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DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FIFTY-SEVENTH SESSION

Rapporteur: Mr. Bernd NIEHAUS

CHAPTER XII

OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
A. Programme, procedures and working methods of the Commission and its documentation		
1. Cost-saving measures		
2. Documentation		
3. Working Group on the long-term programme of work		
4. New topic for inclusion in the current programme of work of the Commission		
5. Honoraria		
B. Date and place of the fifty-eighth session of the Commission		
C. Cooperation with other bodies		
D. Representation at the sixtieth session of the General Assembly		
E. International Law Seminar		

* Re-issued for technical reasons.

A. Programme, procedures and working methods of the Commission and its documentation

1. At its 2832nd meeting, held on 3 May 2005, the Commission established a Planning Group for the current session.¹
2. The Planning Group held four meetings. It had before it section H of the topical summary of the discussion held in the Sixth Committee of the General Assembly at its fifty-ninth session, entitled “Other decisions and conclusions of the Commission”, and General Assembly resolution 59/41 (paras. 6, 7, 8, 13, 14 and 17), on the report of the International Law Commission on the work of its fifty-sixth session.
3. At its 2859th meeting on 28 July 2005, the Commission took note of the report of the Planning Group.

1. Cost-saving measures

4. The Commission, having considered paragraph 8 of General Assembly resolution 59/41, budgetary constraints and the requirements of the programme of work of the Commission for the current session resulting from unforeseeable circumstances, decided that it should start the second part of the fifty-seventh session on 11 July 2005, thereby reducing the duration of the session by one week.

2. Documentation

5. The Commission considered the issue of timely submission of reports by Special Rapporteurs. It recalled that if the dates for the submission of reports as originally indicated by the Special Rapporteurs were not observed, the availability of reports might be jeopardized, which could have far-reaching consequences for the programme of work of the

¹ The Planning Group was composed of: Mr. G. Pambou-Tchivounda (Chairman), Mr. E.A. Addo, Mr. C.I. Chee, Mr. P. Comissário Afonso, Mr. R. Daoudi, Mr. C.P. Economides, Ms. P. Escarameia, Mr. S. Fomba, Mr. Z. Galicki, Mr. P. Kabatsi, Mr. J.L. Kateka, Mr. F. Kemicha, Mr. R.A. Kolodkin, Mr. M. Koskenniemi, Mr. M. Matheson, Mr. D. Operti Badan, Mr. A. Pellet, Ms. H. Xue and Mr. B. Niehaus (*ex officio*).

Commission. Bearing in mind the principles governing the submission of documents in the United Nations as well as the heavy workload of the relevant services of the Organization, the Commission wishes to emphasize the importance it attaches to the timely submission of reports by Special Rapporteurs, with a view to their processing and to their distribution sufficiently in advance to allow members to study the reports.

3. Working Group on the long-term programme of work

6. The Working Group on the long-term programme of work was reconstituted with Mr. Pellet as Chairman. The Working Group held two meetings and its Chairman reported orally to the Planning Group on 25 July 2005. The Working Group intends to submit a full report together with the topics that it proposes for inclusion in the long-term programme of work at the end of the quinquennium.

4. New topic for inclusion in the current programme of work of the Commission

7. The Commission decided that the topic “Obligation to extradite or prosecute (aut dedere aut judicare)”, which is already included in the Commission’s long-term programme of work, be included in the programme of work of the Commission, in accordance with the decision taken by the Commission at its fifty-sixth session (A/59/10, para. 363). In this regard the Commission decided to appoint ... Special Rapporteur for the topic “Obligation to extradite or prosecute (aut dedere aut judicare)”.

5. Honoraria

8. The Commission reiterated once more the views it had expressed in paragraphs 525 to 531 of its Report on the work of its fifty-fourth session (A/57/10), in paragraph 447 of its Report on the work of its fifty-fifth session (A/58/10) and in paragraph 369 of its Report on the work of its fifty-sixth session (A/59/10). The Commission reiterates that General Assembly resolution 56/272 of 27 March 2002 concerning the question of honoraria especially affects Special Rapporteurs, in particular those from developing countries, as it comprises the support for their necessary research work.

B. Date and place of the fifty-eighth session of the Commission

9. The Commission decided that the fifty-eighth session of the Commission be held at Geneva from 1 May to 9 June and from 3 July to 11 August 2006.

C. Cooperation with other bodies

10. The Inter-American Juridical Committee was represented at the present session of the Commission by Ms. Ana Elizabeth Villalta Vizcarra, who addressed the Commission at its 2847th meeting on 1 June 2005.² An exchange of views followed.

11. At its 2851st meeting on 14 July 2005, Judge Jiuyong Shi, President of the International Court of Justice, addressed the Commission and informed it of the Court's recent activities and of the cases currently before it. His statement is recorded in the summary record of that meeting. An exchange of views followed.

12. The Asian-African Legal Consultative Organization was represented at the present session of the Commission by its Secretary-General, Mr. Wafik Z. Kamil, who addressed the Commission at its 2853rd meeting on 19 July 2005.³ An exchange of views followed.

13. The European Committee on Legal Cooperation and the Committee of Legal Advisers on Public International Law were represented at the present session of the Commission by Mr. Guy de Vel, who addressed the Commission at its 2860th meeting on 29 July 2005.⁴ An exchange of views followed.

14. On 27 May 2005, an informal exchange of views was held between members of the Commission and members of the European Society of International Law on the topic responsibility of international organizations.

² This statement is recorded in the summary record of that meeting.

³ Ibid.

⁴ Ibid.

15. On 13 July 2005, an informal exchange of views was held between members of the Commission and members of the legal services of the International Committee of the Red Cross on topics of mutual interest.

D. Representation at the sixtieth session of the General Assembly

16. The Commission decided that it should be represented at the sixtieth session of the General Assembly by its Chairman, Mr. Djamchid Momtaz.

17. Moreover, at its ... meeting on ... August 2005, the Commission requested Mr. ..., Special Rapporteur on the topic "...", to attend the sixtieth session of the General Assembly under the terms of paragraph 5 of General Assembly resolution 44/35.

E. International Law Seminar

18. Pursuant to General Assembly resolution 59/41, the forty-first session of the International Law Seminar was held at the Palais des Nations from 11 July to 29 July 2005, during the present session of the Commission. The Seminar is intended for advanced students specializing in international law and for young professors or government officials pursuing an academic or diplomatic career or posts in the civil service in their country.

19. Twenty-four participants of different nationalities, mostly from developing countries, were able to take part in the session.⁵ The participants in the Seminar

⁵ The following persons participated in the forty-first session of the International Law Seminar: Mrs. Paula Cristina Aponte-Urdaneta (Colombia); Mrs. Nicola Brown (Jamaica); Mr. Daniel Costa (United States of America); Mr. Eric De Brabandère (Belgium); Mr. Diallo Madou (Mali); Mr. Ekouevi Eucher Eklu-Koevanu (Togo); Mrs. Amelia Emran (Malaysia); Mrs. Ginette Goabin Y.A. (Benin); Mr. Øyvind Hernes (Norway); Mr. Kumar Karki Krishna (Nepal); Mr. Lazarus Kpasaba Istifanus (Nigeria); Mrs. Magdalena Lickova (Czech Republic); Mrs. Norma Irina Mendoza Sandoval (Mexico); Mrs. Loretta Mensa-Nyarko (Ghana); Mr. Makenga Mpasi (Congo); Mrs. Maryam Norouzi (Iran); Mr. Eric Rabkin (Canada); Mrs. Aušra Raisytė-Daukantiene (Lithuania); Mr. Shikhar Ranjan (India); Mrs. Neni Ruhaeni (Indonesia); Mr. Scott Sheeran (New Zealand); Mrs. Annika Elisabeth Tahvanainen (Finland); Mr. Knut Traisbach (Germany); Mr. Lijiang Zhu (China). A Selection Committee, under the Chairmanship of Mr. Jean-Marie Dufour (President of the Geneva International Academic Network, GIAN), met on 20 April 2005 and selected 24 candidates out of 110 applications for participation in the Seminar.

observed plenary meetings of the Commission, attended specially arranged lectures, and participated in working groups on specific topics.

20. The Seminar was opened by the Chairman of the Commission, Mr. Djamchid Momtaz. Mr. Ulrich von Blumenthal, Senior Legal Adviser of the United Nations Office at Geneva, was responsible for the administration, organization and conduct of the Seminar.

21. The following lectures were given by members of the Commission: Ambassador Victor Rodriguez-Cedeño: “*Unilateral Acts*”, in cooperation with Mrs. Maria Isabel Torres Cazorla, Professor; Professor John Dugard: “*Diplomatic Protection*”; Professor Djamchid Momtaz: “*Advisory opinion of ICJ of 9 July 2004*”; Professor P.S. Rao: “*International Liability of acts not prohibited by International law*”; Professor Chusei Yamada: “*Shared Natural Resources*”; Professor M. Koskenniemi: “*Fragmentation of International Law*”; Professor Giorgio Gaja: “*Responsibility of international organizations*”.

22. Lectures were also given by Mr. Arnold Pronto, United Nations Office of Legal Affairs: “*The Work of the ILC*”; Mr. Vincent Cochetel, UNHCR: “*International Refugee Law - Recent Developments*”; Mr. Yves Renouf, Legal Adviser WTO: “*The WTO Dispute Settlement System*”; Mr. Markus Schmidt, OHCHR: “*The Work of the Human Rights Committee*”. Study visits were organized to CERN and to Palais Wilson.

23. Each Seminar participant was assigned to one of two working groups on “*Unilateral Acts*” and “*Diplomatic Protection*”. The special rapporteurs of the ILC for these subjects, Mr. Victor Rodriguez Cedeño and Mr. John Dugard, provided guidance for the working groups. The groups presented their findings to the Seminar. Each participant was also assigned to submit a written summary report on one of the lectures. A collection of the reports was compiled and distributed to all participants.

24. Participants were also given the opportunity to make use of the facilities of the United Nations Library, which extended its opening hours during the event.

25. The Republic and Canton of Geneva offered its traditional hospitality to the participants with a guided visit of the Alabama and Grand Council Rooms followed by a reception.

26. Mr. Djamchid Momtaz, Chairman of the Commission, Mr. Sergei Ordzhonikidze, Director-General of the United Nations Office at Geneva, Mr. Ulrich von Blumenthal, Director of the Seminar, and Mr. ..., on behalf of the participants, addressed the Commission and the participants at the close of the Seminar. Each participant was presented with a certificate attesting to his or her participation in the forty-first session of the Seminar.

27. The Commission noted with particular appreciation that the Governments of the Czech Republic, Finland, Germany, Mexico, New Zealand, Sweden and Switzerland had made voluntary contributions to the United Nations Trust Fund for the International Law Seminar. The financial situation of the Fund allowed to award a sufficient number of fellowships to deserving candidates from developing countries in order to achieve adequate geographical distribution of participants. This year, full fellowships (travel and subsistence allowance) were awarded to 10 candidates and partial fellowship (subsistence only) to 6 candidates.

28. Of the 927 participants, representing 157 nationalities, who have taken part in the Seminar since 1965, the year of its inception, 557 have received a fellowship.

29. The Commission stresses the importance it attaches to the sessions of the Seminar, which enables young lawyers, especially those from developing countries, to familiarize themselves with the work of the Commission and the activities of the many international organizations, which have their headquarters in Geneva. The Commission recommends that the General Assembly should again appeal to States to make voluntary contributions in order to secure the holding of the Seminar in 2006 with as broad participation as possible.

30. The Commission noted with satisfaction that in 2005 comprehensive interpretation services were made available to the Seminar. It expresses the hope that the same services will be provided for the Seminar at the next session, within existing resources.
