

Provisional

**For participants only**

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**International Law Commission**  
**Seventy-second session (second part)**

**Provisional summary record of the 3533rd meeting**

Held at the Palais des Nations, Geneva, on Wednesday, 7 July 2021, at 11 a.m.

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***Present:***

Chair:	Mr. Hmoud
Members:	Mr. Cissé
	Ms. Escobar Hernández
	Mr. Forteau
	Ms. Galvão Teles
	Mr. Gómez-Robledo
	Mr. Hassouna
	Mr. Jalloh
	Mr. Laraba
	Ms. Lehto
	Mr. Murase
	Mr. Murphy
	Mr. Nguyen
	Ms. Oral
	Mr. Ouazzani Chahdi
	Mr. Park
	Mr. Petrič
	Mr. Rajput
	Mr. Reinisch
	Mr. Saboia
	Mr. Šturma
	Mr. Tladi
	Mr. Vázquez-Bermúdez
	Sir Michael Wood
	Mr. Zagaynov

***Secretariat:***

Mr. Llewellyn	Secretary to the Commission
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*The meeting was called to order at 11.05 a.m.*

**Succession of States in respect of State responsibility** (agenda item 6) (*continued*)  
(A/CN.4/743)

**Mr. Nguyen**, speaking via video link, said that he wished to thank the Special Rapporteur for his useful oral presentation on the development of the topic “Succession of States in respect of State responsibility”. With regard to the suggestion from various members of the Commission to change the title of the topic, for example to “State responsibility in cases of succession of States”, he was in favour of retaining the original title, as it was an accurate reflection of the Commission’s discussion on the topic over the previous five years as well as of the content of the report.

While the report was a little unclear in its treatment of the theory of automatic succession, as observed by some members at the previous meeting, the Special Rapporteur had already demonstrated his open-mindedness in accepting the feedback of States and the comments made during the debate in the Sixth Committee.

The scarcity and diversity of State practice in cases of succession in respect of State responsibility inevitably influenced the drafting of general conclusions on the topic. Although the Special Rapporteur had endeavoured to overcome that difficulty, European cases accounted for nearly all the cases cited in the report, with paragraphs 77 to 94 focusing entirely on cases of succession in Eastern Europe in 1991. Moreover, while assurances and guarantees of non-repetition could take various forms in State practice, the report cited only the case of *Blazek et al. v. The Czech Republic*. However, examples of forms of reparations in cases of succession in respect of State responsibility could be found beyond the European continent, including in Asia and Africa, where the practice of succession of States was not uncommon. He therefore suggested that the Special Rapporteur should consider citing other examples of succession of States in respect of State responsibility from other continents, including, in particular, cases in which responsibility for internationally wrongful acts committed by a predecessor State had been transferred to a successor State. The general approach taken should adhere strictly to the rule whereby any questions regarding the succession of States in respect of State responsibility should be settled by agreement, not by automatic succession, yet the report only provided guidelines for situations in which the States concerned had not arrived at a special agreement.

In his fourth report, the Special Rapporteur had inverted the order in which the two sets of consequences of an internationally wrongful act were addressed in the articles on responsibility of States for internationally wrongful acts adopted by the General Assembly in 2001, in that he considered forms of reparation first, before examining cessation and non-repetition. While he respected the Special Rapporteur’s decision, because examples of reparation were more often to be found in practice, he wished to underline the distinction between the two sets of consequences. The obligation of cessation required the responsible State to put an end to an internationally wrongful act of a continuing character and to establish favourable conditions for measuring the scope of the required reparation. The cessation of the wrongful act and the provision of assurances and guarantees of non-repetition were intended to repair the legal relationship affected by the breach. Reparation, on the other hand, served to remedy the material and legal damage and loss. Although, in practice, there was a degree of overlap between the two sets of consequences, in drafting the 2001 articles the Commission had consistently taken the view that, notwithstanding the importance of reparation in many cases, it might not be the central issue in a dispute between States regarding questions of responsibility.

In relation to paragraph 29 of the report, regarding the relationship between a lump-sum agreement concluded before the date of succession of States and the principle of full reparation, he wished to note that a lump-sum agreement concluded between the States involved after the date of succession, with a view to settling outstanding succession-related matters of a sensitive nature, was also practicable. A noteworthy example was the Agreement between the Government of the United States of America and the Government of the Socialist Republic of Vietnam concerning the Settlement of Certain Property Claims, of 28 January 1995.

With regard to specific draft articles, he noted that draft article 16 (1), on restitution, appeared to be a *mutatis mutandis* application to cases of succession of article 35 of the articles on responsibility of States for internationally wrongful acts, which referred to the relationship between a State responsible for an internationally wrongful act and an injured State. However, in cases where a predecessor State continued to exist after succession, three States – a predecessor, a successor and an injured State – rather than two were involved. The extent of restitution that a predecessor State might be required to make for an internationally wrongful act committed before the date of succession was based on the primary obligation of that State, and any request for restitution from the predecessor State made by an injured State before or after the date of succession remained valid.

The language of draft article 16 (1) implied that responsibility for an internationally wrongful act committed by a predecessor State automatically transferred to the successor State, provided that restitution was not materially impossible and did not involve a “burden out of all proportion”. However, even if those conditions were met, the predecessor State was under an obligation to prove its inability to make restitution, whether because the object in question was located in the territory under the administration of the successor State or for other reasons of material impossibility. In such cases, either an agreement or amicable cooperation between the predecessor, successor and injured States was needed. To be fair, the injured State should give notice of its claim for restitution to the predecessor State, and the latter, in the event of material impossibility requiring the participation of a successor State, should organize negotiations with both the successor and the injured State with a view to making restitution for its internationally wrongful act. The term “give notice” was used in article 43 (1) of the 2001 articles on responsibility of States for internationally wrongful acts and was more flexible than the term “may request” used in the proposed draft article 16 (2).

In succession cases where the predecessor State had ceased to exist, the successor State did not automatically bear responsibility for the consequences of its predecessor’s internationally wrongful act. It might make restitution in a situation of necessity, but the fullness of the restitution was dependent on its capacity; it was not under an obligation to make full restitution. Irrespective of whether or not a predecessor State continued to exist, a successor State, either alone or in conjunction with other States, was entitled to request restitution from a State that had committed an internationally wrongful act against its predecessor State, making its request in the name of the territory or the persons under its jurisdiction after the date of the succession.

With regard to draft article 17, on compensation, he again saw a need to clarify the two situations of succession, namely, where the predecessor State continued to exist and where it ceased to exist. Draft article 17 (1) reproduced text from article 36 of the 2001 articles on responsibility of States, but without the reference to “financially assessable damage”. Draft article 17 (2) referred to “particular circumstances” but did not define what those circumstances were, and also failed to indicate the need for a direct link, after the date of succession, between the damage suffered by an injured State and a successor State. Furthermore, as in draft article 16 (2), the term “may request” was used instead of “give notice”. To safeguard the interests of both States, the language used in that paragraph should be adjusted to establish that, in cases of succession where the predecessor State had ceased to exist, a State injured by an internationally wrongful act caused by that predecessor State might give notice of its claim for compensation to the successor State when there was a direct link between the consequences of the wrongful act and the successor State and when the successor State benefited from such act. The methods used to establish the amount of compensation could be detailed in the commentary, providing guidelines that would be useful for future international agreements and litigation.

On the question of satisfaction, the Special Rapporteur was right to mention satisfaction provided through the domestic prosecution of crimes under international law. However, the report would be more comprehensive if it also considered the possibility of satisfaction being provided by a successor State in cases where its predecessor State had ceased to exist. One example of satisfaction in cases of serious violations of *erga omnes* obligations that the Special Rapporteur might cite was the 2018 judgment of the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia in *Case 002/02*, dealing with crimes of genocide and crimes against humanity committed by former officials of

Democratic Kampuchea. That judgment provided satisfaction to the international community, and, in particular, to the Cham, Vietnamese and Buddhist victims of the inhumane acts carried out by the Khmer Rouge.

Turning to draft article 7 *bis*, on composite acts, he noted that the premise set forth in draft article 7 *bis* (2), namely, that a successor State bore responsibility for an internationally wrongful act caused by its last action or omission of a continuing character, was correct in cases of succession where the predecessor State had ceased to exist and the obligation breached remained in force. However, draft article 7 *bis* (2) omitted to mention the responsibility borne by the predecessor State, where it continued to exist, for the acts or omissions inherent in the composite internationally wrongful act executed by that State. In that situation, the predecessor State could not escape its responsibility. In his view, draft article 7 *bis* (2) did not illustrate that point satisfactorily.

The text of draft article 19, on assurances and guarantees of non-repetition, was not easy to understand and required revision. Draft article 19 (1) addressed cases of succession where a predecessor State continued to exist, while draft article 19 (2) addressed both cases where a predecessor State existed and cases where there was no predecessor State. Paragraph 2 (a) emphasized that, where the predecessor State had ceased to exist but the obligation breached by its internationally wrongful act remained in force between a successor State and an injured State after the date of succession, and when circumstances so required, the State injured by the internationally wrongful act of the predecessor State might request appropriate assurances and guarantees of non-repetition from a successor State. That situation differed from cases in which a successor State was itself a State injured by an internationally wrongful act committed by another State or States against the predecessor State when such act had a continuing character and the rule violated remained in force. In such cases, the successor State having the status of injured State might request appropriate assurances and guarantees of non-repetition from the State or States responsible for the act. He suggested that a set of different situations should be included in the commentary in order to clarify how the rules might be applied.

He was in favour of sending the draft articles presented in the fourth report to the Drafting Committee for reconsideration of the problems identified.

**Mr. Park** said that he fully supported the general approach to the topic that the Special Rapporteur had adopted, as reiterated in paragraphs 13 to 22 of the report. He recognized that the general principles underpinning that approach – specifically, the subsidiary nature of the draft articles, the priority to be given to agreements between the States concerned, and the importance of maintaining consistency with the Commission’s previous work – had garnered broad support from States in the Sixth Committee. However, after carefully examining the new draft articles proposed, he had doubts as to whether specific draft articles on the content and forms of reparation – namely, restitution, compensation, satisfaction, cessation and non-repetition – were needed, given the purpose and scope of the topic. Despite those doubts, however, he would agree to refer the draft articles to the Drafting Committee if that was the wish of a majority of Commission members.

His doubts rested on four key issues. Firstly, the focus of the topic was whether rights and obligations arising from the international responsibility of a predecessor State were transferable in the course of State succession. The question of how to discharge the obligation to make full reparation for the injury caused by an internationally wrongful act committed by or against a predecessor State took the analysis a step further, extending beyond the focus of the topic. Moreover, guidance on that question could be found in the 2001 articles on responsibility of States for internationally wrongful acts, in the chapter on reparation for injury, and, more specifically, in articles 34 to 37. In fact, the first paragraphs of the new draft articles 16, 17 and 18 that the Special Rapporteur was proposing – which related, respectively, to restitution, compensation and satisfaction – reproduced in part the wording used in the relevant paragraphs of the 2001 articles. The new draft articles confirmed that a predecessor State that continued to exist had an obligation to make reparation for injury, whether through restitution, compensation or satisfaction, in the specific circumstances formulated in article 35, on restitution, article 36, on compensation, and article 37, on satisfaction, of the 2001 articles.

Since the new draft articles proposed by the Special Rapporteur did not deviate from the general rules governing reparation for injury, the need for them was questionable. Although State succession was certainly an issue relevant to reparation for injury, it might be more useful to address questions of arguably greater relevance and complexity in the context of State succession, such as how composite acts or wrongful acts having a continuing character throughout the process of State succession should be treated and what happened when a predecessor State ceased to exist. With regard to the latter question, the new draft articles lacked clarity. For example, it was not clear whether draft article 16 (2) and (4), draft article 1 (2) and (4) and draft article 19 (2) encompassed situations in which a predecessor State had ceased to exist, and whether draft article 18 excluded those situations.

The second key issue was that, in practice, specific forms of reparation were *a priori* decided by the States concerned through negotiation or a juridical procedure. Since, as noted in paragraph 45 of the report, the choice of form of reparation fell to the injured State, he wondered whether specific draft articles on specific forms of reparation, beyond the general rules applicable, would actually be useful in practice.

His third concern was that, if the Commission was to formulate specific draft articles on specific forms of reparation, it would need to discuss, in parallel, the different categories of State succession. Forms of succession were of great relevance when considering forms of reparation, and the different categories of succession should be analysed separately in order to establish whether or not rights and obligations in respect of reparation would be transferred in the context of succession, and, if so, in what manner. In other words, the draft articles should reflect the fact that different categories of State succession, and particular circumstances within those categories, might lead to different solutions.

Fourthly and lastly, in his view, the Commission needed to consider the final text on the same topic published by the Institute of International Law. He appreciated the Special Rapporteur's efforts to differentiate the Commission's work from that of the Institute and agreed that the Commission did not need to follow the latter's approach or adhere to its conclusions. Since the Institute's text was one of the earliest works on the topic, the Commission's discussion could depart from its content where necessary. At the same time, however, given the different roles performed by the Commission and the Institute, differentiation was not always required.

In view of those considerations, he suggested that the Commission should formulate common rules for reparation, focusing on whether reparation for a wrongful act committed by or against a predecessor State could be requested by or from a successor State after the date of succession. For comparison, the Institute of International Law had addressed the issue of reparations in the second chapter of its resolution on succession of States in matters of international responsibility, entitled "Common Rules", and, more specifically, in article 4, on invocation of responsibility for an internationally wrongful act committed by the predecessor State before the date of succession of States, and article 5, on invocation of responsibility for an internationally wrongful act committed against the predecessor State before the date of succession of States.

He wished to make some specific comments on the draft articles proposed in the fourth report. According to paragraph 48 of the report, draft article 16 on restitution was intended to "strike a balance between the continuing applicability of general rules on forms of reparation (with a priority of restitution) and a material impossibility of restitution as a result of succession of States". In draft article 16 (1), which employed the definition contained in article 35 of the articles on State responsibility, it was noted that, in cases of succession of States where a predecessor State continued to exist, that State was under an obligation to make restitution, "provided and to the extent that restitution is not materially impossible or does not involve a burden out of all proportion". However, no indication was provided as to how such "proportion" was to be assessed. In article 35 (b) of the articles on State responsibility, by contrast, it was specified that the burden in question had to be out of all proportion "to the benefit deriving from restitution instead of compensation". As draft article 16 (1) dealt with a situation in which a predecessor State continued to exist, it might be better to follow the general rule reflected in article 35 (b). He therefore proposed inserting, after "a burden out of all proportion" in draft article 16 (1), the words "to the benefit deriving from restitution instead of compensation".

It was unclear, in any case, whether such a provision was in fact necessary in the context of the draft articles, as it reflected an established general rule of State responsibility. The point that needed to be emphasized was the “material impossibility” of restitution, as would be the case, for example, in the event that the objects to be restituted came to belong to a successor State after succession. However, in the light of general rules on reparation, restitution might be “materially impossible” in certain circumstances outside the context of succession of States. Furthermore, the draft article did not include a definition of restitution, which, in line with article 35 of the articles on State responsibility, could be understood as the re-establishment of the situation that existed before the wrongful act was committed. If such a definition was not included in the draft article, it should at least be mentioned in the commentary.

Draft article 16 (2) seemed to be premised on automatic succession rather than on non-succession in principle and succession only in exceptional cases. In that regard, he wished to recall paragraph (3) of the commentary to article 11 of the articles on State responsibility, in which it was noted that: “In the context of State succession, it is unclear whether a new State succeeds to any State responsibility of the predecessor State with respect to its territory.” As currently worded, draft article 16 (2) could be interpreted to mean that the successor State’s obligation to make or participate in restitution following a request by an injured State derived from “material impossibility” that did not have to be considered by a successor State in the strict sense of the words, unless the successor State had benefited from unjust enrichment as a result of a wrongful act committed by a predecessor State or had acquired interests through such an act.

In that context, he wondered whether paragraph 2 should not be framed along the same lines as paragraph 4, which was intended to establish the right of a successor State to request restitution from a State that had committed an internationally wrongful act against the predecessor State. Such a request required a direct link between the act and the successor State, as indicated by the words “if the injury caused by this act continues to affect the territory or persons which, after the date of succession of States, are under the jurisdiction of the successor State”. In that regard, it was important to recall the text of draft article 7 on acts having a continuing character, which had been adopted by the Commission during the first part of its current session. That draft article, which was premised on the principle of non-succession, provided that:

“When an internationally wrongful act of a successor State is of a continuing character in relation to an internationally wrongful act of a predecessor State, the international responsibility of the successor State extends only to the consequences of its own act after the date of the succession of States. If and to the extent that the successor State acknowledges and adopts the act of the predecessor State as its own, the international responsibility of the successor State also extends to the consequences of such act.”

Draft article 16 (3) stressed the subsidiary nature of paragraphs 1 and 2 and the fact that priority would be given to agreements between the States concerned. However, in draft article 1 (2), which had been provisionally adopted by the Commission, it was already noted in more general terms that the draft articles applied “in the absence of any different solution agreed upon by the States concerned”.

Draft article 16 (4), which concerned the right to request restitution from a State which had committed an internationally wrongful act against the predecessor State, was not controversial: it would allow a successor State to request restitution from such a State on the basis of its own injury, provided that the injury continued to affect territory or persons that, after the date of succession, were under its jurisdiction. However, one problem that might arise concerned the period and the extent of such restitution. In his view, that problem could be resolved through the application of general rules on the transfer of rights and obligations for the various categories of State succession.

Draft article 17 (1) concerned cases of succession of States in which the predecessor State continued to exist. There was no doubt that, if a predecessor State bore responsibility for an internationally wrongful act, it would be under an obligation to make compensation for the damage thereby caused. The general rules on compensation in the context of State

responsibility, as reflected in article 36 of the articles on State responsibility, could be applied. Indeed, draft article 17 (1) reflected the wording of article 36 (1) of those articles, stating that there was an obligation to pay compensation, “insofar as such damage is not made good by restitution”, which emphasized the priority of restitution as a method of reparation.

Draft article 17 (2) dealt with the exceptional circumstance in which a State injured by an internationally wrongful act could request compensation from a successor State. That right was made subject to two conditions, namely, the disappearance of the predecessor State and the unjust enrichment of a successor State, which were linked by the word “or”. However, for consistency with paragraph 1, which concerned a predecessor State’s own responsibility, it should be stipulated in paragraph 2 that both conditions had to be met. Although the prohibition of unjust enrichment was an important principle, it would be unreasonable, in the event that a predecessor State that had committed an internationally wrongful act continued to exist, for a State injured by that act to request compensation from a successor State merely because that State continued to “benefit” from it. In his view, the requirement for a “clear direct link” with the benefit that the successor State derived from the wrongful act should be mentioned, either in the draft article or in the commentary.

Draft article 17 (4) also dealt with an exceptional circumstance, namely, cases in which a successor State could request compensation from a State that had committed an internationally wrongful act against the predecessor State. It made that right subject to two conditions, which were again linked by the word “or”. It followed from the use of that word that a successor State could request compensation if the predecessor State had ceased to exist, even if the successor State did not continue to bear injurious consequences, which implied an automatic succession of rights from the predecessor State to the successor State. It was questionable whether such a provision applied to all categories of State succession as a general rule. He therefore considered that the two conditions should instead be linked by the word “and”. The second of those conditions also raised the question of whether the paragraph referred to compensation for injuries caused to a successor State that had continued since the date of succession. If a successor State was injured continuously, as a result of an act having a continuous character, it could request compensation from the responsible State on the basis of the injurious consequences that it continued to bear.

The problem was whether, in calculating compensation, a successor State could take into account injuries caused to a predecessor State. Article 36 (2) of the articles on State responsibility provided that: “The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.” One question that might arise, and to which draft article 17 did not provide an answer, was that of whether any loss of profits that had occurred before succession could be taken into account.

Like the first paragraphs of other draft articles, draft article 18 (1) mirrored the corresponding provision in the articles on State responsibility, namely, article 37 (1). It confirmed that a predecessor State that continued to exist was under an obligation to give satisfaction for the injury caused by its internationally wrongful act. In the context of State succession, it might be worth focusing on cases in which a predecessor State had ceased to exist, where the question would arise as to whether an injured State could make a request to a successor State under certain conditions. Given the nature of satisfaction, a decision to request or accept such a form of reparation from a successor State would not be taken lightly. In that regard, he wished to propose two alternative formulations for the provision. The first would read: “In cases of succession of States where a predecessor State ceases to exist, an injured State may not request satisfaction as a form of reparation against a successor State which has continued to benefit from such act, even when injury is not made good by restitution or compensation.” The second would read: “In cases of succession of States where a predecessor State ceases to exist, a successor State is not under obligation to give satisfaction for the injury caused by its internationally wrongful act committed by a predecessor State, even if such injury is not made good by restitution or compensation.”

In his fourth report, the Special Rapporteur had devoted a great deal of attention to the question of the prosecution of international crimes by successor States. The Special Rapporteur’s in-depth analysis of the question served as the basis for draft article 18 (2), which was formulated as a “without prejudice” clause, stating that: “Paragraph 1 is without prejudice to an appropriate satisfaction, in particular prosecution of crimes under

international law, that any successor State may claim or may provide.” The responsibility of States and the criminal liability of individuals were separate issues subject to separate norms. The prosecution by a successor State of individuals for crimes under international law could not replace the predecessor State’s obligation to give satisfaction. As Mr. Reinisch had noted, the Special Rapporteur had not provided any examples of State practice to indicate that the prosecution of international crimes had indeed been regarded as a form of satisfaction by successor States. In his own view, the matter of satisfaction could easily be resolved through the application of the general rules of State responsibility and other norms of international law, even in the absence of a dedicated draft article.

Draft article 7 *bis* (1) identified what constituted an act of a composite character in the context of State succession but did not specify what would happen in such a scenario. It was noted in the second sentence of the paragraph that the predecessor State and the successor State were responsible only for their own acts. Paragraph 2, however, set out an exception in which the international responsibility of the successor State extended to cover the entire period starting with the first of the actions or omissions defined in aggregate as wrongful.

He suggested that the second sentence of paragraph 1 should be deleted, as it reflected a general rule of State responsibility, namely the rule that a State was responsible only for the consequences of its own act. He also suggested combining paragraphs 1 and 2. In his view, composite acts should be defined and their consequences discussed in the same paragraph. A similar provision could in fact be found in the resolution of the Institute of International Law on the same topic. The Institute had come to the simple conclusion that the international responsibility of the successor State for the breach extended over the entire period starting with the first of the actions or omissions of the series and lasted for as long as those actions or omissions were repeated and remained not in conformity with the international obligation.

The draft article did not address the question of whether such a rule applied if the predecessor State had ceased to exist. Paragraph 3 merely reiterated the general rule that the predecessor State or the successor State could also incur responsibility on the basis of a single act. With regard to the consequences of a successor State’s extended responsibility for a wrongful act consisting of combined acts that it and a predecessor State had committed, he wondered whether it would not be better to focus on the scenario in which the predecessor State had ceased to exist. If those consequences were to be addressed in the scenario in which the predecessor State continued to exist, further consideration would be needed to determine how responsibility should be distributed or shared between that State and a successor State for their composite wrongful act. It was expected that some of those aspects would be addressed as part of the discussion on shared responsibility that would be included in the Special Rapporteur’s fifth report.

Draft article 19 (1) dealt with a predecessor State’s obligation to offer appropriate assurances and guarantees of non-repetition, if circumstances so required. It also reflected a general rule of State responsibility, which existed independently of succession of States, although the formulation “if circumstances so require” was vague and thus might require further consideration in that specific context.

Draft article 19 (2) seemed to deal with cases in which the predecessor State had ceased to exist and the internationally wrongful act continued after the date of succession. Subparagraph 2 (a) provided that an injured State could request appropriate assurances and guarantees of non-repetition from a successor State.

In the event that the wrongful act continued after the date of succession, the successor State became a responsible State and, therefore, an injured State could request appropriate assurances and guarantees of non-repetition from it. Again, unless the provision concerned or implied the special circumstance of extending the responsibility of a successor State, by transferring obligations to it from a predecessor State, the general rule of State responsibility was not altered. The matter could be resolved through the application of the rule on acts having a continuing character, as contained in draft article 7.

As far as he understood, the intention of draft article 19 (2) (b) was to grant a successor State the right to request appropriate assurances and guarantees of non-repetition from a responsible State, provided that the obligation breached by the internationally wrongful act

remained in force after the date of succession. Once again, unless such an act continued against a successor State, the general rule of State responsibility would not be altered. As noted in paragraph 108 of the report, “the obligation of cessation applies by virtue of normal rules of State responsibility and only regarding acts of a continuing character”. The obligation of cessation applied by virtue of the rule on the continuing character of the wrongful act. The obligation to offer appropriate assurances and guarantees of non-repetition applied by virtue of general rules on composite acts and acts having a continuing character. In that regard, therefore, he was not sure that it was necessary to have separate draft articles on forms of reparation and assurances and guarantees of non-repetition.

With regard to the future programme of work, the Special Rapporteur had indicated that his fifth report would focus on the legal problems arising in situations where there were several successor States and the issue of shared responsibility. The Special Rapporteur had also suggested that, once those issues had been discussed, it would be possible to adopt the entire set of draft articles on first reading, at the following session. However, the Commission had so far adopted only some of the draft articles, and there remained a good deal of work to be done by the Drafting Committee with regard to the other draft articles proposed in the second and third reports. In view of the scope, complexity and importance of the topic, he strongly recommended that the Commission should allow time for an ample and in-depth discussion, which would ensure that the draft articles provided useful guidance for the negotiation by States of agreements and the adjudication of responsibility for internationally wrongful acts in cases of succession of States.

*The meeting rose at 12.05 p.m.*