



General Assembly

Distr.
LIMITED

A/CN.4/L.598
11 August 2000

Original: ENGLISH

INTERNATIONAL LAW COMMISSION
Fifty-second session
Geneva, 1 May-9 June 2000 and
10 July-18 August 2000

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

Rapporteur: Mr. Victor Rodríguez Cedeño

CHAPTER IX

OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
A. Programme, procedures and working methods of the Commission and its documentation	1 - 13	
1. Long-term programme of work	5 - 12	
2. Length, nature and place of future sessions of the Commission	13 - 14	
B. Date and place of the fifty-third session	15	
C. Cooperation with other bodies	16 - 20	
D. Representation at the fifty-fifth session of the General Assembly	21 - 22	

CHAPTER IX

OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

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

1. Having regard to paragraphs 8, 9 and 11 of General Assembly resolution 54/111 of 9 December 1999, the Commission considered the matter under item 8 of its agenda entitled “Programme, procedures and working methods of the Commission and its documentation” and referred it to the Planning Group of the Enlarged Bureau.
2. The Planning Group held four meetings. It had before it section E of the Topical summary of the discussion held in the Sixth Committee of the General Assembly during its fifty-fourth session entitled: “Other decisions and conclusions of the Commission”.¹
3. The Planning Group re-established the informal Working Group on split session as well as the Working Group on the long-term programme of work.²
4. At its ... meeting on ..., the Commission considered and endorsed the Planning Group’s report.

1. Long-term programme of work

5. The Commission took note of the report of the Planning Group stating that, in terms of the method of work, and at the request of the Chairman, the members of the Working Group on long-term programme of work at the outset identified a number of subjects which might be useful to examine further as to their appropriateness to be recommended for inclusion in the long-term programme of work of the Commission. Those subjects dealt with different and important aspects of international law, such as human rights, environment, responsibility and treaties. Upon further examination the Working Group narrowed down the list to the following:
 - Legal aspects of corruption and related practices
 - Jurisdictional aspect of transnational organized crime
 - Responsibility of international organizations
 - The risk of the fragmentation of international law
 - The right to collective security

¹ Document A/CN.4/504.

² For the composition of the Working Groups, see paragraph ... above.

- Humanitarian protection
 - The effect of armed conflict on treaties
 - The position of the individual in international law
 - Right of asylum
 - The law relating to the expulsion of aliens
 - The international legal consequences of violations of human rights
 - Non-discrimination in international law
 - Feasibility study on the law of environment: guidelines for international control for avoidance of environmental conflict
 - The precautionary principle
 - Shared resources of States
 - The polluter pays principle
6. Each of the selected topics was assigned to a member for a feasibility study to determine their potential for inclusion in the long-term programme of work.
7. The Commission took note of the report of the Planning Group stating that, with regard to the criteria for the selection of the topics, the Working Group, bearing in mind the recommendation of the Commission contained in paragraph 238 of the report on the work of its forty-ninth session,³ had agreed that it should be guided by the following:
- that the topic should reflect the needs for the States in respect of the progressive development and codification of international law;
 - that the topic should be sufficiently advanced in stage in terms of State practice to permit progressive development and codification;
 - that the topic should be concrete and feasible for progressive development and codification; and
 - that the Commission should not restrict itself to traditional topics, but that it should also consider those that reflect new developments in international law and pressing concerns of the international community.

³ *Official Records of the General Assembly, Fifty-second Session, Supplement No. 10 (A/52/10).*

8. The Commission agreed with the conclusions of the Planning Group that, on the basis of the above criteria, and after careful examination of the preliminary studies on the above subjects the following topics are appropriate for inclusion in the long-term programme of work:

1. Responsibility of international organizations
2. Effects of armed conflict on treaties
3. Shared natural resources of States
4. Expulsion of aliens
5. Risks ensuing from fragmentation of international law

9. The syllabuses on topics recommended for inclusion in the long-term programme of work of the Commission is annexed to the present report.

10. The Commission took note that the last topic, "Risks ensuing from fragmentation of international law", was not similar to the other topics which the Commission had so far considered. Nevertheless, the Commission was of the view that the topic involved increasingly important issues relating to international law and that the Commission could make a contribution to the better understanding of the issues in this area. The Commission also took note that the method and the outcome of the work of the Commission on this topic, while they did not fall strictly within the normal form of codification, was well within the competence of the Commission and in accordance with its Statute.

11. The Commission also took note of a number of useful preliminary studies with regard to the topic of the environment. But it was of the view that any decision about further work in the area of the law of the environment should usefully be deferred until the next quinquennium. In particular, it was noted that it was desirable to have a more integrated approach to the development of feasibility studies in the field of the environment.

12. The Commission also noted that two topics on issues related to Corruption and Humanitarian protection are worthy of further examination by the Commission, at its next quinquennium. But at the present session, the Commission was not in a position to make a recommendation for their inclusion in the list of topics for the long-term programme of work.

2. Length, nature and place of future sessions of the Commission

13. Having taken note of the report of the Planning Group on the above-mentioned matters, the Commission is of the view, as explained in detail in paragraphs 635 to 637 of

its 1999 report,⁴ that, in order to continue to increase the efficiency and productivity of its work and to facilitate the attendance by its members, the sessions of its next quinquennium should also be split into two half sessions of an equal duration. The Commission would, in principle, continue to meet in Geneva. However, in order to enhance the relationship between the Commission and the Sixth Committee, one or two of its half sessions could be held in New York, towards the middle of the mandate.

14. Furthermore, the Commission reiterates its views expressed in paragraph 227 of its 1996 report⁵ to the effect that, “in the longer term, the length of sessions is related to the question of [its work] organization” and that “if a split session is adopted ... its work can usually be effectively done in a period of less than 12 weeks a year. It sees good reason for reverting to the older practice of a total annual provision of 10 weeks, with the possibility of extension to 12 weeks in particular years, as required”. Consequently, and unless significant reasons related to the organization of its work otherwise require, the length of the sessions during the initial years of the Commission’s future mandate should be of 10 weeks and, during its final years, of 12 weeks.

B. Date and place of the fifty-third session

15. Since the next session of the Commission will be the last of its present quinquennium, the Commission is of the view that the requirements of its work make it essential to hold a 12-week split session, at the United Nations Office in Geneva, from 23 April to 1 June and from 2 July to 10 August 2001.

C. Cooperation with other bodies

16. The Inter-American Juridical Committee was represented at the present session of the Commission by Mr. Brynmor Pollard. Mr. Pollard addressed the Commission at its 2648th meeting on 28 July 2000 and his statement is recorded in the summary record of that meeting.

17. The Commission was represented at the 2000 session of the Asian-African Legal Consultative Committee, in Cairo, Egypt, by Mr. Gerhard Hafner who attended the session and addressed the Committee on behalf of the Commission. The Asian-African Legal Consultative Committee was represented at the present session of the Commission by the Secretary-General

⁴ *Official records of the General Assembly, Fifty-fourth session, Supplement No. 10 (A/54/10).*

⁵ *Official records of the General Assembly, Fifty-first session, Supplement No. 10 (A/51/10).*

of the Committee, Ambassador Wafik Kamil. Ambassador Kamil addressed the Commission at its 2654th meeting on 10 August 2000 and his statement is recorded in the summary record of that meeting.

18. The European Committee on Legal Cooperation and the Committee on Legal Advisers on Public International Law were represented at the present session of the Commission by Mr. Rafael Benítez. Mr. Benítez addressed the Commission at its 2655th meeting on 11 August 2000 and his statement is recorded in the summary record of that meeting.

19. At its 2658th meeting on 15 August 2000, Judge Guillaume, 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. An exchange of views followed. The Commission finds it very useful and rewarding to continue this ongoing exchange with the Court.

20. On 27 July 2000, 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 for the two institutions.

D. Representation at the fifty-fifth session of the General Assembly

21. The Commission decided that it should be represented at the fifty-fifth session of the General Assembly by its Chairman Mr. Chusei Yamada.

22. Moreover, at its ... meeting on, the Commission requested Mr., Special Rapporteur on "....." to attend the fifty-fifth session under the terms of paragraph 5 of General Assembly resolution 44/35.
