



# General Assembly

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## International Law Commission

### Sixty-fifth session

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

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### Chapter XII

### Other decisions and conclusions of the Commission

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

**1. Inclusion of new topics on the programme of work of the Commission**

1. At its 3171st meeting, on 28 May 2013, the Commission decided to include in its programme of work the topic “Protection of the environment in relation to armed conflicts” and to appoint Ms. Marie G. Jacobsson as the Special Rapporteur for the topic.

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**D. Cooperation with other bodies**

2. At its 3182nd meeting, on 18 July 2013, Judge Peter Tomka, President of the International Court of Justice, addressed the Commission and briefed it on the recent judicial activities of the Court,<sup>1</sup> while also drawing attention to recent efforts to encourage the acceptance of the compulsory jurisdiction of the Court in accordance with its statute. An exchange of views followed.

3. The Asian-African Legal Consultative Organization (AALCO) was represented at the present session of the Commission by the Secretary-General, Mr. Rahmat Mohamad, who addressed the Commission at its 3176th meeting, on 9 July 2013.<sup>2</sup> He focussed on views of Member States of AALCO, on the basis of their statements in other international fora, on three topics on the programme of work of the Commission, namely “Immunity of State Officials from Foreign Criminal Jurisdiction”, “Protection of persons in the Event of Disaster”; and the “Formation and Evidence of Customary International Law”.

4. The European Committee on Legal Cooperation and the Committee of Legal Advisers on Public International Law (CAHDI) of the Council of Europe were represented at the present session of the Commission by the Chair of the Committee of Legal Advisers on Public international Law, Ms. Liesbeth Lijnzaad, and the Head *a.i* of the Public International Law Division of the Council of Europe, Ms. Christina Olsen, who addressed the Commission at its 3177th meeting, on 10 July 2013.<sup>3</sup> They focussed on the current activities of CAHDI on a variety of legal matters, as well of the Council of Europe. An exchange of views followed.

5. The Inter-American Juridical Committee was represented at the present session of the Commission by Mr. Miguel Pichardo Olivier, who addressed the Commission at its 3180th meeting, on 16 July 2013.<sup>4</sup> He gave an overview of the activities of the Committee as contained in its annual report and those planned for 2013. An exchange of views followed.

6. The African Union Commission on International Law was represented at the present session of the Commission by its Chairman, Mr. Adelarus Kilangi, who addressed the Commission at its ...th meeting, on ... July 2013.<sup>5</sup> He gave an overview of the activities of the African Union Commission on International Law. An exchange of views followed.

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<sup>1</sup> This statement is recorded in the summary record of that meeting.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

7. On 16 July 2013, an informal exchange of views was held between members of the Commission and the International Committee of the Red Cross (ICRC) on topics of mutual interest. There were presentations on an overview on the activities of the ICRC Legal Division and on the Arms Trade Treaty and its humanitarian objective, as well as an overview of topics on the programme of work of the Commission and on the topic “Formation and evidence of customary international law”.<sup>6</sup> An exchange of views followed.

## **E. Representation at the sixty-eighth session of the General Assembly**

8. The Commission decided that it should be represented at the sixty-eighth session of the General Assembly by its Chairman, Mr. Bernd H. Niehaus.

9. In view of the fact that the debate in the Sixth Committee on the topic “Reservations to treaties” was postponed to the Sixty-eighth session of the General Assembly, the Commission reiterated its wish made at its last session (2012) that the former Special Rapporteur on the topic, Mr. Alain Pellet, be invited by the Sixth Committee in order to attend the debate in the Sixth Committee on the chapter of the 2011 report of the Commission which relates to this topic.<sup>7</sup>

## **F. Gilberto Amado Memorial Lecture**

10. On 17 July 2013, members of the Commission, participants of the International Law Seminar and other experts of international law attended the Gilberto Amado Memorial Lecture, entitled “Contemporary trends on *opinio juris* and the material evidence of customary international law”, which was delivered by Professor Paulo Borba Casella.

## **G. International Law Seminar**

11. Pursuant to General Assembly resolution 67/92, the forty-ninth session of the International Law Seminar was held at the Palais des Nations from 8 to 26 July 2013, 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 of their country.

12. Twenty-one participants of different nationalities, from all regional groups took part in the session.<sup>8</sup> The participants attended plenary meetings of the Commission, specially arranged lectures, and participated in working groups on specific topics.

<sup>6</sup> Mr. Laurent Colassis, Deputy Head, Legal Division, ICRC, provided an overview of the work of the ICRC Legal Division and Ms. Nathalie Weizmann, Legal Adviser, Arms Unit, ICRC gave a presentation on the Arms trade treaty and its humanitarian objective. Mr. S.D. Murphy provided an overview of the topics of the programme of work of the Commission and Mr. M. Wood gave a presentation on “Formation and evidence of Customary international law”.

<sup>7</sup> See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10, A/66/10* (chap. IV) and A/66/10/Add.1.

<sup>8</sup> The following persons participated in the Seminar: Mr. Hatem Alabd (Egypt), Ms. Makiko Asami (Japan), Mr. Jonas Attenhofer (Switzerland), Ms. Danai Azaria (Greece), Mr. Eduardo Cagnoni (Argentina), Mr. Jorge Luis Cepero Aguilar (Cuba), Mr. Rasmané Congo (Burkina Faso), Ms. Fiona Devlin (Ireland), Ms. Athikarn Dilogwathana (Thailand), Ms. Alicia Gauto Vázquez (Paraguay), Ms. Hyun Jung Kim (South Korea), Ms. Pamela López-Ruiz Montes (Peru), Mr. Brian McGarry (United State of America), Ms. Ha Thi Ngoc Nguyen (Viet Nam), Ms. Siham Sebbar (Morocco), Mr. Edgardo Sobenes Obregon (Nicaragua), Ms. Sarala Subramaniam (Singapore), Mr. Alexey Nikolayevich

13. The Seminar was opened by Mr. Bernd Niehaus, Chairman of the Commission. Mr. Markus Schmidt, Senior Legal Adviser of the United Nations Office at Geneva (UNOG), was responsible for the administration, organization and conduct of the Seminar. The scientific coordination of the Seminar was ensured by the University of Geneva. Mr. Vittorio Mainetti, international law expert from the University of Geneva, acted as coordinator, assisted by Mr. Martin Denis, legal assistant.

14. The following lectures were given by members of the Commission: Mr. Ernest Petrič: “*The Work of the International Law Commission*”; Mr. Georg Nolte: “*Subsequent Agreements and Subsequent Practice in Relation to Treaty Interpretation*”; Ms. Concepción Escobar Hernández: “*Immunity of State Officials from Foreign Criminal Jurisdiction*”; Mr. Georg Nolte: “*Subsequent Agreements and Subsequent Practice in Relation to Treaty Interpretation*”; Mr. Dire Tladi: “*The United Nations Convention on the Law of the Sea and Treaty Interpretation: Use of Subsequent Practice and Subsequent Agreements to Resolve Controversies on the Sustainable Use of Marine Biodiversity*”; Mr. Michael Wood: “*Formation and Evidence of Customary International Law*”; Mr. Sean D. Murphy: “*Selecting New Topics for the International Law Commission: Process and Substance*”; Mr. Mathias Forteau: “*Fair and Equitable Treatment in International Investment Law*”; and Mr. Shinya Murase: “*International Law-Making for the Protection of Global Environment*”.

15. A Lecture was also given by Ms. Iris Müller, Legal Adviser to the International Committee of the Red Cross, on “*Customary International Humanitarian Law*”.

16. Seminar participants attended a special external session organized by the University of Geneva on the topic: “*The Protection of the Environment in Relation to Armed Conflict*”. During this session, Ms. Marie Jacobsson, member of the Commission and Special rapporteur on this topic, debated with Prof. Marco Sassoli, University of Geneva; Prof. Robert Kolb, University of Geneva; Prof. Makane Mbengue, University of Geneva, Dr. Mara Tignino, Senior researcher, University of Geneva; Ms. Marie-Louise Tougas, International Committee of the Red Cross, Ms. Karen Hulme, Senior Lecturer, University of Essex; Ms. Britta Sjostedt, Researcher, University of Lund; and with Mr. David Jensen, Head of Environment Cooperation for Peacebuilding, UNEP.

17. Seminar Participants also attended the Gilberto Amado Memorial Lecture, delivered on 17 July 2013, followed by a reception offered by Brazil.

18. Seminar participants had the opportunity to familiarize themselves with the work of other international organisations based in Geneva. A visit of the International Telecommunication Union (ITU) was organised, and a presentation was given by Mr. Alexander Beck, Senior Legal Adviser at the Office of the United Nations High Commissioner for Refugees (UNHCR).

19. Three Seminar working groups on “*Subsequent Agreements and Subsequent Practice in Relation to Treaty Interpretation*”, “*Protection of Persons in the Event of Disasters*” and “*Immunity of State Officials from Foreign Criminal Jurisdiction*” were organised. Each Seminar participant was assigned to one of them. Three members of the Commission, Ms. Concepción Escobar Hernández, Mr. Georg Nolte and Mr. Eduardo

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Trofimenkov (Russian Federation), Mr. Zoilo Velasco (Philippines), Mr. Mawuse Vormawor (Ghana), and Ms. Olga Voronovich (Belarus). The Selection Committee, chaired by Mr. Marco Sassoli, Professor and Director of the Department of public international Law of the University of Geneva, met on 22 April 2013 at the Palais des Nations and selected 24 candidates out of 86 applications for participation in the Seminar. At the last minute, three selected candidates could not attend the seminar.

Valencia Ospina supervised and provided expert guidance to the working groups. Each group prepared a report and presented its findings to the Seminar in a special session. The reports were compiled and distributed to all participants as well as to the members of the Commission.

20. The Republic and Canton of Geneva offered to the participants a guided tour of the Geneva Town Hall and the Alabama room.

21. Mr. Bernd Niehaus, Chairman of the Commission, Mr. Markus Schmidt, Director of the Seminar, and Ms. Pamela López-Ruiz Montes (Peru), on behalf of the participants of the seminar, addressed the Commission and the participants during the closing ceremony of the Seminar. Each participant was presented with a certificate attesting to his or her participation in the forty-ninth session of the Seminar.

22. The Commission noted with particular appreciation that since 2010 the Governments of Argentina, Austria, China, Finland, India, Ireland, Mexico, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland had made 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 especially from developing countries in order to achieve adequate geographical distribution of participants. This year, 15 fellowships for travel and subsistence allowance were awarded.

23. Since 1965, 1115 participants, representing 170 nationalities, have taken part in the Seminar. Of them, 684 have received a fellowship.

24. 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 based in Geneva. The Commission recommends that the General Assembly should again appeal to States to make voluntary contributions in order to secure the organization of the Seminar in 2014 with as broad participation as possible, especially in the light of the forthcoming 50th anniversary of the Seminar.

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