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**A/CN.4/SR.1474**

**Summary record of the 1474th meeting**

Topic:  
**Other topics**

Extract from the Yearbook of the International Law Commission:-  
**1978, vol. I**

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# INTERNATIONAL LAW COMMISSION

## SUMMARY RECORDS OF THE THIRTIETH SESSION

*Held at Geneva from 8 May to 28 July 1978*

### 1474th MEETING

*Monday, 8 May 1978, at 3.20 p.m.*

*Chairman:* Sir Francis VALLAT

*later:* Mr. José SETTE CÂMARA

*Members present:* Mr. Ago, Mr. Calle y Calle, Mr. Casteñeda, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Jagota, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sucharitkul, Mr. Tsu-ruoka, Mr. Ushakov, Mr. Yankov.

#### Opening of the session

1. The CHAIRMAN declared open the thirtieth session of the International Law Commission.

#### Statement by the outgoing Chairman

2. The CHAIRMAN wished first to extend a warm welcome to the Commission's new Secretary, Mr. Romanov, who had replaced Mr. Rybakov as head of the Codification Division. Mr. Rybakov had recently sent a letter expressing his deep appreciation of the fruitful co-operation between the Commission and the Codification Division during his period as Director of that Division and his thanks for the many personal kindnesses shown to him by the members of the Commission. In the letter, he wished the Commission every success in its difficult and important task of codifying and progressively developing international law. Perhaps the Secretary would be kind enough to convey the Commission's gratitude to Mr. Rybakov for his services as Director of the Codification Division and as Secretary to the Commission and to wish him well in his new duties at the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics.

3. The Commission's endeavour at the previous session to take a fresh look at its methods and programme of work had found an echo in the Sixth Committee of the General Assembly. The general comments on the work of the Commission and the codification process, contained in the report of the Sixth Committee<sup>1</sup> gave grounds for satisfaction with the progress that had been made. Again, whether or

not members agreed with the comments contained in the report in question, in the section on "other decisions and conclusions" of the Commission,<sup>2</sup> those comments represented some reward for the efforts made at the previous session, through the Planning Group, to give a new thrust to the Commission's life and work.

4. It had been recommended in 1977 that certain new topics should be considered for inclusion in the Commission's long-term programme of work. The sixth Committee had indicated that the draft code of offences against the peace and security of mankind would not be included in the Commission's programme because it was to form a separate item for consideration by the General Assembly itself.<sup>3</sup> In all other respects, the recommendations concerning topics to be dealt with by the Commission had been broadly accepted and approved by the Assembly.

5. The Sixth Committee's observations on the Commission's methods of work<sup>4</sup> would require close attention, for they provided considerable food for thought.

6. Judge T. O. Elias of the International Court of Justice had accepted an invitation to deliver the Gilberto Amado Memorial Lecture, which happily would coincide with the commemoration of the Commission's thirtieth anniversary.

7. The Sixth Committee had also taken special note of the International Law Seminar, and it was to be hoped that there would be some response to the appeal for further scholarships. Similarly, representatives on the Sixth Committee had welcomed the Commission's continued practice of co-operating with regional juridical bodies. Mr. Riphagen had represented the Commission at a meeting of the European Committee on Legal Co-operation held in Strasbourg (France), as had Mr. El-Erian at a meeting of the Inter-American Juridical Committee in Rio de Janeiro (Brazil) and Mr. Francis at a meeting of the Asian-African Legal Consultative Committee in Doha (Qatar). Opportunities also existed for co-operation with other regional bodies, for he had received a letter from the Secretary-General of the League of Arab States concerning the possibility of allowing a representative of the League to attend the Commission's sessions as an observer, and a letter from the Executive Secretary of ESCAP concerning the question of

<sup>2</sup> *Ibid.*, paras. 188-249.

<sup>3</sup> *Ibid.*, para. 219.

<sup>4</sup> *Ibid.*, paras. 222-231.

<sup>1</sup> See *Official Records of the General Assembly, Thirty-second Session, Annexes*, agenda item 112, doc. A/32/433, paras. 7-25.

water resources in the matter of the non-navigational uses of international watercourses. Copies of his replies had been circulated informally among members. Certain of those matters would have to be considered in the course of the session.

8. General Assembly resolution 32/151 might be regarded as the best gauge of the Assembly's reaction to the work of the Commission. At the same time, he wished to draw attention to resolution 32/47, from which it would be seen that the resumed session of the United Nations Conference on Succession of States in Respect of Treaties was to be convened at Vienna from 31 July to 18 August 1978, and to decision 32/441, concerning the Draft Code of Offences against the Peace and Security of Mankind. Resolution 32/129 would require a decision as to whether the Commission should send an observer or observers to the World Conference to Combat Racism and Racial Discrimination, while resolution 32/48, concerning a review of the multilateral treaty-making process, invited the Commission to submit its observations by 31 July 1979. That invitation had given rise to a good deal of anxiety, for it had been feared that it might be against the Commission's interests. For his own part, he thought that the reverse might well be true. It was now recognized in the General Assembly that the Commission had much to offer as a result of its experience in drafting multilateral treaties. Lastly, the Commission should take note of resolution 32/158, on the United Nations Water Conference.

#### Election of officers

9. The CHAIRMAN asked for nominations for the office of Chairman.

10. Mr. AGO, speaking on behalf of all the members of the Commission, thanked the outgoing Chairman for the excellent manner in which he had represented the Commission in the Sixth Committee of the General Assembly. He now wished to propose Mr. Sette Câmara for the office of Chairman. Mr. Sette Câmara had participated for many years in the activities of the United Nations and had made an outstanding contribution to the work of the Sixth Committee. At previous sessions of the Commission, he had sometimes been required to replace the Chairman and had displayed qualities that quite clearly marked him out for that office.

11. Mr. CASTAÑEDA, Mr. EL-ERIAN, Mr. USHAKOV and Mr. TSURUOKA, after congratulating the outgoing Chairman, seconded the proposal.

*Mr. Sette Câmara was unanimously elected Chairman and took the Chair.*

12. The CHAIRMAN said that he was greatly honoured by his election to the office of Chairman. He was particularly touched because he had first become associated with the Commission at its second session, when he had served as assistant to Mr. Gilberto Amado. With but few interruptions in the interven-

ing years, he had always been connected with the work of the Commission and had shared the satisfaction of members with the results of its work.

13. The current session, which marked the thirtieth anniversary of the Commission, called for exceptionally hard work because of the heavy agenda. Nevertheless, he was optimistic about the outcome and knew that he could count on the good will of all members and the support of an admirable secretariat, under the guidance of the new Secretary, Mr. Romanov. In seeking inspiration for the task ahead, it was not necessary to look any further than to the previous Chairman, Sir Francis Vallat, who had steered the Commission through a most difficult and complex session and had displayed at all times his devotion to order, his authority and his unfailing sense of humour.

14. He called for nominations for the office of first vice-chairman.

15. Mr. USHAKOV proposed Mr. Šahović, who had served as chairman of the Sixth Committee of the General Assembly and had made an important contribution to the formulation of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

16. Mr. YANKOV and Mr. REUTER seconded the proposal.

*Mr. Šahović was unanimously elected first Vice-Chairman.*

17. Mr. ŠAHOVIĆ thanked the members of the Commission.

18. The CHAIRMAN called for nominations for the office of second vice-chairman.

19. Mr. EL-ERIAN proposed Mr. Njenga, who had served as chairman of the Sixth Committee of the General Assembly and was one of the leaders of the negotiations now taking place in the Third Conference on the Law of the Sea.

20. Sir Francis VALLAT and Mr. DÍAZ GONZÁLEZ, seconded the proposal.

*Mr. Njenga was unanimously elected second Vice-Chairman.*

21. Mr. NJENGA thanked the Commission.

22. The CHAIRMAN called for nominations for the office of chairman of the Drafting Committee.

23. Mr. AGO proposed Mr. Schwebel.

24. Mr. TSURUOKA and Mr. EL-ERIAN seconded the proposal.

*Mr. Schwebel was unanimously elected Chairman of the Drafting Committee.*

25. Mr. SCHWEBEL thanked the members of the Commission.

26. The CHAIRMAN called for nominations for the office of rapporteur.

27. Sir Francis VALLAT proposed Mr. Pinto.

28. Mr. CALLE y CALLE and Mr. SUCHARITKUL seconded the proposal.

*Mr. Pinto was unanimously elected Rapporteur.*

29. Mr. PINTO thanked the Commission.

#### Adoption of the agenda (A/CN.4/306)

*The provisional agenda (A/CN.4/306) was adopted unanimously.*

*The meeting rose at 5.40 p.m.*

### 1475th MEETING

*Tuesday, 9 May 1978, at 11.55 a.m.*

*Chairman:* Mr. José SETTE CÂMARA

*Members present:* Mr. Ago, Mr. Bedjaoui, Mr. Calle y Calle, Mr. Castañeda, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Jagota, Mr. Njenga, Mr. Pinto, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sette Câmara, Mr. Sucharitkul, Mr. Tabibi, Mr. Thiam, Mr. Tsu-ruoka, Mr. Ushakov, Sir Francis Vallat, Mr. Verosta, Mr. Yankov.

#### Organization of work

1. The CHAIRMAN wished first to draw the Commission's attention to General Assembly resolution 32/151, which embodied most of the suggestions on the organization of work of the 1978 session made in the Commission's report on the work of its twenty-ninth session,<sup>1</sup> and to General Assembly resolution 32/48, which requested the Commission to submit, by 31 July 1979, its observations on the question of the techniques and procedures used in the elaboration of multilateral treaties.

2. As the Special Rapporteur on the topic of the law of the non-navigational uses of international watercourses would not be submitting a substantive report at the current session, the Commission now had to consider, in the order given, the following six main topics: State responsibility; the most-favoured-nation clause; succession of States in respect of matters other than treaties; the question of treaties concluded between States and international organizations or between two or more international organizations; the status of the diplomatic courier and of the diplomatic bag not accompanied by diplomatic courier; and the

second part of the topic of relations between States and international organizations.

3. If he heard no objection, he would take it that the Commission agreed to the timetable for the consideration of those topics that had been drawn up by the Enlarged Bureau and distributed to all members.

*It was so agreed.*

4. The CHAIRMAN said that the Enlarged Bureau had also decided to recommend to the Commission that a working group on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier be again established at the current session and that it be composed of the same members as at the previous session.<sup>2</sup>

5. If he heard no objection, he would take it that the Commission agreed to the establishment of that working group, under the chairmanship of Mr. El-Erian.

*It was so agreed.*

6. The CHAIRMAN said that, during the past three years, the Planning Group of the Enlarged Bureau had produced excellent results. The Enlarged Bureau was now recommending that the Planning Group be again established at the current session.

7. If he heard no objection, he would take it that the Commission agreed to the establishment by the Enlarged Bureau of the Planning Group.

*It was so agreed.*

8. The CHAIRMAN said that, although General Assembly resolution 32/48 did not require the Commission to submit observations on the subject of the techniques and procedures used in the elaboration of multilateral treaties until 1979, the Enlarged Bureau had been of the opinion that work on that subject ought to begin at the current session. The Enlarged Bureau had therefore decided that a small working group should be established to study the subject.

9. If he heard no objection, he would take it that the Commission agreed that consultations should be held in order to decide on the composition of the working group.

*It was so agreed.*

#### Co-operation with other bodies

[Item 11 of the agenda]

10. The CHAIRMAN said that another matter that had been discussed by the Enlarged Bureau was that of co-operation with other bodies. In that connexion, the Secretary-General of the United Nations had received a letter, dated 26 October 1977, from the Secretary-General of the League of Arab States transmitting a message from the Permanent Observer of

<sup>1</sup> *Yearbook... 1977*, vol. II (Part Two), p. 129, doc. A/32/10, para. 106.

<sup>2</sup> See *Yearbook... 1977*, vol. I, p. 56, 1425th meeting, para. 52.