

Document:-
A/CN.4/SR.1941

Summary record of the 1941st meeting

Topic:
Other topics

Extract from the Yearbook of the International Law Commission:-
1986, vol. I

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

10. As to the organizational and procedural aspects of the Commission's work, its approach had been endorsed by the General Assembly, although some concrete suggestions had also been put forward on how the work could be made more effective and realistic. Among other things, the Commission's concern about the effective continuation of the International Law Seminar had been fully shared by the Sixth Committee, and concrete suggestions had been made.

11. Since 1985 had been the fortieth anniversary of the United Nations, some statements had been made calling for increased effectiveness of international law against a background of statistical analysis of acceptance of the conventions adopted since 1945 and acceptance of the compulsory jurisdiction of the ICJ. Those statements were summarized in the topical summary (*ibid.*, paras. 16-20 and 25-28).

12. The general response of the Sixth Committee and the General Assembly to the Commission's work in 1985 had thus been positive. No doubt the Commission would reflect on the concrete suggestions made.

13. With regard to representation at the sessions of regional organizations, and as decided by the Commission, Mr. El Rasheed Mohamed Ahmed had attended the meetings of the Asian-African Legal Consultative Committee held at Arusha from 3 to 10 February 1986; Sir Ian Sinclair had attended the meetings of the European Committee on Legal Co-operation held at Strasbourg from 2 to 6 December 1985; and he himself had attended the meetings of the Inter-American Juridical Committee held at Rio de Janeiro from 12 to 17 January 1986.

14. He had received a letter from the Secretary-General of the Inter-American Juridical Committee informing him that the Committee would be represented at the present session by Mr. Seymour J. Rubin, as an observer. He had also received an invitation from the President of the ICJ to attend the ceremony commemorating the fortieth anniversary of the Court on 29 April 1986, in his capacity as Chairman of the Commission. After consulting the Legal Counsel to the United Nations, he had accepted that invitation and attended the ceremony. In his statement, the President of the ICJ had referred extensively to the cordial relations between the Court and the Commission.

15. Lastly, he wished to draw attention to three other matters. The first was the adoption of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations⁷ by the plenipotentiary conference held at Vienna from 18 February to 21 March 1986; the draft of that Convention had, of course, been prepared by the Commission. The conference had also adopted, among others, two resolutions paying tribute to its Expert Consultant, Mr. Paul Reuter, and to the Commission.⁸

16. The second matter was a communication he had received, as Chairman of the Commission, from Mr. Viacheslav A. Ustinov, Under-Secretary-General for Political and Security Council Affairs, enclosing copies of General Assembly resolutions 40/3 and 40/10 concerning 1986 being declared the International Year of Peace. He had replied on 21 January 1986, saying that

the text of those two resolutions would be circulated to members of the Commission and that the Chairman elected for the present session would keep the Secretary-General informed of the Commission's activities relating to the International Year of Peace. The Commission would no doubt give its urgent attention to that matter during the present session.

17. The third matter was the financial stringency besetting the United Nations and its effect on the duration of the Commission's present session. The time available to the Sixth Committee for consideration of the Commission's report on its thirty-eighth session might also be reduced if the forty-first session of the General Assembly was to be shortened. Members had already received communications on that subject from the Secretary of the Commission and no doubt the Commission would take the matter up when it dealt with the organization of work of the present session.

Organization of work of the session

[Agenda item 1]

18. The OUTGOING CHAIRMAN said that the African members of the Commission would need some time for consultation before proposing a candidate for the office of chairman.

The meeting rose at 3.50 p.m.

1941st MEETING

Tuesday, 6 May 1986, at 10.15 a.m.

Outgoing Chairman: Mr. Satya Pal JAGOTA

Chairman: Mr. Doudou THIAM

Present: Chief Akinjide, Mr. Arangio-Ruiz, Mr. Balanda, Mr. Boutros Ghali, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Flitan, Mr. Francis, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ogiso, Mr. Pirzada, Mr. Razafindralambo, Mr. Reuter, Mr. Riphagen, Mr. Roukounas, Sir Ian Sinclair, Mr. Sucharitkul, Mr. Tomuschat, Mr. Ushakov.

Election of officers

Mr. Thiam was elected Chairman by acclamation.

Mr. Thiam took the Chair.

1. The CHAIRMAN paid tribute to his predecessor and thanked the members of the Commission for the confidence they had placed in him by electing him Chairman.

2. The thirty-eighth session, the last one before the renewal of the membership of the Commission, might well be shortened. The Commission would therefore have to redouble its efforts and make the best possible use of the time available so as to move ahead, as was its

⁷ A/CONF.129/15.

⁸ See the Final Act of the Conference (A/CONF.129/14), annex.

duty, in considering the items on the agenda and, at the same time, take stock of its activities.

Mr. Barboza was elected First Vice-Chairman by acclamation.

Mr. Yankov was elected Second Vice-Chairman by acclamation.

Mr. Riphagen was elected Chairman of the Drafting Committee by acclamation.

Mr. Ogiso was elected Rapporteur by acclamation.

Adoption of the agenda (A/CN.4/395)

3. The CHAIRMAN invited the Commission to adopt the provisional agenda (A/CN.4/395), on the understanding that such a course would not in any way prejudice the order in which the topics were to be considered or the time to be allocated to them.

The provisional agenda (A/CN.4/395) was adopted.

Organization of work of the session (continued)

[Agenda item 1]

4. The CHAIRMAN suggested that the meeting should be suspended to enable the Enlarged Bureau, consisting of the officers of the Commission, the special rapporteurs and former chairmen of the Commission, to meet and consider the organization of work of the session.

It was so agreed.

The meeting was suspended at 10.55 a.m. and resumed at 12.30 p.m.

5. The CHAIRMAN said the Enlarged Bureau had recommended that the Commission should consider the items on the agenda in the following order:

- | | |
|--|-----------------|
| 1. Jurisdictional immunities of States and their property (item 3)..... | 10 working days |
| 2. Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier (item 4)..... | 5 working days |
| 3. State responsibility (item 2)..... | 5 working days |
| 4. Draft Code of Offences against the Peace and Security of Mankind (item 5)..... | 10 working days |

The Commission would then allocate 10 days for the following three topics:

The law of the non-navigational uses of international watercourses (item 6);

International liability for injurious consequences arising out of acts not prohibited by international law (item 7);

Relations between States and international organizations (second part of the topic) (item 8).

6. The Enlarged Bureau had borne in mind that the Commission would, as from Wednesday, 7 May, have 46 working days, which included 5 days for the adoption of the report. The Commission would keep one day in reserve, to be used as appropriate. Naturally, the allocation of working time would be flexible and open to changes as the need arose.

7. Mr. CALERO RODRIGUES said that it seemed excessive to allocate 10 working days to the topic of jurisdictional immunities of States and their property, since most of the work outstanding on the topic was to be done by the Drafting Committee and the Commission itself had only draft articles 25 to 28 left to consider. Similarly, he had doubts as to the justification for allocating five days to the topic of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier. On the other hand, more time should be allowed for the consideration of other important topics, in particular the law of the non-navigational uses of international watercourses and international liability for injurious consequences arising out of acts not prohibited by international law.

8. Mr. SUCHARITKUL explained that, in the Enlarged Bureau, he had requested approximately 10 working days for the topic of jurisdictional immunities of States and their property so that the Commission could deal not only with the four articles in part V of the draft (Miscellaneous provisions), but also with articles 2 to 5 of part I (Introduction), to which the Commission had considered it would have to revert.

9. Sir Ian SINCLAIR suggested that, since the Commission would be working under pressure at the present session, members other than special rapporteurs should consider speaking for not more than 15 or 20 minutes on any one topic. The various topics had already been discussed at length at previous sessions and members had no need to repeat their views.

10. The CHAIRMAN suggested that the Commission should adopt the recommendations of the Enlarged Bureau concerning the work schedule, on the understanding that it would be free to alter the schedule in the light of circumstances.

It was so agreed.

Drafting Committee

11. The CHAIRMAN said the Enlarged Bureau had recommended that the Drafting Committee should consist of the following members: Mr. Riphagen (Chairman), Chief Akinjide, Mr. Balanda, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Huang, Mr. Laclea Muñoz, Mr. Mahiou, Mr. McCaffrey, Mr. Razafindralambo, Mr. Reuter, Sir Ian Sinclair, Mr. Ushakov and Mr. Yankov, with Mr. Ogiso, Rapporteur of the Commission, as an ex-officio member.

The recommendation of the Enlarged Bureau was approved.

12. The CHAIRMAN informed members that, for staffing reasons, the Commission would have to meet on Mondays in the morning instead of the afternoon as had been the custom. In addition, he suggested that the Drafting Committee should meet on Mondays, Tuesdays, Wednesdays and Thursdays in the afternoon, except in the event of a meeting of the Planning Group.

It was so agreed.

The meeting rose at 12.55 p.m.