

to achieve at least partial compensation for their losses. They are not unlike the creditors under domestic law who prefer to make a compromise arrangement with their defaulting debtor. In agreeing to resort to the technique of the lump-sum settlement, Canada is not waiving any rights under the traditional rules of state responsibility. During such negotiations we intend to press vigorously for a full recognition of the rights of individual Canadian claimants to just compensation for their losses at the hands of the nationalizing government. I do not consider that compromise settlements of this nature on the international plane affect the underlying principles of customary international law any more than a compromise settlement out-of-court affects rules of legal liability under domestic law.

It is, I think, encouraging to note the support for traditional rules which has been forthcoming from some of the developing countries. This is not a matter of abstract reverence for old rules. It is a very practical matter of self-interest for countries in great need of foreign capital for development of their economies. There may be some differences of approach between the capital-exporting country and the capital-importing country, but there is an area of common ground. Each side is anxious to facilitate the orderly movement of capital investment across national borders to their mutual advantage. Traditional principles have been found to be highly relevant and useful in adjusting differences which arise.

I would not wish to give the impression that Canada regards the existing international rules of state responsibility as satisfactory in all respects. In negotiating a lump-sum payment with Hungary, it is necessary for Canada to follow the rule that claimants must be Canadian citizens both at the time the injury was suffered and the claim presented. The only exception to this rule of nationality concerns claims resting on specific treaty provisions. This may not be a fully satisfactory rule in all instances. It might cause hardship and even seem arbitrary. Unfortunately, in the present state of law and practice, there would be no possibility of states broadening the principles governing state responsibility. Given the sometimes cautious, sometimes doubtful, sometimes negative attitude of certain states to the principles of liability for damage to aliens, we must strive to conserve what we have in the existing rules and recognize that the possibilities for broadening them so as to place greater responsibility on states are very slender and remote.

To sum up Canadian experience in respect of the principles of state responsibility, I would say that we are not pessimistic. We see no cause for alarm in the apparent state of disarray on rules of state responsibility. We see no cause to believe that it will be necessary to abandon the existing rules and principles. We may be far from a universally-agreed code, but many of the traditional rules for respecting the interests of aliens are enjoying surprising vitality, consistent with the needs of a changing world.

My third illustration of the problem of change in international law is of a more general character. Less than two weeks ago, the United Nations Special Committee on Friendly Relations and Peaceful Co-operation Among States concluded its work in Mexico City. The conference dealt with general principles of international law relating to the maintenance of peace, order and security.