

(Mr. Berlin, Canada)

accordance with its international obligations. If either of those conditions were not met his Government would feel entitled to raise the matter with the Government of the host State and to rely on any relevant principles of international law. He could not consider that as constituting a demand for preferential treatment, but was not at all confident that the sponsors of the text of the Charter shared that view. His problem had not been solved by the amendment to the text of the article (A/C.2/L.1386/Corr.6).

His delegation fully supported paragraph 2 (b) of article 2 concerning the regulation of transnational corporations.

With regard to paragraph 2 (c), his delegation did not deny the right of a State to nationalize foreign property, subject to the payment of compensation. The question of what amount of compensation was equitable would depend on the circumstances of each case but he could not accept a text seeking to establish the principle that a State could nationalize foreign property without compensation.

One of the most important obstacles to his delegation's support of the Charter as a whole was the absence of any references in article 2 to the applicability of international law to the treatment of foreign investment. If the compulsory jurisdiction of the International Court of Justice in the case of disputes between States had not been accepted, or some other agreement made between the parties regarding the settlement of disputes, jurisdiction would rest with the appropriate tribunal of the host State, and its measures must be in conformity with its international legal obligations. There was disagreement as to whether such obligations arose only from treaties, or from principles of customary international law as well. The amendment to article 2 which his delegation had co-sponsored had used the words "international obligations" rather than "international law" so as to permit both groups of States to maintain their positions on the issue.

There was disagreement regarding what principles of customary international law were relevant to the treatment of foreign investment. Where old law was unjust or ineffective it must be changed to reflect the present economic interdependence of States and the need for the development of developing countries. His delegation had hoped that the Charter of Economic Rights and Duties would command the consensus necessary for it to contribute to the codification and progressive development of law in that area; unhappily, that was not the case.