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Dr. Milan Šahović's Contribution to the Work of the United Nations in the Field of the Codification and Progressive Development of International Law

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Introduction

Milan Šahović (Belgrade, 20 February 1924 – Belgrade, 5 October 2017) was a renowned Yugoslav and Serbian jurist, a specialist in international law and international relations. His work as a researcher, legal scholar, expert and representative of Yugoslavia in various United Nations (UN) bodies received international acknowledgement. He graduated from the University of Belgrade's Law School and joined the Institute of International Politics and Economics in Belgrade in 1948, where he worked until his retirement in 1988. During his career at the Institute, Šahović started as a research assistant and later became Principal Research Fellow, Head of the Department of International Law (1958–1972) and Director of the Institute (1972–1977;

* As a young diplomat, the author was professionally associated with Dr. Milan Šahović and had the honour and pleasure to participate with him in a number of meetings in the UN and, by writing this paper, would like to pay a special tribute to the memory of Dr. Šahović on the occasion of the 100th anniversary of his birth. The author would like to express his gratitude to the staff of the Diplomatic Archives of the Ministry of Foreign Affairs of the Republic of Serbia, the Historical Archives of Belgrade and the Library of the Institute of International Politics and Economics in Belgrade for assisting him in finding the documents and other sources for writing the paper. The author is greatly indebted to Dr. Duško Dimitrijević, Principal Research Fellow at the Institute of International Politics and Economics for his comments that were extremely helpful for finalizing the paper as well as to Larry D. Johnson, former UN Assistant Secretary-General for Legal Affairs, who kindly accepted to read the paper and offer his very useful comments.

1983–1988) (About Šahović's life and career, see Obradović [1996, 11–25]; Đorđević [2017, 117–118]; Babić [2017, 119–121]; Grečić [2017, 122–124]). He obtained a doctorate from the same Law School with a thesis on the general issues of codification of international law, the topic he would pursue during his whole career, as a scholar and in his activities in the UN (Šahović 1958). As a legal scholar, he wrote extensively on many topics of international law and international relations, in particular on various UN topics – legal issues, disarmament, nuclear energy, decolonization, Non-aligned movement and other (For his bibliography, see in JRMP 1996, 27-42). He was active also as a member of various professional international organizations and associations, such as the International Law Association, *l'Institut de Droit International,* the International Progress Organization, the Permanent Court of Arbitration at the Hague, lecturing two times at the Hague Academy of International Law and at a number of universities abroad (Šahović 1974, 243-310; 1987, 171-232).

The present paper deals only with one area of Šahović's career, and is confined to his participation in various UN organs and bodies, covering the period from 1952 to 1986. In this period, Šahović was a member of the Yugoslav delegations and participated in 19 General Assembly (UNGA) sessions as a representative in the Sixth (Legal) Committee. He was also a member of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964–1970), the International Law Commission (ILC) 1974–1981, and head of delegation at three Vienna diplomatic conferences on the codification of international law. The paper is based on various sources, primarily the UN documents, domestic archives, Šahović's and other scholars' writings as well as personal knowledge the author acquired during his collaboration with Šahović. While Šahović's activities were focused on the codification and progressive development of international law within various UN organs and bodies, it should be understood that they were closely interrelated and formed an indivisible whole.

The longest period of Milan Šahović's work was closely related to the *Sixth Committee*, where he participated for the first time as a member of the Yugoslav delegation in the Seventh UNGA session, in New York, in 1952 (A/C.6/340). As an adviser within the delegation, he followed the proceedings, but he did not address that session. In the meantime, until his next participation in the UNGA, he was working on the completion of his doctorate and was involved, among other issues, in studying the proposals on the revision of the UN Charter (DAMFARS, PA, UN, 1954, Registry 98, File

3, Doc. No. 44265). From the 14th UNGA session in 1959, until the 39th in 1984, he became a regular representative in the Committee, participating in most of the UNGA sessions (14th - 16th, 20th - 25th, 28th - 29th, 31st - 34th, 37th - 39th). During that period, Šahović acted as a Yugoslav representative on a number of agenda items in the Sixth Committee, such as the Report of the ILC, the Consideration of principles of international law concerning friendly relations and co-operation among States, the publication of a United Nations juridical yearbook, the Draft convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons, the Respect for human rights in armed conflicts, the Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, the Peaceful Settlement of Disputes, the Draft declaration on Territorial Asylum, the General multilateral treaties concluded under the auspices of the League of Nations, the Technical assistance to promote the teaching dissemination and wider appreciation of international law. He was usually assigned to comment on the work of the ILC almost at every session he attended, which became his favoured topic. In his very detailed and meticulously prepared statements, he commented on all activities of the ILC, such as the draft articles on consular intercourse and immunities, the law of treaties, special missions (prepared by his mentor, Prof. Milan Bartoš, as Special Rapporteur), the question of diplomatic privileges and immunities, the relations between States and international organizations, Succession of States in respect of treaties and the matters other than treaties, the most-favoured nation (MFN) clause, State responsibility for internationally wrongful acts, and for acts not prohibited by international law, Jurisdictional immunities of States and their property, the draft Code of Offences against the Peace and Security of Mankind, Non-navigational uses of international watercourses, the law of treaties between States and international organizations or between international organizations, and other issues. He was elected Vice-Chairman at the 28th and Chairman of the Sixth Committee at the 29th UNGA session in 1974. All those activities helped him to be easily adapted to the work of the ILC when he was elected to this body in 1974. His profound knowledge, experience and negotiating skills were of great help in reaching agreements on many important documents the Committee was working on throughout the years. As a member of the Special Committee, he was one of the leading actors that contributed to the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. Under his Chairmanship

of the Sixth Committee in 1974, a number of important decisions were adopted, such as the Definition of Aggression, the need to consider suggestions regarding the review of the Charter of the United Nations, the review of the role of the International Court of Justice, the participation in the UN Conference on the Representation of States in Their Relations with International Organizations, and the placing on the agenda of the question of international terrorism. His report to the Sixth Committee on the ILC session he chaired in 1979 (A/C.6/34/SR.38, paras. 12-31), and the summing up of the debate (A/C.6/34/SR.52, paras. 1-8), served as an example how the work on codification and progressive development of international law should be carried out. As head of the Yugoslav delegation at three Vienna diplomatic conferences on the codification of international law, he played an important role in completing the work started in the Sixth Committee and the ILC: The 1978 UN Conference on Succession of States in Respect of Treaties, the 1983 UN Conference on Succession of States in Respect of State Property, Debts and Archives (in which he also chaired the Committee of the Whole), and the 1986 UN Conference on the Law of Treaties between States and International Organizations or between International Organizations. Due to the limited space, the present article is focused only on two, in the author's opinion, very important segments of Milan Šahović's participation in the UN – his work in the Special Committee on the Principles of International Law Concerning Friendly Relations and Co-operation among States and the ILC.

Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964–1970)

The origins of the consideration of the principles of international law concerning friendly relations and co-operation among States can be found in the initiatives of newly independent, later Non-aligned countries in the mid-fifties (Bandung Conference) and beginning of the sixties (Belgrade Conference) of the 20th century that advocated the need for peaceful and active coexistence among States. They made considerable influence, especially following the adoption of a Resolution at the 15th session (UNGA Res.1505) in 1960, that requested, in the context of the future work in the field of codification and progressive development of international law, to prepare a new list of topics and asked UN Member States to submit in writing any views and suggestions on the matter. President of Yugoslavia, Josip Broz Tito, in his address at the 15th UNGA session, gave also very important support to that initiative (A/PV.868). Based on the comments submitted in 1961 by

Member States, included that of Yugoslavia (A/4746, Annex), the UNGA at its 16th session in 1961, decided (UNGA Res.1686) to use the term the "friendly relations", instead of the "peaceful coexistence", and to place on the provisional agenda of its 17th session the question entitled the "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" (Rosenctock 1971, 713). At its 17th session in 1962, the UNGA resolved (UNGA Res.1815): "... to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application (...)". It decided, accordingly, to study four such principles at its eighteenth session, namely: "(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations; (b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; (c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; and (d) The principle of sovereign equality of States".

At the following, 18th UNGA session, it was decided (UNGA Res.1966) to establish a Special Committee to study that topic. The Special Committee which consisted of the representatives of 27 Member States, among them Yugoslavia, was mandated to study also the following three additional principles: (a) The duty of States to co-operate with one another in accordance with the Charter; (b) The principle of equal rights and self-determination of peoples; and (c) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter. It was recommended to the governments to appoint jurists as their representatives on the Special Committee. Early in 1964, the State Secretariat for Foreign Affairs of Yugoslavia established a Commission on the elaboration of principles of coexistence and proposals for their codification with Dr. Šahović as its member (HAB, PFMŠ, 2096, Box 27, Item 249. No. 42868 of 25 January 1964).

The first session of the Special Committee was held in Mexico City in 1964 (A/5746). Yugoslavia was represented by Jože Vilfan and Milan Šahović who was also appointed to the Drafting Committee. The Committee started the consideration of the first four principles mandated by UNGA Res. 1815. Since the outset, the Yugoslav delegation took an active part in the deliberations by

submitting a proposal on the principle concerning "the threat or use of force" (A/AC.119/L.7). During a very detailed debate that ensued on the various elements of the principle, Šahović explained in detail the rationale of the Yugoslav proposal adding that "in fact his delegation prepared proposals for all four principles under consideration as they should not be considered in isolation from one another believing that the ultimate goal of the study was the progressive development and codification of seven principles as an integral whole, it had felt that the Committee should not enter into excessive detail but should formulate the results of its discussions in general terms, recognizing the interdependence of the principles as the basic legal rules governing friendly relations and co-operation among all States. His delegation also tried to make its formulations reflect the trend of recent developments in the application of principles under study, having in mind on the one hand the evolution of the application of the Charter principles and on the other the current needs of States" (A/AC.119/SR.4). In defending the Yugoslav proposal against the views of some representatives that considered it too broad, Šahović replied that his delegation could not accept the view of those that held that the Special Committee should limit itself to producing a "restatement". He pointed out that "if the Committee was to succeed in carrying out the task assigned it by the General Assembly, it must be guided by not only the letter but also the spirit of the Charter. It was. For that reason, his delegation had been unable to leave aside the question of the right of self-determination of peoples and the connexion between that principle and the prohibition of force" (A/AC.119/SR.9). During the discussion of the principle of non-intervention, Šahović also announced the withdrawal of his delegation's previous proposal (A/AC.119/SR.29, 17) in favour of the "three-power" (Ghana, India and Yugoslavia) proposal (A/AC.119/L.27). In response to some criticism of the "three-power" draft and regarding the criteria which should guide the Committee in its study of the four principles, Šahović agreed with the Indian representative, who had stressed that under UNGA Res. 1966, "the Committee was to study principles of international law…(and) The Charter was to be the basis of the Committee's work, but the Committee was free to take into the consideration new elements arising since the signing of the Charter for the purpose of the progressive development and codification of the four principles. While the Charter contained no provision dealing explicitly with the principle of non-intervention, that principle must be regarded as implicit in it" (A/AC.119/SR.31, 11-12). Regarding the principle of sovereign equality of States, Šahović tried to explain the purpose of the Yugoslav proposal which was to clarify the principle and facilitate its application and observance as this

was the keystone of the United Nations edifice (A/AC.119/SR.33, 9-11). At the end of the session, the draft report was adopted unanimously (A/AC.119/L.34 and Add.1) and presented at the 19th UNGA session in 1964, but it was only considered at the 20th session in 1965.

Under a new resolution (UNGA Res. 2103), *the Special Committee was reconstituted and met in New York in 1966* (A/6230). At the session, six Non-aligned delegations tabled the new proposal (A/AC.125/L.12), and Šahović again had to explain the rationale of the principle of non-intervention. He particularly drew attention to a paragraph that constituted a formal recognition of the fact that the principle of non-intervention had acquired a new universally valid dimension: the provision of assistance to peoples oppressed by any form of foreign domination, far from being a form of intervention in the internal affairs of a State, was in fact the duty of all States (A/AC.125/SR.10, 4-6). He also referred to the Declaration on the Inadmissibility of Intervention (A/AC.125/SR.17, 8), which he had to defend it (A/AC.125/SR.14, 13-15). And he was strongly against those delegations that wished to reopen questions on which the UNGA had already taken the position (in that Resolution). Šahović had also to explain the history of the principle of equal rights and self-determination of peoples which was one of the fundamental norms of contemporary international law that had gained particular relevance in the context of the struggle of peoples against the colonial yoke (A/AC.125/SR.40, 9-11). During the discussion of the principle that States should fulfil in good faith the obligations assumed by them, Šahović pointed out that "this was one of the essential principles of international law, being closely linked to the maintenance of international peace and security, the peaceful settlement of disputes and the development of co-operation among States (…), the Committee should stress that the duty of every State to comply with its obligations in good faith applied to obligations arising not only from international treaties but also from other sources of international law" (A/AC.125/SR.45, 3-5).

In accordance with a UNGA Res. 2181, *the new session of the Special Committee* was held in Geneva in 1967. Šahović was elected Rapporteur, but at the same time, he needed also to intervene as a Yugoslav representative in order to strengthen the position expressed in the proposal of the Non-aligned countries (A/AC.125/L.48). He was striving for a broad definition of the term "force" against the interpretation of some Western countries who favored the narrow interpretation (A/AC.125/SR.65, 12-15). Speaking on the principle of equal rights and self-determination of peoples, Šahović said that "a positive decision by the Special Committee on the formulation of the

principle under discussion was bound to have a favorable effect on the codification and progressive development of all seven principles concerning friendly relations and co-operation among States, and on the formation of the new law based on the United Nations Charter. Any modern formulation of the principle must stress its legally binding character and its universality; in his delegation's view, it constituted a general rule of contemporary international law" (A/AC.125/SR.69, 4-7). Šahović reported on the session of the Special Committee at the Sixth Committee during the 22nd UNGA session in 1967 (A/6799). Following the discussion in the Sixth Committee, a new resolution (UNGA Res. 2327) was adopted which enabled the Special Committee to focus on the unresolved issues in the following year.

The Special Committee held its new session in New York in 1968. Šahović was elected Chairman of the Drafting Committee, and he had to use his knowledge and skills in order to reconcile different drafting points on the principles under discussion. Following the consideration of the Report of the Special Committee (A/7326), the Sixth Committee approved a draft resolution by acclamation (UNGA Res. 2463).

In recognition of his important role during the consideration of the principles under discussion, Šahović was elected Chairman of the *1969 Special Committee session,* held in New York (A/AC.125/SR.97). At the 23rd UNGA session, the Special Committee was mandated to complete its work on seven principles and to submit to the 24th UNGA session a comprehensive report. Accordingly, the Committee during its session focused on completing its work on the formulation of the principles concerning the prohibition of the threat or use of force and the principle of equal rights and self-determination of peoples, which needed additional discussion. At the end of the session, Šahović as Chairman felt that the Special Committee could be satisfied with its work, because it had obviously built a solid foundation for the final formulation of the two principles and he believed that it should be possible to formulate the declaration in time for its adoption at the 25th UNGA session (A/7619, paras. 204, 217).

At the 24th UNGA session in 1969, a group of the Non-aligned countries (Yugoslavia included) submitted a draft resolution requesting the Special Committee to endeavour to resolve the remaining questions relating to the formulation of the seven principles, in order to complete its work, and to submit to the UNGA at its 25th session a comprehensive report containing a draft declaration on all of the seven principles. Šahović spoke in the Sixth

Committee (A/C.6/SR.1159, paras. 8-13) and the draft resolution was unanimously adopted (UNGA Res. 2533).

The Special Committee held its session in Geneva in spring of 1970. Šahović again rendered a significant contribution in making the finishing touches to the remaining principles, as can be seen from the statement of the Indian delegation, "who thanked, among others (Mr. Blix) and Šahović, who by their skill, energy and tact, coupled with their great experience, had made valuable contributions to the Special Committee's work" (A/8018, para.222). Summarizing the work of the Special Committee, Šahović concluded that "his delegation was gratified by the Special Committee's success in completing the draft declaration in time for submission to the General Assembly on the occasion of the twenty-fifth anniversary of the United Nations. The text of the draft declaration was, on the whole, very satisfactory and reflected the great efforts made within the Special Committee since its establishment in 1964 and within the framework of the Sixth Committee of the General Assembly. It was, moreover, an indication of the limits within which it was possible to pursue the codification and progressive development of the principles of international law concerning friendly relations and co-operation among States in present political, economic and juridical conditions. His delegation considered that the declaration would prove to be a historic document and it would spare no efforts to ensure that it was adopted by the General Assembly. In view of its desire that the text should be the authentic expression of the views of all members of the Special Committee, his delegation had favoured: the method of consensus and was glad to see that, generally speaking, that method had been applied in elaborating the text. While the method of consensus clearly enhanced the legal importance of the declaration, it had the disadvantage that all delegations were obliged to some extent to sacrifice their particular viewpoints in order to arrive at a common denominator. The text established by that method, however, could be used as a basis for future work on the principles studied, and his delegation was convinced that approval of the draft declaration by the General Assembly would open up new prospects for the work of United Nations legal bodies, particularly the Sixth Committee" (A/8018, paras. 158-163).

By adopting the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations by consensus at its 25th anniversary commemorative session on 24 October 1970, the UNGA clearly confirmed that the principles embodied in the Declaration "constitute basic principles

of international law", and consequently appealed to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles (UNGA Res. 2625, Annex, General Part, para.3). On that occasion, the UNGA President, Edvard Hambro (Norway), who also made a significant contribution during the Special Committee's work, stated that he was, as a man of law, particularly happy since this "marks the culmination of many years of effort for the progressive development and codification of the concepts from which basic principles of the Charter are derived. The Assembly will remember that when we first embarked upon these efforts many doubted that it would be possible to obtain a result which would be acceptable to all the various political, economic and social systems represented in the United Nations. Today those doubts have been overcome. In a sense, however, the work has just begun. We have proclaimed the principles; from now on we must strive to make them a living reality in the life of States, because these principles lie at the very heart of peace, justice and progress" (A/PV.1883, paras. 8-9).

While Šahović represented Yugoslavia in the Special Committee, he assigned his colleagues at the Institute and some other scholars, the task to study the principles, to write and publish articles on the matter under consideration. This had resulted in a publication under his guidance of the collection of essays covering the seven principles, already in 1969 in Serbo-Croat – *Kodifikacija principa miroljubive i aktivne koegzistencije 1969*, and later, in 1972 in English – *Principles of International Law Concerning Friendly Relations and Cooperation.* In his introductory study, Šahović underlined the importance of the adoption of the Declaration as a legal act of the UNGA, "whose historical value was strongly emphasized by all the members of the United Nations who had taken part in the debate... Since this is the first document after the adoption of the Charter to elaborate its basic principles and fully reaffirm their universal legal force the unanimous adoption of the Declaration places it in the category of official interpretative acts whose binding force derives from consensus of all members of the United Nations" And he concluded that the significance of the Declaration "may only grow as time goes on and as international law becomes more and more efficient as a comprehensive system of legal rules governing the relations between States and the life of the international community as a whole" (Šahović 1972, 48-50).

International Law Commission (1974–1981)

Following the untimely death of Prof. Milan Bartoš, in March of 1974, who was a member of the ILC since 1957, the Yugoslav government immediately nominated Šahović to succeed him, as the *26th ILC session* was scheduled to begin in Geneva on 6 May 1974 (YILC, 1974, Vol. I). Since Bartoš passed away before the expiration of his full term, the election was held by the Commission itself at a private meeting, the results of which were announced on 9 May (Ibid., 1254th meeting). Mohammed Bedjaoui (Algeria), in paying tribute to the memory of Prof. Bartoš, said that it would be difficult to replace him at the ILC, but Šahović could certainly do so better than anyone else (Ibid., 1256th meeting, para. 3). The ILC members finally welcomed Šahović on 20 May (Ibid., 1266th meeting, para. 6). In view of his profound knowledge on the ILC matters and previous experience in commenting the topics on the ILC's agenda at the Sixth Committee, Šahović very quickly adapted to the work of the Commission and focused mainly on the draft articles on the succession of States in respect of treaties, prepared by Sir Francis Vallat (UK) as Special Rapporteur. As this was the second reading of the draft articles, Šahović stated that he supported the Special Rapporteur's approach to the topic and approved of the draft articles in general (Ibid., 1266th meeting, para.6). He intervened during the debate on the same subject at several meetings (Ibid, 1267th, 1268th, 1270th, 1279th, 1281st, 1282nd, 1286th, 1293th meetings). He also took an active part in commenting on the draft articles on State responsibility, prepared by Roberto Ago (Italy), as well as the draft articles on Treaties between States and international organizations or between two or more international organizations, prepared by Paul Reuter (France) (Ibid., 1278th and 1274th meetings). Šahović also joined other ILC members by speaking at a special session devoted to the tribute to the memory of late Prof. Bartoš (Ibid., 1276th meeting).

At the *27th ILC sessio*n in 1975, Šahović was elected second Vice-Chairman (YILC 1975, Vol. I, 1302nd meeting, paras. 23-24). Speaking on the State responsibility, he endorsed the fundamental position taken by the Special Rapporteur in the new version of article 10, which seemed to include some progressive development of the rule on the responsibility of States (Ibid., 1307th meeting, para.7). On the Succession of States in respect of matters other than treaties, regarding the provisions on the property of third States that might be affected, Šahović expressed his opinion that it could not be examined in the context of the general provisions and that he was in favour of examining each phenomenon as a whole (Ibid., 1324th meeting, para. 26).

On the MFN clause, a number of ILC members agreed with Šahović's suggestions (especially on the saving clause) on how to improve the wording (Ibid., See: Sette-Camara, 1332 meeting, para. 17; Ustor, 1335 meeting, para. 55; 1339th meeting, para.31; Ushakov 1337th meeting, para. 18). Regarding the draft articles on the Treaties between States and international organizations, Šahović thought that, "in view of the meaning given to it in the Vienna Convention (on the Law of Treaties), the term 'ratification' could also apply to the practice of international organizations." Hambro and Kearney entirely agreed with his opinion (Ibid., 1353rd meeting, paras. 6-7).

At the *28th ILC session* in 1976, Šahović was elected Chairman of the Drafting Committee (YILC 1976, Vol. I, 1360th meeting, paras. 49-52). Regarding the State responsibility, he underlined that "In view of the development of international law in recent years and the need to take account of the international legal order recognized by States as a whole, there should be a proviso excluding the application of the general principle in the case where a peremptory rule of international law transformed into required conduct an act which, at the time it was performed, had to be considered as a breach of an international obligation. He therefore approved the content of paragraph 2, particularly since the Special Rapporteur, at the present meeting, had said that he had not envisaged all the cases where *jus cogens* operated, but only those in which *jus cogens* made it mandatory to perform an act of the same kind as the act which, at the time it was performed, had been considered as wrongful" (Ibid., 1368th meeting, para. 33). On the MFN clause, Šahović expressed some doubts with regard to the need to draft a special regime for the frontier traffic, which was also shared by Ago and Reuter (Ibid., 1381st meeting, paras. 17-19). He added that "The Commission therefore had two tasks to perform at the present session. It had to situate the draft articles in the general context of international law and to take account of the political and economic problems which arose in the day-to-day life of the international community. Those extra-juridical factors were particularly important because of the present economic crisis, and the Commission should take those circumstances into account and endeavour to find solutions" (Ibid., 1383rd meeting, paras. 30-35). Several ILC members agreed with Šahović's suggestions on various articles and in particular on the need to define the position of developing countries (Ibid., See, in particular, Ustor, 1387th meeting, paras. 55-56). On the Succession of States, Šahović pointed out that "if the Commission decided to delve deeper into the question of archives, it would have to take account of peace treaties as a source of the rules to be enunciated. In recent times, State practice in that

matter had been based mainly on peace treaties" (Ibid., 1392nd meeting, para. 29). As for the wording of the articles under consideration, he observed, "first, that paragraph 1 of article 14 began with the reservation 'Unless otherwise agreed or decided', which appeared in other provisions of the draft. He wondered whether it would not be preferable to draft a general provision emphasizing the residuary character of the rules in the draft and reserving the faculty of States to settle their problems by special agreements" (Ibid., 1394th meeting, para. 20). He shared the view of the Special Rapporteur on the need to emphasize the economic concept of sovereignty of States (Ibid., para. 19).

At the *29th ILC session* in 1977, as a result of the elections held at the 31st UNGA session in 1976, there was a new composition of the ILC (YILC 1977, Vol. I, xi.). Among the 25 members elected, Šahović obtained the highest number of votes in the secret ballot - 127 out of 143 total members casting ballots (A/31/PV.68). On the Succession of States, Šahović asked a very pertinent question "whether the Special Rapporteur really intended to end his draft articles with the question of succession to State debts, as he had said in introducing his report. It was stated in the Commission's report on the work of its twenty-eighth session that the Commission intended to study other questions, such as those of archives and the peaceful settlement of disputes" (Ibid., 1416th meeting, para. 34). He also stated that "It was important to bear in mind the orientation the Commission had so far given to its study of succession of States in respect of matters other than treaties. That orientation was based on an empirical analysis which should bridge the gap and resolve the contradictions between doctrine and jurisprudence. In order to formulate modern rules appropriate to current needs, the Commission should make a special effort to study the practice followed after the Second World War in respect of succession to State debts, particularly by international banks. As there were no universally acceptable customary rules in that field, the general debate should be continued and, in accordance with the Commission's practice, the formulation of definitions should be left until the final stage of its work" (Ibid., 1417th meeting, para. 39). He had asked for the clarification with regard to triangular relationship between the predecessor State, the successor State and the third State, as that relationship (in his view) was essential (Ibid., 1423rd meeting, para. 24). With regard to the special category of State debts "odious debts" which were more in nature of a theoretical concept deriving from doctrine which the Special Rapporteur was proposing to make into a juridical concept by according it a separate place in international law, he was wondering whether they should be made

an exception to the general rules concerning succession in respect of State debts in view of their non-transferability (Ibid., 1426th meeting, paras.15-19). Regarding the draft article on newly independent States, Šahović fully supported the text adopted by the Drafting Committee in the light of the explanations provided by its Chairman. "It not only accorded with the Special Rapporteur's views, but was also in keeping with both past and existing practice in regard to State debts. It was incumbent on the Commission to draw up rules that would reflect existing law and contribute to the solution of future problems" (Ibid., 1449th meeting, paras. 15-19). On Treaties between States and international organizations, Šahović was of the opinion that "international organizations should be permitted to formulate reservations to treaties concluded between several international organizations. Although he had no definite ideas about the rules to be formulated, he had a preference for a liberal solution. The Commission should agree on general principles and leave drafting problems till later" (Ibid., 1430, paras. 24-25). He was against introducing different regime for international organizations implying an element of discrimination which might undermine the foundation of the draft article as it should be based on a presumption of the full equality of the parties to treaties (Ibid., 1431st meeting, paras. 38-45). Šahović considered, like Ushakov, that a distinction should be made in article 30 for treaties between international organizations and treaties between States and international organizations, but he thought the rule should be the same for both categories. The problem posed by Article 103 of the Charter seemed to him extremely complex and he saw no alternative but the one proposed in paragraph 6 (Ibid., 1438th meeting, para. 4). Concerning the Preliminary report on the second part of the topic of relations between States and international organizations (A/CN.4/304), prepared by El-Erian, Šahović stated that "In his preliminary report, the Special Rapporteur had indicated the general evolution of law on the subject, but he should now proceed to a much more concrete analysis of the situation, taking account of new developments. His first task should be to make sure of the value of the existing conventional rules on which he intended to base his work. To that end, it was important to make a comprehensive study of practice. It was necessary to avoid drafting provisions which duplicated those already embodied in international conventions" (YILC 1977, Vol. I, 1452nd meeting, paras. 31-34). On the State responsibility, Šahović was not sure "what importance should be attached to the distinction between the result aimed at by an international obligation and the means used to achieve that result (…) article 20 could play a not insignificant part in the development of the law relating to international

obligations and State responsibility, and thus contribute to strengthening the role of international law in a world where the development of internal law and that of international law were interdependent" (YILC 1977, Vol. I, 1455th meeting, paras. 15-17). He considered that "It was necessary to determine how and when an initial course of conduct led to a situation incompatible with the required result. It was also necessary to determine how and when a treaty obligation permitted the State to rectify such a situation" (Ibid., 1460th meeting, paras. 3-7). He also questioned the nature of the exhaustion of local remedies in article 22 (Ibid., 1465th meeting, paras. 30-34). At the same time, Šahović regretted that "article 22 as reformulated applied only to aliens. The Special Rapporteur had rightly extended the scope of the article to cover nationals but the majority of the Commission had expressed a preference for a more restrictive provision. Yet the Commission must always have the development of international law in mind, and it was conceivable that the rule stated in article 22 would come to apply more and more to nationals" (Ibid., 1469th meeting, para. 32).

At the *30th ILC session in 1978*, Šahović was unanimously elected first Vice-Chairman and as well as Chairman of the Planning Group (YILC 1978, Vol. I, 1474th meeting, paras.15-17; 1486th meeting, para.1). Commenting on article 22 of the draft articles on the State responsibility, Šahović underlined that "From the point of view of State practice, the need to provide against the possibility of a breach of an international obligation to prevent a particular event was indisputable. It was clear from doctrine, international jurisprudence and State practice that there could be no doubt whatsoever concerning the value of the rule stated in the article. However, its application might cause some problems, and it must therefore be stated in terms that left no room for differences of interpretation" (Ibid., 1477th meeting, para. 21). Regarding article 24 ("Time of the breach of an international obligation"), Šahović considered "that was only one aspect of the problem, the notion of time being one of the constituent elements of the breach of the international obligation, and therefore of international responsibility. As it stood, article 24 did not stress that point sufficiently. Perhaps an effort should be made to bring out clearly, in the first paragraph of the article, the importance of the time element for the entire section on the objective element of the internationally wrongful act. To that end, emphasis would have to be placed on three main aspects of the problem: the breach of an international obligation, the internationally wrongful act and the duration of the international obligation whose breach, through an internationally wrongful act, engendered international responsibility" (Ibid., 1481st meeting, para. 2)

As to the implication of a State in the internationally wrongful act of another State, Šahović stressed that, in connexion with that question "the Commission had at previous sessions discussed the concepts of incitement, assistance, complicity and indirect responsibility. In embarking on chapter IV, it should perhaps have explained the relationship between those different concepts" (Ibid., 1518th meeting, para. 10). During the second reading of the draft articles on the MFN clause, Šahović thought that the ILC "ought to consider the draft articles in the light of the written and oral comments of Member States and international organizations, and to respond to the wishes expressed in those comments by analysing in the commentary certain questions relating to the structure, wording and general presentation of the draft" (Ibid., 1483rd meeting, para. 5). He pointed out that it was necessary "to bear in mind the role played by the MFN in international relations, especially in economic relations, and to place it in a realistic setting. The clause, however, was only one instrument among many in a world that was trying to establish a new international economic order. For instance, account should be taken of the Charter of Economic Rights and Duties of States" (Ibid., 1489th meeting, paras. 30-33). He expressed an opinion that "the ILC had made "a laudable effort and shown that it was capable of resolving the problems raised by the application of the MFN clause to developing countries. Nevertheless, to meet the wishes of States, particularly of developing States, it should go a step further and take account of the possible impact of the expansion of economic and trade relations among developing countries on the application of the clause. That was a question of crucial importance, to which the Commission should devote a separate article" (Ibid., 1496th meeting, para. 5). As to the draft articles on the Succession of States, Šahović said that "The question arose, however, whether the Special Rapporteur had been right to emphasize in the report the distinction to be drawn between the situation of a unitary State and that of a federal State. The rule enunciated in article 25 should be broad enough to cover both situations, for in either case dissolution of a State was involved, and he hoped the Drafting Committee would formulate a sufficiently clear rule in that respect. The commentary, moreover, should indicate that the rule was a general one and applicable both to unitary and to federal States" (Ibid., 1504th meeting, para. 9). Regarding article on the "Effects of a treaty to which an international organization is party with respect to third States members of that organization", Šahović felt that "the term 'third States members' was unsatisfactory (as) it was not immediately apparent what case article 36 bis was designed to cover, and an attempt should be made to find a better

expression" (Ibid., 1511th meeting, para. 13). El-Erian, Special Rapporteur on the "Relations between States and international organizations", quoted Šahović, who had suggested that a much more practical analysis should be made of the situation, taking account of recent developments in the international community and of their impact on international organizations (Ibid., 1522nd meeting, para. 26). Regarding the "Review of the multilateral treaty-making process", Šahović said that "the Working Group's excellent report provided a basis for a thorough discussion on a subject to which many States Members of the United Nations attached great importance. The Sixth Committee of the General Assembly had considered that the Commission was the body most competent to examine the multilateral treaty-making process and was expecting it to make a detailed study of that question. The Commission should analyse the experience it had itself acquired and shed light on general world practice in the matter" (Ibid., 1526th meeting, para.16).

Šahović was unanimously elected Chairman of the *31st ILC session* in 1979. Tsuruoka (Japan) nominated Šahović, whom he described as both a scholar and a skilful diplomat and as particularly qualified for the office of Chairman on account of his sense of justice and his kindness coupled with efficiency. Ushakov (USSR), Reuter (France), Thiam (Senegal), Sir Francis Vallat (UK), Jagota (India) and Tabibi (Afghanistan) seconded the nomination (YILC 1979, Vol. I, 1530th meeting). As the UN Legal Counsel, Eric Suy informed that the ILC members had been granted, for the duration of the ILC session in Geneva, the same privileges and immunities to which the judges of the ICJ are entitled and these are the privileges enjoyed by the heads of missions accredited to international organizations at Geneva, Šahović stated that "the status of the members of the Commission was of special importance owing to the duration of the Commission's sessions. The decision of the Federal Council (…) was further evidence of the constructive co-operation between Switzerland and the United Nations, which, in the particular case, served the cause of the codification and progressive development of international law" (1531st meeting, paras. 1-3). Commenting, in his personal capacity, on the State responsibility, Šahović said that "article 28 would have to be drafted in more explicit terms, so as to answer the questions raised in the course of the debate, in particular with regard to the nature and degree of the responsibility referred to in that provision. It was also important to take account of positive international law, as Riphagen had shown by emphasizing the relationship between fact and law. The Commission should therefore base its deliberations on the United Nations Charter, since the terms of the Charter offered the decisive test for saying that a given situation was lawful or

unlawful. It would be necessary to formulate precise rules relying on the Charter and on positive international law, as a basis for determining the lawfulness of the situation envisaged" (Ibid., 1535th meeting, paras. 18-21). Under Šahović's Chairmanship, the Commission had elected Jens Evensen (Norway), Boutros Ghali (Egypt) and Julio Barboza (Argentina), to fill the vacancies caused by the election of Roberto Ago, Abdullah El-Erian and Jose Sette-Camara as judges of the ICJ (Ibid., 1541st meeting). Speaking, as a member of the Commission, on the State responsibility, Šahović said that "chapter V, entitled 'Circumstances precluding wrongfulness', was necessary to the draft. In his preliminary considerations (A/CN.4/318 and Add.1-3, paras. 48-55), (Special Rapporteur) Ago had demonstrated that need, but the discussion on (…) article 29, gave reason to fear a Pandora's box. In tackling the question of circumstances precluding wrongfulness, the Commission was running the risk of having to take a position on certain aspects of general international law for the first time, since it had not as yet had occasion specifically to consider those special circumstances. In several of its reports on previous sessions, the Commission had already made reference to the various special circumstances that it had intended to study. It was now confronted with preliminary issues that might make the elaboration of the articles in chapter V much more complicated. To overcome those difficulties, it might perhaps be advisable to draft an article that could be placed at the beginning of chapter V and would explain the context in which the circumstances precluding wrongfulness were to be considered" (Ibid., 1542nd meeting, paras. 41-42).

As temporary Chairman, Šahović opened the *32nd ILC session* on 5 May 1980, with a tribute to the memory of Josip Broz Tito, President of Yugoslavia, who passed away a day before. A number of ILC members took the floor on that occasion (YILC 1980, Vol. I, 1584th meeting, paras. 1-3). As Šahović was Chairman of the previous session, he recalled that by UNGA res. 34/141, concerning the report of the ILC on the work of its 31st session, the UNGA expressly recognized: the importance of referring legal and drafting questions to the Sixth Committee, including topics which might be submitted to the ILC, thus enabling it to enhance its contribution to the progressive development of international law and its codification, something which seemed to indicate that, in its concern to participate more effectively in the work of the ILC, the Sixth Committee was showing increased interest in the question of methods of considering the Commission's reports (Ibid., 1584th meeting, para. 4). On the question of treaties concluded between States and international organizations or between two or more international

organizations, regarding the concept of the permanent disappearance or destruction of an object indispensable for the execution of the treaty, Šahović rightly pointed out that "the object must not be only a physical one, but might conceivably also be invoked in the case of the disappearance of a legal situation, regardless of whether the relevant treaty was between States, between States and organizations, or between two or more organizations." And to that effect he gave an example of treaties relating to Trust Territories that had been concluded between the UN and certain States. "When those Territories ceased to be subject to the regime of trusteeship, the Organization ceased to be bound to perform the obligations arising under such treaties" (Ibid., 1586th meeting, paras. 11-14). Šahović said that draft article 66 was closely bound up with the annex relating to procedures established in application of the article; the annex should be studied, if not at the same time as the article, at least immediately thereafter. He saw no reason why the future Convention should not have such an annex (Ibid., 1589th meeting, para.12), which was supported by Riphagen (Ibid., para.16). Šahović noted that the questions of succession and outbreak of hostilities "deserved the Commission's full attention (and)… that there was no difficulty as to the substance of the draft article, but clarification was needed on certain points, and particularly on the interpretation to be given to the expression 'aggressor State'. He was not opposed to the idea that, in the Definition of Aggression, the term 'State' might include the concept of 'a group of States', but he wondered whether international organizations could be completely assimilated with groups of States" (Ibid., 1591st meeting, para. 37; 1592nd meeting, para. 35). Šahović also drew attention to the contribution which the draft articles would make to the codification and progressive development of contemporary international law. He reminded the Commission that two former members, Hambro and Kearney, had been convinced, from the outset, of the need to codify the topic. "But their enthusiasm had never been generally shared, and it was to be feared that the draft articles might still be treated with some reserve in the Sixth Committee or at a future codification conference. There was no denying that the draft added a new dimension to the concept of the legal personality of international organizations" (Ibid., 1639th meeting, para. 26). With regard to the State responsibility, Šahović felt that "further consideration was needed on the problem of the relationship between responsibility for an internationally wrongful act and responsibility for an act not prohibited by international law…and that in his view, the Commission should continue to deal concurrently with all those problems, indicating possible solutions but taking care not to place too much emphasis

on their possible links" (Ibid., 1599th meeting, para. 14). Special Rapporteur Ago mentioned that Šahović had set the problem of the state of necessity in its proper perspective within both the system of international law and systems of domestic law. His view, with which he (Ago) concurred, was that the field of application of the notion of state of necessity must be precisely delimited" (Ibid., 1615th meeting, para. 17-18). Šahović further commented that "The debate on draft article 34 had afforded an opportunity to discuss general questions which went beyond the framework of that provision. For example, a parallel had been drawn between the concept of self-protection or self-help embodied in general international law and the concept of self-defence as embodied in Article 51 and other provisions of the Charter (...) In his opinion, there was no doubt that the content of Article 51 clearly reflected the progress made in the development of general international law with regard to the concept of self-defence. That article had been drafted in the light of the prohibition of recourse on the use of force, and it regarded self-defence, whether individual or collective, as an inherent right. In any event, the Commission should move in that direction so as to carry out its task of promoting the progressive development of international law. In order to formulate the article under consideration, it must also take account of the facts. The application of Article 51 of the Charter had given rise to enormous dispute, and the actual situations in which it had been applied had always been so delicate and had involved so many political interests that it had not been possible to adopt a clear position, something that might be pointed out in the commentary to draft article 34" (Ibid., 1621st meeting, paras. 13-19). Regarding the topic of the Non-navigational uses of international watercourses, Šahović stated that "From the purely legal point of view, the ultimate aim was the codification and progressive development of international law on the topic (...) to regulate the relations between the rights and duties of riparian States that used the waters of an international watercourse as they could be used with existing technical possibilities. It was necessary, therefore, to reconcile respect for the rights of States with the requirements of legal regulation of international cooperation, and in particular the respect for the principle of good neighbourliness, which had underlined all solutions of such problems adopted for decades. The Commission should therefore take positive law as the starting point, and, as the Special Rapporteur proposed, seek solutions by which the principles derived from positive law could be adapted to modern situations" (Ibid., 1607th meeting, para. 34). Schwebel (Special Rapporteur), summing up, fully agreed with Šahović that the Commission should strain out customary

international law from the treaties and jurisprudence on the topic (Ibid., 1612th meeting, para. 3). Šahović regretted that the principle of the permanent sovereignty of States over their natural resources had not been mentioned in the draft report in connexion with article 5, because he thought "one could not speak of shared natural resources without taking that principle into account" (Ibid., 1641st meeting, para.78). With regard to the draft articles on the Jurisdictional immunities, Šahović explained that he would prefer the ILC to study mainly contemporary practice. "The Commission should not be hasty with such a complex subject, and it was in no way bound to study one, not to say two, drafts of articles every year. It might perhaps be preferable to let the study of such a delicate matter ripen slowly" (Ibid., 1624th meeting, paras. 24-27). On the Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, Šahović was of the opinion that "The legal basis for the study was to be found in the Vienna conventions on diplomatic law and more particularly in the articles concerning the diplomatic courier and bag. However, in regard to application of the rules already adopted in those conventions, there were a number of problems arising out of State practice in the matter. In his opinion, however, elaboration of those rules should not be carried too far, and they should not be raised, in the hierarchy of the norms of diplomatic law, to the same level as the general basic rules already codified by the Commission in the Vienna conventions and approved by the international community as part of general international law. It would be enough to prepare a draft of articles that could be adopted in the form of an additional protocol to the Vienna convention on diplomatic law" (Ibid., 1636th meeting, paras. 9-12).

At the *33rd ILC session* in 1981, which was his last, Šahović was elected second Vice-Chairman and as a member of the Planning Group (YILC 1981, Vol. I). Regarding the question of treaties concluded between States and international organizations or between two or more international organizations, Šahović commented on the content of articles 6 and 27 that might seem to militate in favour of retaining the definition of the expression 'rules of the organization'. He pointed out that "it was perhaps only the novelty of the expression that had made the Commission wish to define it, whereas the expression 'internal law of the State' did not need to be defined. The Commission would probably be better able to take a final position on that point when it had examined all the articles and had been able to study the use of the expression in the various texts forming the draft" (Ibid., 1645th meeting, paras. 3-6). Sucharitkul (Ibid., para. 7) and Reuter, Special Rapporteur, (Ibid., para.38), agreed with Šahović, and Sir Francis Vallat was

of the very similar opinion (Ibid., para. 13). Šahović was also in favour of the equality of States and international organizations (Ibid., 1649th meeting, paras. 20-21). He also shared the views expressed by Sir Francis Vallat on the problem of reservations to bilateral and multilateral treaties. He was afraid the Commission might be attaching too much importance to objections to reservations, which were simply the consequence of the right to enter reservations. "It might even be said that they were corollary to the right to enter reservations" (Ibid., 1651st meeting, paras. 21-23). Šahović noted that "it was concerned with the effects of treaties as well as with the question of assent. It was arguable that all the States members of international organizations must, as States possessing a legal personality of their own, be treated as third States with respect to treaties concluded by the organization of which they were members and which had its own legal personality and was capable of concluding treaties independently. In practice, however, only certain States members might be parties to treaties concluded between an international organization and States, and some States members would be third parties with respect to a treaty concluded by it" (Ibid., 1675th meeting, para. 27; 1676th meeting, para. 37). As regards the Jurisdictional immunities of States and their property, Šahović suggested to the Special Rapporteur to focus his analysis on State practice and to propose to the ILC draft articles that would carry its work beyond the preliminary stage… He thought that "the general basis of the draft should rather be the principle of cooperation between States, which should make it possible to settle the practical question of jurisdictional immunity, taking the mutual interests of the States concerned into account. Any other solution would inevitably lead to a deadlock through the opposition of two rival sovereignties of equal strength" (Ibid., 1655th meeting, paras.8-14). Like Sir Francis Vallat, Šahović thought that "the Commission should look only to international law as revealed by practice and devise general rules falling within the context of international law as such, with no reference to the internal law of States" (Ibid., 1664th meeting, para.36). Concerning the Succession of States in respect of matters other than treaties, Šahović felt that since the ILC "had decided in principle to mention State archives in article 1, there would have to be a separate part of the draft on that subject. That part should obviously be aligned with the part concerning State property, but combining those two parts was impossible" (Ibid., 1660th meeting, para. 33-34). On the Part 2 of the draft articles entitled "The content, forms and degrees of international responsibility", Šahović noted that in chapter I (General Principles), a reading of the three articles which formed that chapter "created the impression that it did not cover the

topic as a whole, and that the principles set forth in it were concerned primarily with the situation of a State which committed a breach of an international obligation. To ensure that chapter I really covered the entire question of the content, forms and degrees of State responsibility it would be necessary for it to enunciate some further general principles relating to the new inter-State relationships resulting from a breach of an international obligation. To that end, account would have to be taken in particular of the second and third parameters mentioned by the Special Rapporteur, namely, the new right of the 'injured' State, and the position of the 'third' State in respect of the situation created by the internationally wrongful act" (Ibid., 1668th meeting, para. 12). He was of the opinion that ILC in preparing Part 1 of the draft "had overturned the traditional theory of State responsibility, by taking account both of the Charter of the United Nations and of the changes in the attitude of the States as a whole towards the establishment of an objective international legal regime of responsibility. Admittedly the sovereignty of States must be safeguarded, but it was no less true that States, as subjects of international law, were being brought under a much more general regime which, more and more, was determining their rights and duties independently of their will. Thus, the Commission could not devise a universal regime of State responsibility without considering the relevant trends in international crimes and international delicts" (Ibid., 1669th meeting, para. 43). On the "Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier", Šahović stated that he sometimes had the impression that "the Commission exaggerated the importance of the subject under consideration" (Ibid., 1693rd meeting, para. 7).

Conclusion

Milan Šahović's career as an expert and representative of Yugoslavia in various legal bodies of the UN lasted 34 years, from the early fifties to the late eighties of the 20th century, which was quite unusual considering that he was not a career diplomat and that he was engaged in various legal bodies of the UN. Šahović participated in 19 UNGA sessions in total, six sessions of the Special Committee on Friendly Relations Declaration, eight years as a member of the ILC and at three diplomatic conferences on the codification of international law. He was fortunate enough to be involved from his early days at the Institute, working on the preparation of papers on UN legal issues for the Ministry of Foreign Affairs, which brought about his participation in the Sixth Committee. Accordingly, throughout his career in the UN, Šahović

was privileged to have been working side by side with great jurists and diplomats of several generations, from all over the world, thus obtaining very important and unique experience in dealing with legal matters. As a result of his scholarly research, his interventions at UN meetings were always meticulously prepared with lots of arguments, and that, coupled with the continuity in his participation in the UNGA sessions, made him the pillar of the Sixth Committee for many years, not only for the Yugoslav delegation. His profound knowledge of almost all areas of international law, of the Charter and the UN practice, with his excellent command of French (in which he usually intervened at the official meetings) as well as very good English, his negotiating skill, patience and tact, made him known and respected within the UN.

As the topic of the Special Committee on Friendly Relations had a special political and legal significance for Yugoslavia as a Non-aligned country, during seven years of consideration of the principles, Šahović invested all his knowledge and skill that contributed to the successful adoption of a Declaration at the 25th anniversary UNGA session in 1970, as a major achievement in progressive development and codification of international law. And at the Special Committee meetings, he further forged the relationship, especially with its members from Non-aligned countries, by submitting joint proposals, but also with some other colleagues that took part in the proceedings. When one reads the reports and summary records of the Special Committee, the immediate impression is how detailed and deep discussions were pursued, exposing variety of theoretical views, but also invoking the relevant international practice on each and every principle discussed. It was obvious to many that the adopted Declaration bears Šahović's "personal mark", as the UK FCO Legal Adviser I.M. Sinclair wrote to Šahović in 1970, and that his work in that area was of lasting value (HAB, MŠ, 2096, Box 26, Item 246).

Another very significant year for Šahović was 1974. In May of that year, Šahović was elected member of the ILC, thus becoming one among the 25 most significant legal minds, members of the Commission. Also, in September of the same year, he was elected Chairman of the Sixth Committee at the 29th UNGA session. At the age of 50, with the great experience acquired at the UN, he was more than ready for new challenges. As he was involved in the consideration of the ILC's reports in the Sixth Committee for more than a decade, and in view of his scholarly works on its topics, Šahović quickly adapted to the Commission's work and his thoughtful comments were very often met with the acclaim by other ILC members. The culmination of

Šahović's activities in the ILC certainly represents his election as Chairman of its 31st session in 1979. His membership in the Commission during eight years, as this is an organ consisting of persons of recognized competence in international law, gave him an opportunity to speak in his personal capacity and explore the ideas and concepts on the codification of international law and its progressive development. And he always insisted that the proposed solutions be based not only on the existing rules, but always in connection with the current UN practice and in relation to new trends in international law and international relations, particularly as far as interests of newly independent States were concerned. As Chairman of the Sixth Committee, Šahović had shown his ability to successfully manage and steer its work which resulted in consensus on a number of important, but also controversial issues, such as the Definition of Aggression.

When his term in the ILC was about to expire in 1981, Šahović did not seek to be re-elected. He thought that the Yugoslav members were occupying the seat in the Commission for such a long time and that it should be relinquished, so as to give an opportunity to some other candidate from the Eastern European group. In the ensuing years, he continued to participate in the Sixth Committee meetings, focusing mainly on the reports of the ILC and letting others in the delegation to deal with other topics.

Many Šahović's colleagues, not only in Yugoslavia, but also in the UN circles, considered that a natural continuation of his career should be in the ICJ. That opportunity arose in 1984, when a (second) term of judge Manfred Lachs (Poland) was about to expire. The Yugoslav National Group at the Permanent Court of Arbitration, in spring of 1984, after fulfilling the necessary procedure (Art. 6 of the Statute of the ICJ), proposed to the Government to officially put forward the candidature of Milan Šahović to the ICJ, at the elections to be held at the 34th UNGA session in autumn of the same year. However, surprisingly, the Government did not positively respond to that recommendation, and the nomination of Šahović was never forwarded to the UN Secretary-General (apparently, according to this author's recollection, for political reasons, in order not to "harm the interest" of Poland). In the opinion of many, a great opportunity was missed to put forward Šahović's candidature, as it was thought that he would have great chances to be elected, having in mind his professional qualities, that judge Lachs was seeking the third term and that Šahović was coming from Yugoslavia, the country that enjoyed prestige and support, particularly among the Non-aligned member States. Unfortunately, there was not to be another opportunity for Šahović, even when judge Lachs

passed away towards the end of his term in 1993, since the breakup of Yugoslavia had already happened.

Milan Šahović's last official participation in the UN was in the 1986 Vienna Conference on the Law of Treaties between States and International Organizations or between International Organizations. He retired from the Institute in 1988, where he worked for 40 years. Following his retirement, Šahović remained active in various professional associations in the country and abroad, and had continued to write on current issues of international law and international relations almost until his demise in 2017. With more than 30 years of participation in UN activities and more than 60 years of research and scholarly work, Šahović had never ceased to be active in exploring the current trends of international law, believing in its strength and that is worth struggling for its reaffirmation especially within the UN framework.

All those who worked with Milan Šahović during his long career, the author of this paper included, have very pleasant memories of their mutual collaboration. His work, both scholarly and as a legal expert and diplomat at the UN are of the lasting value and he will be remembered as one who rendered a significant contribution to the codification and progressive development of international law.

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