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Summary record of the 1830th meeting

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cussion; when those articles returned from the Drafting Committee, the Commission itself would be able to take a decision on them.

48. Mr. DÍAZ GONZÁLEZ said he would not object to draft articles 24 to 29 being referred to the Drafting Committee. He noted, however, that all the members who had spoken during the discussion had favoured the deletion of draft article 25. Since the Drafting Committee had fewer members than the Commission, he did not see how it could arrive at any different conclusion.

49. Mr. JAGOTA said that Mr. Díaz González was right in principle. In the case in question, however, referring draft articles 24 to 29 to the Drafting Committee at the present stage would not lead to any difficulty. He could not foresee any decision by the Drafting Committee which might prove unacceptable to the Commission as a whole.

50. Mr. YANKOV (Special Rapporteur) said he wished to explain his position on the interesting suggestions made by Mr. Reuter concerning the possibility of dealing separately with the transit State and with reservations. He would not at present take any position on the substance of those suggestions, but assured Mr. Reuter that they would receive very careful consideration at a later stage, either in connection with the miscellaneous provisions or when the whole draft had been completed.

51. The CHAIRMAN said that, if there were no further comments, he would take it that the Commission agreed to accept the Special Rapporteur's proposal to refer draft articles 24 to 29 to the Drafting Committee, together with all the comments and suggestions made during the discussion.

*It was so agreed.*⁷

The meeting rose at 6.15 p.m.

⁷ For consideration of draft articles 24 and 25 as proposed by the Drafting Committee, see 1864th meeting, paras. 23-47; for draft articles 26 and 27, see the decision by the Commission, *ibid.*, paras. 49 and 51.

1830th MEETING

Tuesday, 29 May 1984, at 10.05 a.m.

Chairman: Mr. Sompong SUCHARITKUL

later: Mr. Alexander YANKOV

Present: Chief Akinjide, Mr. Balanda, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Laclea Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ni, Mr. Njenga, Mr. Ogiso, Mr. Pirzada, Mr. Quentin-Baxter, Mr. Razafindralambo, Mr. Reuter, Sir Ian Sinclair, Mr. Ushakov.

Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (*continued*)
(A/CN.4/374 and Add.1-4,¹ A/CN.4/379 and Add.1,² A/CN.4/382,³ A/CN.4/L.369, sect. E, ILC (XXXVI)/Conf. Room Doc.3)

[Agenda item 4]

DRAFT ARTICLES SUBMITTED BY THE
SPECIAL RAPPORTEUR⁴ (*continued*)

ARTICLES 30 TO 35

1. The CHAIRMAN invited the Special Rapporteur to introduce draft articles 30 to 35, which were contained in his fourth report (A/CN.4/374 and Add.1-4) and which read as follows;

Article 30. Status of the captain of a commercial aircraft, the master of a merchant ship or an authorized member of the crew

1. The captain of a commercial aircraft, the master of a merchant ship or an authorized member of the crew under his command may be employed for the custody, transportation and delivery of the diplomatic bag of the sending State to an authorized port of entry on his scheduled itinerary in the territory of the receiving State, or for the custody, transportation and delivery of the bag of the diplomatic mission, consular post, special mission, permanent mission or delegation of the sending State in the territory of the receiving State addressed to the sending State.

2. The captain, the master or the authorized member of the crew entrusted with the diplomatic bag shall be provided with an official document indicating the number of packages constituting the bag entrusted to him.

3. The captain, the master or the authorized member of the crew shall not be considered to be a diplomatic courier.

4. The receiving State shall accord to the captain, the master or the authorized member of the crew carrying the diplomatic bag the facilities for free and direct delivery of the diplomatic bag to members of the diplomatic mission of the sending State who are allowed by the receiving State to have access to the aircraft or ship in order to take possession of the diplomatic bag.

Article 31. Indication of status of the diplomatic bag

1. The packages constituting the diplomatic bag shall bear visible external marks of their official character.

2. The packages constituting the diplomatic bag, if unaccompanied by a diplomatic courier, shall also bear a visible indication of their destination and consignee, as well as of any intermediary points on the route or transfer points.

3. The maximum size or weight of the diplomatic bag allowed shall be determined by agreement between the sending State and the receiving State.

¹ Reproduced in *Yearbook ... 1983*, vol. II (Part One).

² Reproduced in *Yearbook ... 1984*, vol. II (Part One).

³ *Idem.*

⁴ The texts of the draft articles considered by the Commission at its previous sessions are reproduced as follows:

Arts. 1-8 and commentaries thereto, provisionally adopted by the Commission at its thirty-fifth session: *Yearbook ... 1983*, vol. II (Part Two), pp. 53 *et seq.*

Arts. 9-14, referred to the Drafting Committee at the Commission's thirty-fourth session: *ibid.*, p. 46, footnotes 189 to 194.

Arts. 15-19, referred to the Drafting Committee at the Commission's thirty-fifth session: *ibid.*, pp. 48-49, footnotes 202 to 206.

Article 32. Content of the diplomatic bag

1. The diplomatic bag may contain only official correspondence and documents or articles intended exclusively for official use.
2. The sending State shall take appropriate measures to prevent the dispatch through its diplomatic bag of articles other than those referred to in paragraph 1, and shall prosecute and punish any person under its jurisdiction responsible for misuse of the diplomatic bag.

Article 33. Status of the diplomatic bag entrusted to the captain of a commercial aircraft, the master of a merchant ship or an authorized member of the crew

The diplomatic bag entrusted to the captain of a commercial aircraft, the master of a merchant ship or an authorized member of the crew shall comply with all the requirements set out in articles 31 and 32, and shall enjoy the facilities, privileges and immunities, specified in articles 35 to 39, accorded to the diplomatic bag by the receiving State or the transit State while on its territory.

Article 34. Status of the diplomatic bag dispatched by postal services or other means

1. The diplomatic bag dispatched by postal services or other means, whether by land, air or sea, shall comply with all the requirements set out in article 31, and shall enjoy the facilities, privileges and immunities, specified in articles 35 to 39, accorded to the diplomatic bag by the receiving State or the transit State while on its territory.
2. The conditions and requirements for the international conveyance of the diplomatic bag by postal services, including its visible external marks, maximum size and weight, shall conform to the international regulations established by the Universal Postal Union or be determined in accordance with bilateral or multilateral agreements between the States or their postal administrations. The postal authorities of the receiving State or the transit State shall facilitate the safe and expeditious transmission of the diplomatic bag conveyed through their postal services.
3. The conditions and requirements for the dispatch of diplomatic bags by ordinary means of transportation, whether by land, air or sea, shall conform to the rules and regulations applicable to the respective means of transportation, and the bill of lading shall serve as a document indicating the official status of the diplomatic bag. The competent authorities of the receiving State or the transit State shall facilitate the safe and expeditious transmission of the diplomatic bag dispatched through the ports of those States.

Article 35. General facilities accorded to the diplomatic bag

The receiving State and the transit State shall accord all necessary facilities for the safe and speedy transportation and delivery of the diplomatic bag.

2. Mr. YANKOV (Special Rapporteur) said that draft article 30 was the last article in part II of the draft; it dealt with the status of the captain of a commercial aircraft, the master of a merchant ship or an authorized member of the crew entrusted with the diplomatic bag. That method of transport and delivery of the bag was of considerable practical importance. It had been used extensively even before the 1961 Vienna Convention on Diplomatic Relations had been adopted. Since then, there had been an enormous increase in its use, and not only by States with limited financial means. At the same time, however, there had been no decrease in the activities of professional couriers.
3. The main problems which arose were: first, that of the rights and duties of the person carrying the bag; secondly, that of the treatment of that person by the

authorities of the receiving and transit States and of the legal nature of his status; and thirdly, the procedure for access to the aircraft or ship by the member of the diplomatic mission of the sending State who was to take delivery of the bag.

4. In his work on draft article 30, he had taken as a basis the existing State practice and the preparatory work for the United Nations Conference on Diplomatic Intercourse and Immunities in 1961. A study of that practice revealed two main trends. The first was to consider the person carrying the bag as little more than a postman delivering mail, no special treatment being accorded to him. The second was to consider that person as performing a mission for the sending State, parallel to his normal duties in the aircraft or ship. On that basis, protection of that person was justified and he should be accorded certain rights for the protection of the diplomatic bag.

5. Certain special situations should also be considered. One was that of a pilot who was appointed as a diplomatic courier: his assignment as a courier was then his more important function. Another case was that of the use of a special aircraft to carry diplomatic bags—a method which had been used in certain parts of Europe by the United States of America. His information on that point was that the practice was not a regular one and seemed to be very little used.

6. For the provisions of draft article 30 he had drawn upon article 27, paragraph 7, of the 1961 Vienna Convention. Both at the 1961 Conference and at the United Nations Conference on Consular Relations in 1963, proposals had been made to grant inviolability to the captain of an aircraft or the master of a ship when carrying a diplomatic bag, but those proposals had been rejected. Nevertheless, in the discussions in the Sixth Committee of the General Assembly, the view had been expressed by some speakers that the captain or master in that situation should not be treated as a common carrier, but should enjoy some degree of functional immunity. It was important to remember that the captain of an aircraft or master of a ship, as the commanding officer, had powers to deal with any situation arising on board. But once the aircraft had landed or the ship arrived in port, all that was required was facilities for delivery of the diplomatic bag.

7. There was also the important legal problem of the liability of the captain or master. Under the rules of ICAO⁵ and the provisions of the Convention on the High Seas (Geneva, 1958),⁶ the captain or master incurred liability for any damage caused by his negligence or incompetence. The introduction of any element of immunity would run counter to that liability. In the circumstances, it was not appropriate to assimilate the captain or master to a member of the administrative or technical staff of a diplomatic mission, and still less to a diplomatic agent. All that was required was that he should have the necessary facilities for safe delivery of the bag.

⁵ *Rules of the Air. Annex 2 to the Convention on International Civil Aviation*, chap. 2, para. 2.3.

⁶ Art. 11 of the Convention (United Nations, *Treaty Series*, vol. 450, p. 88).

8. On that matter, very extensive practice existed in bilateral conventions and in domestic laws and regulations. One important point was the requirement for an official document indicating the number of packages constituting the diplomatic bag. In practice, the document required by a captain or master carrying the bag was the same as that given to a regular courier, though, of course, the fact that the document had been issued did not mean that its holder was considered to be a diplomatic courier; it simply meant that he was entitled to be treated with due respect and to have the necessary facilities for delivery of the bag. It was the duty of the receiving State to permit free access to the ship or aircraft by the representative of the diplomatic mission of the sending State who came to take delivery of the bag.

9. With regard to the wording of draft article 30, he noted that the concluding words of paragraph 1 could be simplified in the light of earlier articles adopted by the Commission. That paragraph referred to the captain of a commercial aircraft, the master of a merchant ship "or an authorized member of the crew under his command". In article 27, paragraph 7, of the 1961 Vienna Convention, only the captain of a commercial aircraft was mentioned. That reference had, however, been expanded in the 1963 Vienna Convention on Consular Relations and in subsequent codification conventions to cover also the master of a merchant ship and an authorized member of the crew under the command of the captain or master, as the case might be. He had accordingly used that wider formula in order to meet practical needs and to conform to present usage. As a result of the significant developments in aviation over the previous 25 years, it was no longer appropriate to place the additional responsibility of the diplomatic bag on the captain of a large aircraft who was responsible for the safety of several hundred passengers and a large crew. The best solution was to entrust the bag to a member of the crew authorized for that purpose.

10. Article 31 was the first of the nine articles constituting part III of the draft dealing with the status of the diplomatic bag. The remarks made during the discussion on the status of the diplomatic courier would undoubtedly prove useful for consideration of the draft articles on the status of the diplomatic bag, in view of the similarity in approach to the two subjects.

11. Draft article 31 dealt with the indication of status of the diplomatic bag. Paragraph 1 specified that the packages constituting the bag must bear visible external marks of their official character. That requirement reflected long-standing State practice. The bag could consist of any form of envelope or container and the markings used to identify it could vary, but the bag must always be sealed with wax or lead seals bearing the official stamp of the competent authority of the sending State, usually the Ministry of Foreign Affairs. Sometimes the diplomatic bag was also locked and fastened with padlocks. It had been suggested that a uniform system of external marking might be introduced, but it would be difficult to go into so much detail.

12. The important question was that of official documentation. Regardless of whether the diplomatic bag was

entrusted to a courier, sent by post or shipped, an official covering document was an absolute requirement. When a diplomatic bag was sent by sea, the bill of lading had to specify its particulars.

13. With regard to the maximum size or weight of a diplomatic bag to be allowed, there had been some suggestions in the Sixth Committee of the General Assembly. Such a limitation could act as an indirect safeguard against abuses. When the diplomatic bag was sent by mail, the rules of UPU regarding maximum size and weight would, of course, apply. In draft article 31, the question of the maximum size and weight allowed had been left to be determined by agreement between the sending State and the receiving State.

14. Draft article 32 dealt with the extremely important question of the content of the bag. The basic rule, set out in paragraph 1, was that the diplomatic bag must contain only official correspondence and documents or articles intended exclusively for official use. That rule had, of course, been adopted in article 27, paragraph 4, of the 1961 Vienna Convention. The problem which arose—in the most acute form—was that of verification and the prevention of abuse. Under article 35, paragraph 3, of the 1963 Vienna Convention, if the competent authorities of the receiving State had serious reason to believe that the consular bag contained something other than official correspondence and documents or articles for official use, they could request that the bag be opened in their presence by an authorized representative of the sending State; if that request was refused by the authorities of the sending State the bag would be returned unopened to its place of origin. In many bilateral consular conventions, there was no provision for opening the consular bag, but the receiving State could cause it to be returned unopened if it suspected the contents.

15. An analysis of State practice, including bilateral consular conventions, showed consistent adherence to the principle of absolute inviolability of the diplomatic bag because of the confidentiality of its contents. There had, however, been some difficulties regarding the interpretation of the expression "articles intended for official use". In that connection, he had mentioned in his fourth report the case of films brought into the United States in the French diplomatic pouch without paying customs duty (A/CN.4/374 and Add.1-4, para. 286). His fifth report contained particulars of the most recent practice regarding the contents of the diplomatic bag and the different interpretations of the expression "articles intended for official use" (A/CN.4/382, paras. 64-69).

16. Draft article 32, paragraph 2, laid down in its concluding clause the duty of the sending State to "prosecute and punish any person under its jurisdiction responsible for misuse of the diplomatic bag". That duty was parallel to the one prescribed in draft article 20, paragraph 2, which required the receiving or transit State to prosecute and punish persons responsible for any infringement committed against the diplomatic courier. It would be recalled, however, that during the discussion on draft article 20 a number of speakers had suggested dropping the corresponding provision on sanctions. If the concluding clause of draft article 20, paragraph 2,

were eventually dropped, it would seem appropriate also to delete that of draft article 32, paragraph 2.

17. Draft article 33 dealt with the status of the diplomatic bag when it was entrusted to the captain of a commercial aircraft or the master of a merchant ship, which was the most frequently used method of sending an unaccompanied bag. The procedure of entrusting diplomatic mail to the captain of a commercial aircraft or an authorized member of his crew had proved in practice to have the advantage of economy combined with reasonable safety, since the bag was in the custody of a responsible person. In the past, the masters of merchant ships had been employed for the same purpose, and that was still a common practice where seaborne transport was more economical owing to the size of the consignment.

18. The main problems concerning the status of a bag carried in that way were: (a) that of official documentation; (b) the requirements as to admissible contents; (c) the procedure for the taking of free and direct possession of the bag by an authorized member of the mission.

19. In the first place, he wished to stress that the requirements relating to documentation, to visible external marks and to the legally permissible contents were fully applicable in that situation as well. Secondly, the diplomatic bag, when carried in that way, had to be given the same measure of protection and be accorded the same facilities, privileges and immunities as were granted by the receiving State or the transit State to a bag accompanied by a professional courier or an *ad hoc* courier.

20. In view of the first of those considerations, draft article 32, paragraph 1, had been couched in terms similar to those of article 27, paragraph 4, of the 1961 Vienna Convention. As to the protection to be accorded, his view was that a diplomatic bag which was not in the direct and permanent custody of a diplomatic courier needed an even greater measure of protection and preferential treatment in order to ensure its safe and unimpeded transport. It would be noted that the text of draft article 33 contained a cross-reference to articles 35 to 39. The reference to article 39, which dealt with protective measures in circumstances preventing the delivery of a diplomatic bag, was particularly relevant.

21. Draft article 34 dealt with the status of a diplomatic bag dispatched by postal services or other means—that was to say, a bag not entrusted to any particular person. Clearly, in the case of that form of carriage the bag needed special protection. It might be sent through the public postal services as mail, by letter post or parcel post, or by any ordinary means of transport—motor vehicle, train, merchant vessel or aircraft. Whatever the means of transport used, the diplomatic bag was entitled to special treatment because of its official character.

22. At the same time, there were certain practical matters to be taken into consideration, the first of which concerned a diplomatic bag dispatched through the public postal services. There was no specific provision on that case, but article 27, paragraph 1, of the 1961 Vienna Convention did provide that missions could “employ all appropriate means” of communication, which in State

practice was taken to mean postal services and other means of transport. There were two basic requirements, namely that the rules regarding proof of the status and contents of the diplomatic bag should apply, and that the same protection should be given as for the accompanied bag, particularly in regard to inviolability and expeditious forwarding.

23. The possibility of introducing a special category of “diplomatic mail” had been under discussion in UPU for some time, but as stated in the fourth report (A/CN.4/374 and Add.1-4, para. 314), a large majority of the postal administrations consulted—80 per cent—had refused to consider the creation of a new category of postal items. Views on the maximum weight to be allowed for such items had ranged from 2 kilograms to 30 kilograms, with a clear preference for 10 kilograms. The Executive Council of UPU had, however, indicated that bilateral agreements between postal administrations for the transport of diplomatic bags by post and for special treatment would be quite in order, and a number of such agreements had been concluded, mainly between Latin-American countries.

24. Commercial means of transport were commonly used for the dispatch of heavy consignments and articles such as films, books and exhibits intended exclusively for the official use of diplomatic missions. The four codification conventions did not contain any specific provisions on that type of unaccompanied diplomatic bag, but all the rules regarding official seals and other visible external marks and safety devices applied, and the bill of lading for the consignment could serve as a document indicating the status of the bag. The requirement of inviolability provided an added guarantee of protection and hence of safe delivery of the bag. On that basis, draft article 34 was proposed for the Commission’s consideration.

25. Lastly, with regard to draft article 35, since the main object was the safe and speedy delivery of the diplomatic bag, three different sets of circumstances could be envisaged. First, normal circumstances in which the usual facilities determined by functional necessity would be accorded, for instance in regard to transport, customs clearance and other formalities to expedite delivery of the bag. Secondly, special circumstances of some difficulty, when facilities would be provided upon a reasonable request being made by the courier or the sending State. Such special circumstances would not fall within the scope of *force majeure* and could be regarded as surmountable with the assistance of the sending or receiving State. Thirdly, circumstances that were covered not by draft article 35, but by draft article 39 (Protective measures in circumstances preventing the delivery of the diplomatic bag) and 40 (obligations of the transit State in case of *force majeure* or fortuitous event). On that basis, draft article 35 was proposed for the Commission’s consideration. The second set of circumstances to which he had referred could perhaps be dealt with in further detail in the commentary.

Mr. Yankov took the Chair.

Tribute to two former members of the Commission's secretariat

26. The CHAIRMAN said that Mr. Eduardo Valencia Ospina had served the Commission at 18 consecutive sessions, from 1966 to 1983. A graduate of the University of Bogota and the Harvard Law School, he had joined the United Nations Codification Division in 1964 and risen to the level of Senior Legal Officer. In that capacity, he had participated in the preparation of all the codification conventions and in all the codification conferences that had taken place since 1969. That was a considerable achievement and few international civil servants had acquired such a wide range of experience in international law. In addition, Mr. Valencia Ospina had contributed significantly to the work of the Commission's Drafting Committee, where he had been able to make use of his remarkable linguistic skills. Among the many other matters with which he had been closely concerned was the preparation of the volume entitled *The Work of the International Law Commission*.⁷

27. He wished Mr. Valencia Ospina success and happiness in the higher office to which he had been appointed at the International Court of Justice.

28. Mr. Andronico Adede had joined the Codification Division much later though he had been concerned since the 1970s in a number of United Nations legal activities. Of particular note was his contribution to the work of the United Nations Conference on the Law of the Sea, which he had served first as his country's representative and then as a member of the United Nations secretariat. In a situation often fraught with political issues, he had been concerned only with legal questions *stricto sensu*; he had worked, in particular, with the expert group appointed to deal with the provisions on settlement of disputes. He had also continued to make an important contribution to the Commission's work on the various topics under consideration.

29. He wished Mr. Adede well in his new appointment as Legal Adviser to the International Atomic Energy Agency.

30. Mr. REUTER, speaking on behalf of the members from western Europe, said he regretted the departure of two former members of the Commission's secretariat whose culture, devotion and zeal were an honour to their countries of origin. Mr. Eduardo Valencia Ospina and Mr. Andronico Adede, who were friendly and responsive although reserved, had indeed served the Commission to perfection, giving it remarkable material and intellectual support of the greatest value. While regretting their departure, the Commission should nevertheless welcome their advancement.

31. Mr. JAGOTA, speaking on behalf of the Asian members of the Commission, said it was his pleasant duty to place on record their deep appreciation of the quality of service rendered by Mr. Eduardo Valencia Ospina and Mr. Andronico Adede—service on which, in large measure, the acceptability of the Commission's

product depended. Both officers had made extremely valuable contributions, not only when the Commission was in session, but also when it was not, and their amiable and helpful qualities had been much appreciated.

32. The drafting proposals which Mr. Valencia Ospina had made in the Drafting Committee had helped to resolve many difficulties. He had first come to know Mr. Adede personally in connection with the United Nations Conference on the Law of the Sea and had acquired a great admiration for his work. Mr. Adede's contribution to the law extended over a wide field and included a series of lectures delivered before The Hague Academy of International Law on international investment in developing countries—a highly topical subject and one of continuing interest to those countries.

33. It was therefore gratifying to know that both officers had secured advancement by their appointments to the International Court of Justice and the International Atomic Energy Agency, respectively, and that they would continue to make equally valuable contributions in their new posts. He wished them both well for the future.

34. Mr. NJENGA, speaking on behalf of the African members of the Commission, said that he had learnt much from Mr. Eduardo Valencia Ospina, whom he had known since 1969. African countries attached special importance to jurists from Latin America, who had in many respects been the trail-blazers in articulating the legal concerns of the third world. Much had been gained from their wisdom and knowledge and, in that respect, Mr. Valencia Ospina was an outstanding son of Latin America. He was also a jurist in his own right, as was clearly apparent from his valuable contribution to the Codification Division and particularly to the Commission. He would be sorely missed in the Commission, but it was gratifying to know that he had left for such a high office.

35. Mr. Andronico Adede had joined the Ministry of Foreign Affairs of Kenya in 1971 as Deputy Head of the Legal Division and had immediately become involved in the United Nations Conference on the Law of the Sea. Both as a member of the Kenyan delegation and later as a member of the United Nations Secretariat, his interest in legal matters had always been to the fore and many would doubtless remember his contribution to the dispute-settlement provisions of the United Nations Convention on the Law of the Sea. Although he had only been with the Commission for a relatively short time, Mr. Adede had demonstrated his outstanding qualities both as a jurist and as a human being.

36. He wished Mr. Adede well in his new post with the International Atomic Energy Agency. Both he and Mr. Valencia Ospina would always receive a warm welcome from the Commission.

37. Mr. USHAKOV warmly congratulated the two former members of the Commission's secretariat, Mr. Eduardo Valencia Ospina and Mr. Andronico Adede, who had just been called to higher posts and greater responsibilities. Their advancement testified to the efficiency of members of the Codification Division and

⁷ United Nations publication, Sales No. E.80.V.11.

their competence in the sphere of contemporary international law. He thanked them for their contribution to the work of the Commission and especially to that of the special rapporteurs. He was convinced that they would be well able to carry out the tasks that awaited them and he wished them every success.

38. Mr. DÍAZ GONZÁLEZ, speaking also on behalf of Mr. Calero Rodrigues and the Spanish-speaking members from Latin America, said he could only feel pride at the praise accorded to two representatives of the third world who had undoubtedly contributed to the progressive development of international law. The departure of Mr. Eduardo Valencia Ospina and Mr. Andronico Adede was regrettable, since the Commission was losing two friends; but their promotion was well deserved. He wished to thank both of them for the help they had given the Commission and wished them all success in their new duties.

39. Mr. LACLETA MUÑOZ said he regretted the departure of Mr. Eduardo Valencia Ospina, with whom he had had cultural and linguistic ties, as well as a bond of friendship. He thanked him for the valuable support he had given the Commission in the performance of its task and congratulated him on his promotion.

40. He also wished to pay a tribute to Mr. Andronico Adede for his efficiency and ability. He hoped that the example of both men would be followed and wished them every success in their new duties.

41. Mr. MALEK said that, as a former staff member of the United Nations Office of Legal Affairs, he particularly welcomed the advancement of the two former members of the secretariat.

42. He remembered the valuable contribution that Mr. Eduardo Valencia Ospina had made to research work and studies, especially those of the Special Committee on the Question of Defining Aggression, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and the *Ad Hoc* Committee on International Terrorism. His appointment as Deputy Registrar of the International Court of Justice testified to the solidity and extent of his competence, his experience and his integrity.

43. By his intellectual qualities Mr. Andronico Adede had also made a remarkable contribution to the work of the Office of Legal Affairs and that of the Commission. He was convinced that Mr. Adede would perform with authority his duties as Legal Adviser to the International Atomic Energy Agency, to which he had just been appointed.

44. Mr. FRANCIS joined with previous speakers in offering his warmest congratulations to Mr. Eduardo Valencia Ospina and Mr. Andronico Adede on their advancement and wishing them all success in their future endeavours. During his (Mr. Francis's) term as Chairman of the Commission, Mr. Valencia Ospina had been a tower of strength. The Commission should be gratified that it had provided the posts in which those two legal officers had served their apprenticeship. Through his devotion, efficiency and competence, Mr. Valencia Ospina had left behind an exemplary record of service.

45. In the short time that Mr. Adede had spent with the Commission he had made his mark, and his outstanding contribution was attested to by his appointment so soon to the post of Legal Adviser to the International Atomic Energy Agency.

46. Mr. QUENTIN-BAXTER said that if so many members wished to speak it was because the occasion was one that affected them personally. He had come to realize that behind Mr. Andronico Adede's quiet and unassuming manner lay a keen legal mind and excellence as a draftsman. He had, of course, known Mr. Eduardo Valencia Ospina for much longer and, indeed, tended to think of his own association with the Commission primarily in terms of the personalities of Mr. Torres Bernardez and Mr. Valencia Ospina. There were not many communities to which one belonged in the course of a lifetime that had a special personal significance: such had been Mr. Valencia Ospina's association with the Codification Division—of which he had been one of the great representatives—which had been extremely valuable and would endure, even though the link with the Commission itself had been broken.

47. Mr. MAHIU said he wished to pay a special tribute to Mr. Eduardo Valencia Ospina, who might be called the "memory man" of the Commission due to his knowledge of its members and solid experience of its work, and to congratulate him on his promotion.

48. He regretted the departure of Mr. Andronico Adede, whom he had known mainly through the work of the United Nations Conference on the Law of the Sea. He congratulated him on his advancement, which confirmed his high qualities and competence.

49. Mr. NI said that he wished to speak for two reasons. First, because the two legal scholars to whom the Commission was paying tribute came from the third world, to which he belonged; and secondly, because the occasion showed how much the work of the Secretariat and of the members of the Codification Division, in particular, was appreciated. Both the officers in question had made substantive contributions to the work of the Commission, which would be recorded in the annals of the Organization. Although his acquaintance with Mr. Eduardo Valencia Ospina was not of long standing, the impression he had left was far-reaching. As a friend, he was sincere and warm-hearted; as an administrator, efficient and dutiful; as a scholar, searching and knowledgeable.

50. He had first come to know Mr. Andronico Adede before he had joined the Commission's secretariat, when his writings on the settlement of disputes had attracted attention. He was a star of his continent. Although there was much else to be said, he would confine himself at the present stage to wishing Mr. Valencia Ospina and Mr. Adede every success in the years ahead.

51. The CHAIRMAN proposed that he should send a letter to Mr. Valencia Ospina and to Mr. Adede on the Commission's behalf, enclosing the summary record of the meeting.

It was so agreed.

The meeting rose at 1.20 p.m.