

Document:-  
**A/CN.4/SR.1815**

**Summary record of the 1815th meeting**

Topic:  
**Other topics**

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22. The CHAIRMAN, in response to a question by Mr. KOROMA, said that the Enlarged Bureau would be composed of the members of the Bureau of the Commission itself and Mr. Castañeda, Mr. Díaz González, Mr. Francis, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Thiam and Mr. Ushakov. Any other member so wishing could, of course, attend the meetings of the Enlarged Bureau.

*The meeting rose at 5.45 p.m.*

## 1815th MEETING

*Tuesday, 8 May 1984, at 12.05 p.m.*

*Chairman:* Mr. Alexander YANKOV

*Present:* Chief Akinjide, Mr. Al-Qaysi, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ni, Mr. Ogiso, Mr. Quentin-Baxter, Mr. Razafindralambo, Mr. Reuter, Sir Ian Sinclair, Mr. Sucharitul, Mr. Thiam, Mr. Ushakov.

### Organization of work of the session (*continued*)

#### [Agenda item 1]

1. The CHAIRMAN informed members that the Enlarged Bureau had that morning considered the tentative timetable for the session. After a detailed discussion on the organization of work, the Enlarged Bureau submitted the following recommendations:

I. The Commission could begin by considering the following two topics:

Draft Code of Offences against the Peace and Security of Mankind (item 5) ..... 9-18 May

Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (item 4) ..... 21 May-6 June

Should any time be left over from the discussion of item 5, this time could be allocated to item 4.

II. The Commission could then consider the following topics. The dates mentioned were approximate and would depend on the specific requirements of each topic and on the progress of work:

Jurisdictional immunities of States and their property (item 3) ..... 7-19 June

International liability for injurious consequences arising out of acts not prohibited by international law (item 7) ..... 20-27 June

The law of the non-navigational uses of international watercourses (item 6) ..... 28 June-6 July

State responsibility (item 2) ..... 9-20 July

Draft report of the Commission and related matters 23-27 July

2. The Enlarged Bureau further recommended that, in view of the financial implications, the two official holidays on 31 May and 11 June 1984 should be observed by the Commission.

3. Mr. KOROMA asked when the Drafting Committee could be expected to begin its work.

4. The CHAIRMAN said that every effort would be made to convene the Drafting Committee and the Planning Group as soon as possible. Consultations were under way regarding membership of the two bodies.

5. Mr. McCaffrey, noting that the Enlarged Bureau's recommendations made no reference to item 8 (Relations between States and international organizations (second part of the topic)), said he assumed that the Special Rapporteur for that topic had given his consent in that connection, so as to allow more time for consideration of other items.

6. As many as eight working days had been allotted to item 5 but only seven to, for instance, item 6, which seemed quite inadequate in view of the fact that the report on the topic under item 6 contained a full set of draft articles.

7. The CHAIRMAN said that Mr. McCaffrey's assumption regarding item 8 was correct. As mentioned earlier, the number of days for item 5 had been allotted on the understanding that, if any time was left over, the Commission would immediately take up consideration of item 4. All the suggested dates were subject to adjustment in the light of the exigencies of the situation.

8. In response to a question by Sir Ian SINCLAIR regarding item 4, and speaking also in his capacity as Special Rapporteur for that topic, he said it was his intention to suggest that the Commission should start where it had left off at the previous session, dealing first with the articles outstanding and then taking up the new articles.

9. Mr. REUTER said he could endorse the recommendation that, purely for financial reasons, the Commission should not meet on Thursday 31 May (Ascension Day) or on 11 June (Whit Monday), which were official holidays at the United Nations Office at Geneva. Nevertheless, because of its extremely heavy work-load, the Commission had frequently met on Ascension Day in the past. Obviously, the Commission was again ready to meet at least on Ascension Day if, despite the financial implications, the competent services of the United Nations so wished.

10. The CHAIRMAN said that Mr. Reuter's views undoubtedly expressed the feelings of all members and should be reflected in the Commission's records.

11. In response to a question by Mr. AL-QAYSI, he said that the Legal Counsel would be available for a meeting of the Planning Group on 21 May 1984. There was no reason, however, why the Planning Group should not meet before that date.

12. Sir Ian SINCLAIR said it was his understanding that the question of varying the length of the Commission's sessions, which had been discussed in the Planning Group the previous year, would be considered in plenary

at the current session. It would perhaps be advisable to take up that question fairly rapidly.

13. The CHAIRMAN agreed that the Commission should find time to consider the matter on the basis of the recommendations made in the Planning Group and the Enlarged Bureau.

14. Mr. NI said he could agree to the Enlarged Bureau's recommendations but noted that no reference had been made to item 9 (Programme, procedures and working methods of the Commission, and its documentation), which had not been discussed in plenary for some time. In reply to a letter dated 19 July 1983 from the Chairman of the Committee on Conferences relating to the shortening of sessions or a biennial cycle of sessions, the Commission's outgoing Chairman had stated that the question would be discussed at the current session.<sup>1</sup> Important matters regarding the economy and efficiency of the United Nations were involved and he would therefore like to know whether time would be allocated to deal with the item in plenary as well as in the Planning Group.

15. The CHAIRMAN suggested that it should be left to the Planning Group to make the necessary recommendations in the light of the comments made by Mr. Ni and Mr. Al-Qaysi.

16. Mr. CALERO RODRIGUES, also expressing his agreement with the Enlarged Bureau's recommendations, stressed that the Planning Group and the Drafting Committee should be allowed sufficient time to do their work: both those bodies needed far more time than they had had in the past. It would also be useful if some thought could be given to the possibility of making available to the Commission, in writing, the comments of any members who could not be present at the Commission's sessions.

17. Mr. KOROMA suggested that the Enlarged Bureau might wish to consider whether draft articles should be referred to the Drafting Committee before agreement on them had been reached in plenary.

18. Mr. REUTER said he welcomed the suggestion by Mr. Calero Rodrigues, since the only way the Commission could gain time was to make much more regular use of such a procedure. It had been suggested many times, should be discussed by the Planning Group and was, indeed, a procedure followed by many learned associations.

19. Mr. LACLETA MUÑOZ said that the Commission's programme and methods of work should remain flexible. In the light of his experience at the previous session as Chairman of the Drafting Committee, he proposed that the Chairman of the Commission should, after each meeting, take soundings in order to find out the number of speakers for the following meeting. If there were not enough, they could be listed for a later meeting and the time thus gained could be allotted to the Drafting Committee. Such a procedure would overcome the backlog of work and be in no way prejudicial to the progress of the work of the Commission itself.

<sup>1</sup> A/AC.172/96/Add.1, annex.

20. The CHAIRMAN suggested that the Commission should adopt the Enlarged Bureau's recommendations regarding the timetable for the session.

*It was so agreed.*

*The meeting rose at 1.15 p.m.*

## 1816th MEETING

*Wednesday, 9 May 1984, at 10 a.m.*

*Chairman:* Mr. Alexander YANKOV

*Present:* Chief Akinjide, Mr. Al-Qaysi, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Evensen, Mr. Francis, Mr. Jagota, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ni, Mr. Njenga, Mr. Ogiso, Mr. Quentin-Baxter, Mr. Razafindralambo, Mr. Reuter, Sir Ian Sinclair, Mr. Sucharitkul, Mr. Thiam, Mr. Ushakov.

### **Draft Code of Offences against the Peace and Security of Mankind (A/CN.4/364,<sup>1</sup> A/CN.4/368 and Add.1, A/CN.4/377,<sup>2</sup> A/CN.4/L.369, sect. B)**

[Agenda item 5]

#### SECOND REPORT OF THE SPECIAL RAPporteur

1. The CHAIRMAN invited the Special Rapporteur to introduce his second report on the draft Code of Offences against the Peace and Security of Mankind (A/CN.4/377). The consideration of this topic had as its basis the draft code adopted by the Commission at its sixth session in 1954,<sup>3</sup> which read as follows:

##### *Article 1*

Offences against the peace and security of mankind, as defined in this Code, are crimes under international law, for which the responsible individuals shall be punished.

##### *Article 2*

The following acts are offences against the peace and security of mankind:

(1) Any act of aggression, including the employment by the authorities of a State of armed force against another State for any purpose other than national or collective self-defence or in pursuance of a decision or recommendation of a competent organ of the United Nations.

(2) Any threat by the authorities of a State to resort to an act of aggression against another State.

<sup>1</sup> Reproduced in *Yearbook ... 1983*, vol. II (Part One).

<sup>2</sup> Reproduced in *Yearbook ... 1984*, vol. II (Part One).

<sup>3</sup> *Yearbook ... 1984*, vol. II, pp. 151-152, document A/2693, para. 54.