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

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CHAPTER X

OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

Addendum

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A. Programme, procedures and working methods of the Commission and its documentation (*continued*)

2. Cost-saving measures

1. The Commission, having considered paragraph 8 of General Assembly resolution 61/34 and the requirements of the programme of work of the Commission for the current session resulting from unforeseeable circumstances, decided that it should conclude the first part of the fifty-ninth session on 5 June 2007, thereby reducing the duration of the session by three days.

...

4. Inclusion of new topics on the programme of work of the Commission and establishment of working groups to consider feasibility of certain topics

2. At its 2929th meeting, on 1 June 2007, the Commission decided to include on its programme of work the topic “Protection of persons in the event of disasters” and appointed Mr. Eduardo Valencia-Ospina as Special Rapporteur.

3. At its 2940th meeting, on 20 July 2007, the Commission decided to include on its programme of work the topic “Immunity of State officials from foreign criminal jurisdiction” and appointed Mr. Roman A. Kolodkin as Special Rapporteur.

4. At its 2929th meeting, on 1 June 2007, the Commission also established an open-ended Working Group on the most-favoured-nation clause under the chairmanship of Mr. Donald McRae to examine the possibility of including the topic “Most-favoured-nation clause” in its long-term programme of work. The Working Group held two meetings on 16 and 17 July 2007. It concluded that the Commission could play a useful role in providing clarification on the meaning and effect of the most-favoured-nation clause in the field of investment agreements and was favourable to the inclusion of the topic. Such work was

seen as building on the past work of the Commission on the most-favoured-nation clause.¹ At its 2944th meeting, on 27 July 2007, the Commission considered the report of the Working Group and decided to refer it to the Planning Group.

...

9. Meeting with United Nations human rights experts

5. In accordance with article 25 (1) of its Statute,² the Commission held a meeting on 15 and 16 May 2007, with United Nations experts in the field of human rights, including representatives from human rights treaty bodies. During the meeting, members of the Commission and the human rights experts³ held a useful exchange of views on issues relating to

¹ The Commission included the topic “The Most-favoured-nation clause” in its programme of work at its twentieth session (1967) and appointed Endre Ustor and Nikolai A. Ushakov as the successive Special Rapporteurs. The Commission completed the second reading of the topic at its thirtieth session (1978). The General Assembly at its thirty-fifth, thirty-sixth, thirty-eighth, fortieth and forty-third sessions (1980, 1981, 1983, 1985 and 1988) invited comments from Governments and intergovernmental organizations, on the draft articles proposed by the Commission. At its forty-sixth session (1991) the General Assembly, in its decision 46/416, took note with appreciation of the work of the Commission as well as views and comments by Governments and intergovernmental organizations and decided to bring the draft articles to the attention of Member States and intergovernmental organizations for their consideration in such cases and to the extent as they deemed appropriate.

² Article 25 (1) of Statute provides: “The Commission may consult, if it considers it necessary, with any of the organs of the United Nations on any subject which is within the competence of that organ.” See also General Assembly resolution 61/34.

³ The participating experts were: Mr. Philippe Texier, Committee on Economic, Social and Cultural Rights; Mr. Nigel Rodley, Human Rights Committee; Mr. Guibril Camara, Committee against Torture; Mr. Jean Zermatten, Committee on the Rights of the Child; Mr. Alexandre Sicilianos, Committee on the Elimination of All Forms of Racial Discrimination; Mr. Cees Flintermann, Committee on the Elimination of All Forms of Discrimination against Women; Mr. Ahmed El Borai, Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families; Ms. Liesbeth Lijnzaad, Council of Europe; Mr. Vincent Berger, Council of Europe; Ms. Françoise Hampson, member of former Sub-Commission on the Promotion and Protection of Human Rights.

reservations to human rights treaties, in particular on the causes of invalidity of reservations to human rights treaties and the appreciation of validity of reservations to human rights treaties.⁴

C. Cooperation with other bodies

6. The Commission was represented at the forty-sixth session of the Asian-African Legal Consultative Organization, held in Cape Town from 2 to 6 July 2007, by Mr. Narinder Singh. The Commission also decided that it will be represented at the 34th meeting of the Committee of Legal Advisers on Public International Law (CAHDI) to be held in Strasbourg on 10 and 11 September 2007, by Mr. Alain Pellet.

7. At its 2933rd meeting, on 10 July 2007, Judge Rosalyn Higgins, 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.⁵ An exchange of views followed.

8. The Inter-American Juridical Committee was represented at the present session of the Commission by Mr. Mauricio Herdocia Sacasa, who addressed the Commission at its 2943rd meeting, on 26 July 2007.⁶ An exchange of views followed.

9. 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 2944th meeting, on 27 July 2007.⁷ An exchange of views followed.

⁴ The Special Rapporteur of the topic "Reservations to treaties" prepared a brief summary of his understanding of what transpired in the discussion which is placed on the website on the work of the Commission, located at [Http://www.un.org/law/ilc/](http://www.un.org/law/ilc/).

⁵ This statement is recorded in the summary record of that meeting and is also placed on the website on the work of the Commission.

⁶ This statement is recorded in the summary record of that meeting.

⁷ *Ibid.*

10. 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 the Director of Legal Advice and Public International Law, ..., who addressed the Commission at its ... meeting, on 8 August 2007.⁸ An exchange of views followed.

11. On 11 July 2006 an informal exchange of views was held between members of the Commission and the International Committee of the Red Cross on topics of mutual interest.

D. Representation at the sixty-second session of the General Assembly

12. The Commission decided that it should be represented at the sixty-second session of the General Assembly by its Chairman, Mr. Ian Brownlie.

13. At its ... meeting, on ... August 2007, the Commission requested ..., Special Rapporteur on the topic of ..., to attend the sixty-second Session of the General Assembly under the terms of paragraph 5 of General Assembly resolution 44/35.⁹

E. International Law Seminar

14. Pursuant to General Assembly resolution 61/34, the forty-third session of the International Law Seminar was held at the Palais des Nations from 9 to 27 July 2007, 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 in posts in the civil service in their country.

⁸ *Ibid.*

⁹ “The General Assembly, ... 5. Invites the International Law Commission, when circumstances so warrant, to request a special rapporteur to attend the session of the General Assembly during the discussion of the topic for which that special rapporteur is responsible and requests the Secretary-General to make the necessary arrangements within existing resources.”

15. Twenty-five participants of different nationalities, mostly from developing countries, were able to take part in the session.¹⁰ The participants in the Seminar observed plenary meetings of the Commission, attended specially arranged lectures, and participated in working groups on specific topics.

16. The Seminar was opened by Mr. Ian Brownlie, Chairman of the Commission. Mr. Ulrich von Blumenthal, Senior Legal Adviser of the United Nations Office at Geneva (UNOG), was responsible for the administration, organization and conduct of the Seminar, assisted by Mr. Vittorio Mainetti, Legal Consultant at UNOG.

17. Lectures were given by members of the Commission as follows: Mr. Giorgio Gaja: “*Responsibility of International Organizations*”; Ms. Paula Escameia: “*The ICC Statute: A Step Forward in International Law*”; Mr. Alain Pellet: “*The ILC - A View from Inside*”; Mr. Chusei Yamada: “*Codification of the Law of Shared Natural Resources*”; Mr. Georg Nolte: “*Assistance by States for Internationally Wrongful Acts by Other States - Issues of Responsibility and Development of the Law*”; Mr. A. Rohan Perera: “*Towards a Comprehensive Convention on Terrorism*”; Mr. Zdzislaw Galicki: “*The Obligation to Extradite and Prosecute (aut dedere aut judicare)*”; and Mr. Maurice Kamto: “*Expulsion of Aliens*”.

¹⁰ The following persons participated in the forty-third session of the International Law Seminar: Ms. Tânia da Fonseca Alexandre (Portugal), Ms. Maria Eugenia Brunini (Uruguay), Mr. Víctor Cairo Palomo (Cuba), Mr. Alonso Chaverri-Suárez (Costa Rica), Mr. Issaka Garba Abdou (Niger), Mr. Gabriel Herrera (Argentina), Ms. Bibian Isoto (Uganda), Mr. Ammar Jaber (Iraq), Ms. Melanie Khanna (United States of America), Ms. Man Anting (China), Ms. Yassin Alieu M'Boge (Gambia), Ms. Nuala Ní Mhuircheartaigh (Ireland), Mr. Yasuyuki Okazaki (Japan), Mr. Ahmed Haroune Ould (Mauritania), Ms. Priya Pillai (India), Mr. Sergio Puig de la Parra (Mexico), Mr. Aistis Radavicius (Lithuania), Ms. Velotiana Raobelina Rakotoasony (Madagascar), Ms. Ana Cristina Rodriguez Pineda (Guatemala), Ms. Vasilka Sancin (Slovenia), Ms. Marieme Sidibe (Mali), Ms. Simona Spinaru (Romania), Mr. Ton Van den Brandt (Netherlands), Ms. Anusha Wickramasinghe (Sri Lanka), Ms. Aishath Zahir (Maldives). The Selection Committee, chaired by Mr. Jean-Marie Dufour (President of the Geneva International Academic Network, GIAN), met on 25 April 2007, and selected 26 candidates out of 130 applications for participation in the Seminar. At the last minute, the 26th candidate selected failed to attend.

18. Lectures were also given by Mr. Vittorio Mainetti: *“Introduction to the Work of the International Law Commission”*; Mr. Daniel Müller, Assistant of the Special Rapporteur Mr. Alain Pellet: *“Reservations to Treaties”*, Ms. Jelena Pejic, Legal Adviser International Committee of the Red Cross: *“Current Challenges to International Humanitarian Law”*; and Mr. Markus Schmidt (OHCHR): *“The Human Rights Council after Its First Year: Trojan Horse or Real Progress?”*.
19. A round table was also organized on the Regional Systems of Protection of Human Rights. Two members of the Commission, Mr. Lucius Caflisch (former Judge at the European Court of Human Rights) and Mr. Edmundo Vargas-Carreño (former Secretary-General of the Inter-American Commission of Human Rights) spoke respectively on the European and Inter-American systems, while Mr. Mutoy Mubiala, an official of the OHCHR spoke on the African system. The discussion focused on the comparative analysis and the reciprocal influence of the three regional systems.
20. The seminar participants were invited to visit the World Trade Organization (WTO) and they also attended two briefing sessions by Ms. Gabrielle Marceau, Counsellor of the Director General, and Mr. Werner Zdouc, Director of the WTO Appellate Body Secretariat. The discussion focused on the current legal issues at the WTO and on the WTO Disputes Settlement System.
21. Each Seminar participant was assigned to one of three working groups on *“The ICC Statute: New and unsolved questions”*, *“The Obligation to extradite or prosecute”*, and *“Reservations to treaties”*. Two members of the Commission, Ms. Paula Escameia and Mr. Zdzislaw Galicki, and Mr. Daniel Müller, provided guidance for the working groups. Each group wrote a report and presented their findings to the Seminar in a special session organized for this purpose. A collection of the reports was compiled and distributed to all participants.
22. The Republic and Canton of Geneva offered its traditional hospitality to the participants with a guided visit of the Alabama Room at the City Hall followed by a reception.

23. Mr. Brownlie, Mr. von Blumenthal, and Ms. Yassin Alieu M'Boge, 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-third session of the Seminar.

24. The Commission noted with particular appreciation that the Governments of Cyprus, Finland, Germany, New Zealand, Switzerland, and United Kingdom had made or pledged voluntary contributions to the United Nations Trust Fund for the International Law Seminar. The financial situation of the Fund allowed awarding 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 14 candidates and partial fellowships (subsistence only) were awarded to 2 candidates.

25. Since 1965, 979 participants, representing 160 nationalities, have taken part in the Seminar. Of them, 598 have received a fellowship.

26. The Commission stresses the importance it attaches to the Seminar, which enables young lawyers, especially 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 2008 with as broad participation as possible.

27. The Commission noted with satisfaction that in 2007 comprehensive interpretation services were made available to the Seminar. It expresses the hope that the same services would be provided at the next session, within existing resources.
