBSERVER FOR THE INTER-AMERICAN JURIDICAL COMMITTEE

24. The CHAIRMAN invited the Observer for the Inter-American Juridical Committee to address the Commission.

25. Mr. GALO LEORO (Observer for the Inter-American Juridical Committee) said that his presence in the Commission was further evidence of the ties of co-operation that linked the Commission with the Committee. In January 1983, it had been the Committee’s

turn to receive Mr. Francis as representative of the Commission, who had informed the Committee of the progress of the Commission’s work on the various topics it had discussed in 1982.

26. During its sessions in August 1982 and January 1983, the Committee had considered a number of questions. It had been invited by the Inter-American Court of Human Rights to give its point of view on the scope of article 64, paragraph 1, of the American Convention on Human Rights<sup>9</sup> and on the date of the entry into force of that convention for States which had ratified it with reservations, in accordance with its article 75. The Committee had continued consideration of “the forms of development of environmental law” and was considering the possibility of preparing a draft inter-American convention on that subject. It had begun consideration of “the scope of the Inter-American Juridical Committee’s competence as a legal consultative body”. At the request of the Second Inter-American Specialized Conference on Private International Law,<sup>10</sup> the rapporteur for the question of “personality and capacity in private international law” had been requested to prepare a draft convention on the personality and capacity of legal persons. The Committee had also begun its consideration of “international maritime transportation, with special reference to bills of lading” and of “the bases for a draft convention on the international transport of goods by land”. The rapporteur for the question of “the right to information” had submitted two reports which would serve as a basis for the continued study of that question, in which UNESCO had begun to take an interest.

27. The main focus of the Committee’s attention at recent sessions, however, had been the topic of the “jurisdictional immunity of States”, which it had begun considering in 1970. On the basis of the many reports submitted to it, the Committee had prepared an Inter-American Draft Convention on Jurisdictional Immunity of States, which had been adopted in January 1983, and the English text of which had been made available to the Secretariat of the Commission (ILC(XXXV)/Conf. Room Doc.4). In preparing that convention the Committee had taken account of important texts such as the 1972 European Convention on State Immunity, the draft articles prepared by the Commission’s Special Rapporteur and the United States and United Kingdom Acts on State Immunity. The draft convention would be considered by the Third Inter-American Specialized Conference on Private International Law, which was to be held in April 1984. It was designed to fill a gap on the American continent by providing States with legal guidelines which they could follow when dealing with the sensitive problem of immunity from their jurisdiction.

28. Referring briefly to the text of the inter-American draft convention, he said that article 1 enunciated the

<sup>9</sup> The “Pact of San José, Costa Rica”, signed on 22 November 1969, to be published in United Nations, *Treaty Series*, No. 17955.

<sup>10</sup> Held at Montevideo, Uruguay, from 23 April to 8 May 1979.

general rule of the jurisdictional immunity of States, a principle given effect in America. Article 3 on *jure imperii* provided that the State was granted immunity from jurisdiction for acts performed by virtue of governmental powers and, as an exception to the general rule, article 5 on *jure gestionis* enunciated the rules applicable to acts or activities of the State which continued to be subject to the jurisdiction of the State of the forum. In addition, article 7 provided that, if the foreign State performed certain acts involving proceedings, the State of the forum was authorized to exercise its jurisdiction.

29. Although the matters referred to in article 6 as exceptions to the rule of jurisdictional immunity had not given rise to any major legal problems, the general exception relating to "trade or commercial activities of a State" had raised definition problems, and the draft convention consequently contained a kind of tautological definition. For example, the second paragraph of article 5 provided that

Trade or commercial activities of a State are construed to mean the performance of a particular transaction or commercial or trading act pursuant to its ordinary trade operations.

That definition of trade or commercial activities was based on a more restrictive criterion than that followed by Mr. Sucharitkul in the draft articles he had submitted to the Commission. The inter-American draft convention also established a link between the activities in question and the territory of the State of the forum, with a view to preventing a State from claiming jurisdictional immunity in the case of matters relating to such activities. The European Convention on State Immunity and the United States and United Kingdom Acts had also been worded along those lines, although the United States Act was more detailed. Article 6 of the draft convention established the same link for labour affairs and other matters in respect of which jurisdictional immunity could not be claimed.

30. Another important element of the draft convention was that relating to the entities and State agencies which, whether or not endowed with separate legal personality, were to be assimilated to the State and regarded as subjects enjoying jurisdictional immunity. Article 2, which listed the entities in question, did not cover the sovereign or head of State, nor companies of whose shares a majority were held by the State. Rather, the intention had been to establish the criterion that, in order to be covered by that provision, the agency or entity in question must be of national legal interest. It was thus possible that entities other than those listed might also be covered. It was in that respect that the inter-American draft convention differed from the European Convention, which was more restrictive. It should also be noted that, according to the second paragraph of article 3 of the draft convention, immunity from jurisdiction would apply equally to activities regarding property owned by the State and to assets which the State used by virtue of its governmental powers.

31. The only definition contained in the draft convention was the one relating to the trade or commercial activities of a State. States could, of course, conclude conventions to cover cases not provided for in the draft,

and agreements of that kind would take precedence over a general convention. The draft convention did not mention the consent of a State to submit to the jurisdiction of the courts of another State as an element which had the legal effect of waiving of immunity even in cases in which immunity could be claimed. Consent could be presumed in the objective cases provided for in article 7, which related to procedural acts involving acceptance of jurisdiction. It could, however, also be said that a State which deliberately availed itself of such remedies waived its immunity, and it was on that assumption that the provisions of article 7 were based.

32. Article 8 of the draft convention provided for the application of the procedural rules of the State of the forum; under article 9, a foreign State would be summoned or notified of a claim by means of letters rogatory, in accordance with a long-standing Latin-American practice.

33. The first paragraph of article 13 made a claim of immunity by a State a peremptory exception: the State which claimed immunity was not required to go into the substance of the dispute, since acceptance of that exception by the competent court would bring the proceedings to a halt. Although that paragraph also provided that a State which claimed immunity was not required to submit evidence thereof, it was understood that its claim had to be based on the law of the forum State, in accordance with the relevant provisions of the draft convention. Justification for that interpretation was to be found in the provision in article 12 that, if the foreign State claimed immunity from jurisdiction, it was free to appoint to the proceeding a special agent assisted by an attorney registered in the State of the forum. The only function of that special agent was to assist the State claiming immunity to plead its case. The first paragraph of article 13 referred to evidence, but not to the legal grounds for the case, and the second paragraph followed logically on the first, since it placed the burden of proof not on the State claiming immunity, but on the challenger. With regard to the third paragraph, he explained that, since the State claiming immunity was not required to go into the substance of the dispute, it would be difficult for the adjudicatory authority to go into the merit of the claim. Although some people might think that those provisions favoured the foreign State, the spirit of article 13 was in keeping with Latin-American legal experience.

34. Mr. BARBOZA, welcoming the mutually advantageous ties linking the Commission with the Committee, said that Mr. Galo Leoro's statement had given members of the Commission a better idea of the Committee's extensive activities and the high legal standard of its work. He had listened with particular interest to Mr. Galo Leoro's remarks about a draft convention on environmental law and had carefully followed his very useful explanations concerning the Inter-American Draft Convention on Jurisdictional Immunity of States.

35. Mr. McCaffrey said that the presence of the representative of the Inter-American Juridical Committee had helped to strengthen the liaison between

that Committee and the Commission, which had very similar functions. He congratulated the Committee on its work on the topic of the jurisdictional immunities of States and their property. The material produced by the Committee had proved very useful to the Commission in its own work on the topic, as evidenced by the references made to it by the Special Rapporteur and other members of the Commission. Co-operation between the two bodies was very important, and he would follow with close interest the work of the Committee on all the topics with which it was currently occupied.

36. Mr. DÍAZ GONZÁLEZ paid tribute to Mr. Galo Leoro, who was well known in Latin America both for his legal work and for his multilateral and bilateral diplomatic activities. His statement had been of the greatest interest. The condensation of inter-American practice regarding jurisdictional immunity contained in the draft convention introduced by Mr. Galo Leoro was evidence of the work done by the Committee since its establishment with a view to the progressive development and codification of American international law: that law had constantly gained in authority and now set an example to the whole world of the primacy of law over the use of force. Even when the American continent had been subjected to attacks by foreign Powers, it had always sought peaceful settlements and given precedence to the rule of law. In that connection, he referred to the Congress of Panama convened by Simón Bolívar in 1826, which had been the precursor of the OAS and even of the United Nations. For President Wilson, when proposing the establishment of the League of Nations, had acknowledged the 1826 agreements as his inspiration, and some articles of the League of Nations Covenant had been based on the treaty signed by the American States at Panama.

37. Mr. Galo Leoro's presence was doubly welcome, both for his own reputation and because he represented the Inter-American Juridical Committee, which had, over the years, been cultivating the Latin-American conception of law.

38. Mr. FLITAN, speaking also on behalf of Mr. Ushakov and Mr. Yankov, warmly welcomed and congratulated the representative of the Inter-American Juridical Committee. Co-operation had developed over the years between the Commission and the Committee, which worked unceasingly for the predominance of law and justice over the use of force in relations between States. Mr. Galo Leoro's detailed account of the Committee's activities showed that such co-operation should be strengthened.

39. Mr. CALERO RODRIGUES associated himself with previous speakers and said that it was extremely important to maintain the closest contact with regional bodies such as the Committee, whose fruitful work was based on Latin-American tradition. He thanked Mr. Galo Leoro for his account of the Committee's activities and for his comments on the inter-American draft convention, which would make a substantial contribution to the Commission's own work on the jurisdictional immunities of States.

40. Mr. MAHIOU said that the African members of the Commission also wished to pay tribute to the representative of the Inter-American Juridical Committee, whose statement had been all the more valuable in that the Commission was concerned with many of the same problems. The Commission's co-operation with other learned bodies such as the Committee enabled its members better to understand and grasp those problems.

41. Mr. LACLETA MUÑOZ welcomed Mr. Galo Leoro and said that he envied the Committee, which had just completed its work on jurisdictional immunity of States, whereas the Commission was still deeply immersed in that topic.

42. Mr. JAGOTA, speaking also on behalf of Mr. Al-Qaysi, Mr. Jacovides, Mr. Ni and Mr. Ogiso, thanked the representative of the Inter-American Juridical Committee for his statement on the Committee's work. A professional complementarity existed between the Commission and regional bodies, since whatever the Commission proposed must be based on an understanding of State practice in the various continents and was put to the test of soundness and practicality by the regional bodies. The information provided by the Committee concerning its work on the topic of jurisdictional immunities of States and their property had been particularly useful.

43. Mr. GALO LEORO (Observer for the Inter-American Juridical Committee) thanked the members of the Commission and, in particular, those from Latin-American countries, whose contribution to the Commission's work he commended. He suggested that even closer co-operation might be established between the Committee and the Commission and said it was regrettable that, for practical reasons, it took so long for the Commission's documents to be made available to the Committee.

44. The CHAIRMAN thanked the representative of the Inter-American Juridical Committee for having addressed the Commission and helped to strengthen the links between the two bodies. In particular, the information and materials received in connection with the Committee's work on the topic of jurisdictional immunities of States and their property, on which the Commission itself was currently working, were greatly appreciated.

*The meeting rose at 1.15 p.m.*

## 1775th MEETING

*Monday, 6 June 1983, at 3 p.m.*

*Chairman:* Mr. Laurel B. FRANCIS

*Present:* Mr. Al-Qaysi, Mr. Balandá, Mr. Barboza, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Evensen, Mr. Flitan, Mr. Jacovides, Mr. Jagota, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr.