



# General Assembly

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## International Law Commission

### Sixty-third session

Geneva, 26 April–3 June and 4 July–12 August 2011

## Draft report of the International Law Commission on the work of its sixty-third session

*Rapporteur:* Mr. A. Rohan Perera

### Chapter I Introduction

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## Introduction

1. The International Law Commission held the first part of its sixty-third session from 26 April to 3 June 2011 and the second part from 4 July to 12 August 2011 at its seat at the United Nations Office at Geneva. The session was opened by Mr. Ernest Petrič, Chairman of the sixty-second session of the Commission.

### A. Membership

2. The Commission consists of the following members:

- Mr. Mohammed Bello Adoke (Nigeria)
- Mr. Ali Mohsen Fetais Al-Marri (Qatar)
- Mr. Lucius Caflisch (Switzerland)
- Mr. Enrique J. A. Candiotti (Argentina)
- Mr. Pedro Comissário Afonso (Mozambique)
- Mr. Christopher John Robert Dugard (South Africa)
- Ms. Concepción Escobar Hernández (Spain)
- Mr. Salifou Fomba (Mali)
- Mr. Giorgio Gaja (Italy)
- Mr. Zdzislaw Galicki (Poland)
- Mr. Hussein A. Hassouna (Egypt)
- Mr. Mahmoud D. Hmoud (Jordan)
- Mr. Huikang Huang (People's Republic of China)
- Ms. Marie G. Jacobsson (Sweden)
- Mr. Maurice Kamto (Cameroon)
- Mr. Fathi Kemicha (Tunisia)
- Mr. Roman Anatolyevitch Kolodkin (Russian Federation)
- Mr. Donald M. McRae (Canada)
- Mr. Teodor Viorel Melescanu (Romania)
- Mr. Shinya Murase (Japan)
- Mr. Bernd H. Niehaus (Costa Rica)
- Mr. Georg Nolte (Germany)
- Mr. Alain Pellet (France)
- Mr. A. Rohan Perera (Sri Lanka)
- Mr. Ernest Petrič (Slovenia)
- Mr. Gilberto Vergne Saboia (Brazil)
- Mr. Narinder Singh (India)

Mr. Eduardo Valencia-Ospina (Colombia)  
 Mr. Edmundo Vargas Carreño (Chile)  
 Mr. Stephen C. Vasciannie (Jamaica)  
 Mr. Marcelo Vázquez-Bermúdez (Ecuador)  
 Mr. Amos S. Wako (Kenya)  
 Mr. Nugroho Wisnumurti (Indonesia)  
 Mr. Michael Wood (United Kingdom of Great Britain and Northern Ireland)

## B. Casual vacancy

3. On 28 April 2011, the Commission elected Ms. Concepción Escobar Hernández (Spain) to fill the casual vacancy occasioned by the death of Ms. Paula Escarameia. On 17 May 2011, the Commission elected Mr. Mohammed Bello Adoke (Nigeria) to fill the casual vacancy occasioned by the resignation of Mr. Bayo Ojo.

## C. Officers and the Enlarged Bureau

4. At its 3080th meeting on 26 April 2011, the Commission elected the following officers:

Chairman:	Mr. Maurice Kamto (Cameroon)
First Vice-Chairman:	Ms. Marie G. Jacobsson (Sweden)
Second Vice-Chairman:	Mr. Bernd H. Niehaus (Costa Rica)
Chairman of the Drafting Committee:	Mr. Teodor Viorel Melescanu (Romania)
Rapporteur:	Mr. A. Rohan Perera (Sri Lanka)

5. The Enlarged Bureau of the Commission was composed of the officers of the present session, the previous Chairmen of the Commission<sup>1</sup> and the Special Rapporteurs.<sup>2</sup>

6. On the recommendation of the Enlarged Bureau, the Commission set up a Planning Group composed of the following members: Ms. M.G. Jacobsson (Chairperson), Mr. L. Caflisch, Mr. E. Candiotti, Mr. P. Comissário Afonso, Mr. C.J.R. Dugard, Ms. C. Escobar Hernández, Mr. G. Gaja, Mr. Z. Galicki, Mr. H.A. Hassouna, Mr. M. Kamto, Mr. F. Kemicha, Mr. R.A. Kolodkin, Mr. T.V. Melescanu, Mr. D.M. McRae, Mr. S. Murase, Mr. B. Niehaus, Mr. G. Nolte, Mr. A. Pellet, Mr. E. Petrič, Mr. G.V. Saboia, Mr. N. Singh, Mr. E. Valencia-Ospina, Mr. E. Vargas Carreño, Mr. S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood, and Mr. A.R. Perera (*ex officio*).

## D. Drafting Committee

7. At its 3080th meeting on 26 April 2011, the Commission established a Drafting Committee, composed of the following members for the topics indicated:

<sup>1</sup> Mr. E. Candiotti, Mr. Z. Galicki, Mr. M. Kamto, Mr. T.V. Melescanu, Mr. A. Pellet, Mr. E. Petrič, Mr. E. Vargas Carreño and Mr. N. Wisnumurti.

<sup>2</sup> Mr. L. Caflisch, Mr. G. Gaja, Mr. Z. Galicki, Mr. M. Kamto, Mr. R.A. Kolodkin, Mr. A. Pellet and Mr. E. Valencia-Ospina.

(a) *Effects of armed conflicts on treaties*: Mr. T.V. Melescanu (Chairman), Mr. L. Caflisch (Special Rapporteur), Mr. E. Candioti, Mr. S. Fomba, Mr. Z. Galicki, Mr. H. Huang, Ms. M.G. Jacobsson, Mr. M. Kamto, Mr. S. Murase, Mr. E. Petrič, Mr. G.V. Saboia, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood and Mr. A.R. Perera (*ex officio*).

(b) *Drafting Committee on responsibility of international organizations*: Mr. T.V. Melescanu (Chairman), Mr. G. Gaja (Special Rapporteur), Mr. E. Candioti, Mr. S. Fomba, Mr. H. Huang, Ms. M.G. Jacobsson, Mr. M. Kamto, Mr. D.M. McRae, Mr. S. Murase, Mr. E. Petrič, Mr. G.V. Saboia, Mr. E. Valencia-Ospina, Mr. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood, and Mr. A.R. Perera (*ex officio*).

(c) *Expulsion of aliens*: Mr. T.V. Melescanu (Chairman), Mr. M. Kamto (Special Rapporteur), Mr. P. Comissário Afonso, Ms. C. Escobar Hernández, Mr. S. Fomba, Mr. Z. Galicki, Mr. M.D. Hmoud, Mr. D.M. McRae, Mr. G.V. Saboia, Mr. N. Singh, Mr. E. Valencia-Ospina, Mr. E. Vargas Carreño, Mr. S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood and Mr. A.R. Perera (*ex officio*).

(d) *Protection of persons in the event of disasters*: Mr. T.V. Melescanu (Chairman), Mr. E. Valencia-Ospina (Special Rapporteur), Mr. E. Candioti, Mr. C.J.R. Dugard, Ms. C. Escobar Hernández, Mr. M.D. Hmoud, Ms. M.G. Jacobsson, Mr. D.M. McRae, Mr. S. Murase, Mr. G. Nolte, Mr. E. Petrič, Mr. G.V. Saboia, Mr. N. Singh, Mr. E. Vargas Carreño, Mr. S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood and Mr. A.R. Perera (*ex officio*).

8. The Drafting Committee held a total of ... meetings on the ... topics indicated above.

## **E. Working Groups and Study Groups**

9. At its 3080th meeting on 26 April 2011, the Commission reconstituted the following Working Groups and Study Groups:

(a) *Working Group on reservations to treaties*: Mr. M. Vázquez-Bermúdez (Chairman), Mr. A. Pellet (Special Rapporteur), Mr. E. Candioti, Ms. C. Escobar Hernández, Mr. S. Fomba, Mr. G. Gaja, Mr. M.D. Hmoud, Mr. H. Huang, Mr. M. Kamto, Mr. D.M. McRae, Mr. G. Nolte, Mr. E. Petrič, Mr. N. Singh, Mr. M. Wood and Mr. R.A. Perera (*ex officio*).

(b) *Study Group on treaties over time*: Mr. G. Nolte (Chairman), Mr. E. Candioti, Mr. P. Comissário Afonso, Mr. C.J.R. Dugard, Ms. C. Escobar Hernández, Mr. G. Gaja, Mr. M.D. Hmoud, Ms. M.G. Jacobsson, Mr. M. Kamto, Mr. D.M. McRae, Mr. T.V. Melescanu, Mr. S. Murase, Mr. B.H. Niehaus, Mr. E. Petrič, Mr. N. Singh, Mr. E. Valencia-Ospina, Mr. E. Vargas Carreño, Mr. S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood and Mr. R.A. Perera (*ex officio*).

(c) *Study Group on Most-Favoured-Nation clause*: Mr. D.M. McRae and Mr. A.R. Perera (Co-Chairs), Mr. L. Caflisch, Mr. E. Candioti, Ms. C. Escobar Hernández, Mr. G. Gaja, Mr. M.D. Hmoud, Mr. S. Murase, Mr. B.H. Niehaus, Mr. G. Nolte, Mr. G.V. Saboia, Mr. N. Singh, Mr. S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood, and Mr. R.A. Perera (*ex officio*).

10. The Planning Group established or reconstituted the following Working Groups:

(a) *Working Group on methods of work*: Mr. H.A. Hassouna (Chairman), Mr. L. Caflisch, Mr. E. Candioti, Mr. S. Fomba, Mr. Z. Galicki, Ms. M.G. Jacobsson, Mr. T.V. Melescanu, Mr. S. Murase, Mr. E. Petrič, Mr. G.V. Saboia, Mr. N. Singh, Mr. E. Valencia-

Ospina, Mr. S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. N. Wisnumurti, Mr. M. Wood and Mr. A.R. Perera (*ex officio*).

(b) *Working group on long-term programme of work for the quinquennium*: Mr. E. Candiotti (Chairman), Mr. L. Caflisch, Mr. P. Comissário Afonso, Ms. C. Escobar Hernández, Mr. S. Fomba, Mr. G. Gaja, Mr. Z. Galicki, Mr. H.A. Hassouna, Mr. M.D. Hmoud, Mr. H. Huang, Ms. M.G. Jacobsson, Mr. R.A. Kolodkin, Mr. D.M. McRae, Mr. T.V. Melescanu, Mr. S. Murase, Mr. G. Nolte, Mr. A. Pellet, Mr. E. Petrič, Mr. G.V. Saboia, Mr. N. Singh, Mr. E. Valencia-Ospina, Mr. E. Vargas Carreño, S.C. Vasciannie, Mr. M. Vázquez-Bermúdez, Mr. A.S. Wako, Mr. N. Wisnumurti, Mr. M. Wood and Mr. A.R. Perera (*ex officio*).

## F. Secretariat

11. Ms. Patricia O'Brien, Under-Secretary-General, the Legal Counsel, represented the Secretary-General. Mr. Václav Mikulka, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary to the Commission and, in the absence of the Legal Counsel, represented the Secretary-General. Mr. George Korontzis, Deputy Director, served as Deputy Secretary. Mr. Trevor Chimimba and Mr. Arnold Pronto, Senior Legal Officers, served as Senior Assistant Secretaries. Mr. Gionata Buzzini and Ms. Hanna Dreifeldt-Lainé, Legal Officers, served as Assistant Secretaries to the Commission.

## G. Agenda

12. At its 3080th meeting, on 26 April 2011, the Commission adopted an agenda for its sixty-third session consisting of the following items:

1. Organization of the work of the session.
2. Reservations to treaties.
3. Responsibility of international organizations.
4. Effects of armed conflicts on treaties.
5. Expulsion of aliens.
6. The obligation to extradite or prosecute (*aut dedere aut judicare*).
7. Protection of persons in the event of disasters.
8. Immunity of State officials from foreign criminal jurisdiction.
9. Treaties over time.
10. The Most-Favoured-Nation clause.
11. Programme, procedures and working methods of the Commission and its documentation.
12. Date and place of the sixty-fourth session.
13. Cooperation with other bodies.
14. Filling of casual vacancies in the Commission.
15. Other business.