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**Summary record of the 2378th meeting**

Topic:  
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# INTERNATIONAL LAW COMMISSION

## SUMMARY RECORDS OF THE FORTY-SEVENTH SESSION

*Held at Geneva from 2 May to 21 July 1995*

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### 2378th MEETING

*Tuesday, 2 May 1995, at 10.25 a.m.*

*Acting Chairman: Mr. Chusei YAMADA*

*Chairman: Mr. Pemmaraju Sreenivasa RAO*

*Present: Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Bennouna, Mr. Bowett, Mr. de Saram, Mr. Eiriksson, Mr. Fomba, Mr. Güney, Mr. He, Mr. Idris, Mr. Jacovides, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Mahiou, Mr. Mikulka, Mr. Pambou-Tchivounda, Mr. Pellet, Mr. Razafindralambo, Mr. Rosenstock, Mr. Thiam, Mr. Tomuschat, Mr. Villagrán Kramer, Mr. Yankov.*

#### Opening of the session

1. The ACTING CHAIRMAN declared open the forty-seventh session of the International Law Commission, welcomed the members to Geneva and expressed the hope that the session would be a successful one.

#### Tribute to the memory of Mr. Roberto Ago

2. The ACTING CHAIRMAN said it was his sad duty to speak of the loss of a towering figure in international law whose contribution to the law of State responsibility continued to dominate the Commission's work on the topic. The death of Mr. Ago in March 1995 had left a great void in the international legal community, but his legacy would continue to inspire other specialists in international law and his influence would be felt for many years to come.

*At the invitation of the Chairman, the members of the Commission observed a minute of silence in tribute to the memory of Mr. Roberto Ago.*

3. The ACTING CHAIRMAN suggested that the meeting should be suspended in order to give members more time for consultations concerning the composition of the Bureau.

*The meeting was suspended at 10.30 a.m. and resumed at 11.30 a.m.*

#### Election of officers

*Mr. Sreenivasa Rao was elected Chairman by acclamation.*

*Mr. Sreenivasa Rao took the Chair.*

4. The CHAIRMAN expressed his thanks to the members of the Commission for the honour and responsibility conferred on him and expressed the hope that he could count on their commitment to the Commission's collective effort.

*Mr. Pambou-Tchivounda was elected First Vice-Chairman by acclamation.*

*Mr. Güney was elected Second Vice-Chairman by acclamation.*

*Mr. Yankov was elected Chairman of the Drafting Committee by acclamation.*

5. The CHAIRMAN suggested that the election of the Rapporteur should be deferred to a later meeting.

*It was so agreed.*

#### Adoption of the agenda (A/CN.4/463)

6. The CHAIRMAN suggested that the provisional agenda (A/CN.4/463) should be adopted on the understanding that the order in which the various items were shown was without prejudice to the decisions the Commission would take on the organization of its work in the light of various factors, including, *inter alia*, the requests contained in General Assembly resolution 49/51, the availability of documentation and the plans of Special Rapporteurs. In addition, the requests in paragraph 8 of that resolution should be considered under agenda item 8

(Programme, procedures and working methods of the Commission, and its documentation).

*It was so agreed.*

*The agenda (A/CN.4/463) was adopted.*

**Filling of a casual vacancy (article 11 of the statute) (A/CN.4/465 and Add.1)<sup>1</sup>**

[Agenda item 1]

7. The CHAIRMAN, responding to suggestions by Mr. EIRIKSSON, Mr. YANKOV and Mr. JACOVIDES, suggested that, before suspending the meeting to enable the Enlarged Bureau to meet, the Commission should proceed to fill the casual vacancy created by the election of Mr. Vladlen Vereshchetin to ICJ. As of 21 April 1995, the name of one candidate had been submitted: Mr. Igor Ivanovich Lukashuk, of the Russian Federation, whose curriculum vitae had been circulated (A/CN.4/465/ Add.1, annex).

8. Mr. YANKOV said he warmly supported the candidacy of Mr. Lukashuk, who had established a law school in Kiev. Many of its graduates now held important positions in the field of international law. Mr. Lukashuk's personal qualities and high intellectual and professional qualifications were such that the Commission would greatly benefit from having him among its members.

9. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to elect Mr. Lukashuk to fill the casual vacancy created by the election of Mr. Vereshchetin to ICJ at the forty-ninth session of the General Assembly.

*It was so agreed.*

*The meeting was suspended at 12.05 p.m. and resumed at 12.50 p.m.*

**Organization of the work of the session**

[Agenda item 2]

10. The CHAIRMAN announced that the Enlarged Bureau had decided to recommend that the Commission should consider the topic of the Draft Code of Crimes against the Peace and Security of Mankind from 3 to 16 May. The period from 17 to 25 May would be given over to the new topic on State succession and its impact on the nationality of natural and legal persons. The topic of State responsibility would be considered from 29 May to mid-June followed by international liability for injurious consequences arising out of acts not prohibited by international law. In late June, the Commission would take up the new topic of the law and practice relating to reservations to treaties.

11. Mr. YANKOV (Chairman of the Drafting Committee) announced that consultations would be carried out with a view to determining the composition of the Drafting Committee as soon as possible, to enable it to

begin its work. In establishing the Committee's membership, due attention would be paid to the desirability of having one group of members concentrate on the Draft Code of Crimes against the Peace and Security of Mankind and on State responsibility, while the remainder would focus on the issue of international liability.

12. Mr. PELLET suggested that, for even greater flexibility, separate subgroups of the Drafting Committee should be designated to focus on the Draft Code and on State responsibility.

13. Mr. YANKOV (Chairman of the Drafting Committee) said that that comment would be taken into account in determining the composition of the Drafting Committee.

*The meeting rose at 1.10 p.m.*

**2379th MEETING**

*Wednesday, 3 May 1995, at 10.05 a.m.*

*Chairman: Mr. Pemmaraju Sreenivasa RAO*

*Present:* Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Bennouna, Mr. Bowett, Mr. de Saram, Mr. Eiriksson, Mr. Fomba, Mr. Güney, Mr. He, Mr. Idris, Mr. Jacovides, Mr. Kabatsi, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Mahiou, Mr. Mikulka, Mr. Pambou-Tchivounda, Mr. Pellet, Mr. Razafindralambo, Mr. Rosenstock, Mr. Szekely, Mr. Thiam, Mr. Tomuschat, Mr. Vargas Carreño, Mr. Villagrán Kramer, Mr. Yamada, Mr. Yankov.

**Draft Code of Crimes against the Peace and Security of Mankind<sup>1</sup> (A/CN.4/464 and Add.1 and 2, sect. B, A/CN.4/466,<sup>2</sup> A/CN.4/L.505, A/CN.4/L.506 and Corr.1, A/CN.4/L.509 and Corr.1)**

[Agenda item 4]

**THIRTEENTH REPORT OF THE SPECIAL RAPPORTEUR**

1. Mr. THIAM (Special Rapporteur), introducing his thirteenth report (A/CN.4/466), said that, since the Commission was working on its second reading of the draft articles, he did not intend to launch a general, theoretical discussion. He was proposing two types of changes: first, in the content *ratione materiae* of the draft articles; and, secondly, more specific changes in either the sub-

<sup>1</sup> For the text of the draft articles provisionally adopted on first reading, see *Yearbook . . . 1991*, vol. II (Part Two), pp. 94 *et seq.*

<sup>2</sup> Reproduced in *Yearbook . . . 1995*, vol. II (Part One).

<sup>1</sup> Reproduced in *Yearbook . . . 1995*, vol. II (Part One).