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Summary record of the 2564th meeting

Topic:
Other topics

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Commentary to article 12 (A/CN.4/L.554/Add.1 and Add.1/Corr.1 and 2)

86. Mr. Sreenivasa RAO (Special Rapporteur) recalled that there had been substantial discussion of the article, with a reprioritization and reordering of subparagraphs. He drew attention to the additional text contained in documents A/CN.4/L.554/Add.1/Corr.1 and 2, which reflected the discussions at the 2561st meeting and in the Drafting Committee.

The commentary to article 12, as amended, was adopted.

Tribute to the Secretary to the Commission

87. The CHAIRMAN read out the following draft resolution:

“"The International Law Commission,

Acknowledging the important contribution made by Mr. Roy Lee to the work of the International Law Commission and to the codification and the progress in the development of international law,

1. Expresses its gratitude to him for the friendly and efficient manner in which he has guided and assisted the International Law Commission;

2. Extends its very best wishes to him on the occasion of his retirement."

The draft resolution was adopted.

The meeting rose at 1.10 p.m.

2564th MEETING

Friday, 14 August 1998, at 3.15 p.m.

Chairman: Mr. João BAENA SOARES

Present: Mr. Bennouna, Mr. Candioti, Mr. Crawford, Mr. Dugard, Mr. Galicki, Mr. Goco, Mr. Illueca, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Mikulka, Mr. Pellet, Mr. Sreenivasa Rao, Mr. Rosenstock, Mr. Simma, Mr. Yamada.

Draft report of the Commission on the work of its fiftieth session (concluded)


C. Text of the draft articles on international liability for injurious consequences arising out of acts not prohibited by international law (Prevention of transboundary damage for hazardous activities) provisionally adopted by the Commission on first reading (concluded) (A/CN.4/L.554/Add.1 and Add.1/Corr.1 and 2 and Add.2 and Add.2/Corr.1)

2. TEXT OF THE DRAFT ARTICLES WITH COMMENTARIES THERETO (concluded)

Commentary to article 8 (concluded) (A/CN.4/L.554/Add.1)

1. Mr. Sreenivasa RAO (Special Rapporteur), taking into account the concerns expressed by some members (2563rd meeting), proposed that the following sentence should be inserted after the first sentence of paragraph (6) of the commentary to article 8: “Some members, however, felt that it was desirable and necessary that the draft articles should have elaborated on the elements of the environment impact assessment for the guidance of States.”

The commentary to article 8, as amended, was adopted.

Commentary to article 13 (A/CN.4/L.554/Add.2)

2. Mr. Sreenivasa RAO (Special Rapporteur) explained that article 13 of the draft at the forty-eighth session1 had been amended. The commentary summarized the discussions that had led to those changes. It should also be specified in the commentary that the phrase “within a reasonable time” had the same connotation in article 13, paragraph 2, as in article 10, paragraph 2.

The commentary to article 13 was adopted.

Commentary to article 14

The commentary to article 14 was adopted.

Commentary to article 15

3. Mr. Sreenivasa RAO (Special Rapporteur) proposed that the last sentence of paragraph (3) of the commentary to article 15 should be reformulated as follows: “Article 15 essentially encourages and relies on the good faith cooperation of the parties.”

The commentary to article 15, as amended, was adopted.

Commentary to article 16

The commentary to article 16 was adopted.

1 See 2527th meeting, footnote 16.
4. Mr. Sreenivasa RAO (Special Rapporteur) recalled that article 17 had been subjected to fairly lengthy consideration by the Commission, which had led to the proposed amendments to paragraphs (9) and (10) of the commentary contained in document A/CN.4/L.554/Add.2/Corr.1.

5. Mr. ROSENSTOCK questioned whether the proposed amendment to paragraph (10) of the commentary might not raise doubts concerning the compulsory character of the procedure set out in the article.

6. Mr. GALICKI noted that paragraph (3) of the commentary to article 17 outlined a range of dispute settlement methods that was broader than that contained in paragraph 1 of the article.

7. Mr. SIMMA proposed that paragraph (3) of the commentary should be brought into line with paragraph 1 of the article by deleting the reference, in the English version, to “good offices” in the first-mentioned paragraph.

The commentary to article 17, as amended, was adopted.

Section C.2, as amended, was adopted.

1. TEXT OF THE DRAFT ARTICLES (A/CN.4/L.554/Add.1)

8. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission agreed to adopt the text of the draft articles.

It was so agreed.

Section C.1 was adopted.

B. Consideration of the topic at the present session (concluded) (A/CN.4/L.554 and Corr.1 and 2)

9. Mr. Sreenivas RAO (Special Rapporteur) recalled that, at the time of the adoption of document A/CN.4/L.554, it had been decided to retain paragraphs 4 to 26 of the document. That decision was no longer justified, as the Commission had adopted a full set of articles together with commentaries. The practice of the Commission, which was to transmit the results of its work to the General Assembly as a collective endeavour, without the usual presentation of the views expressed during the debate, made it necessary to delete paragraphs 4 to 26.

Section B, as amended, was adopted.

10. Mr. PELLET proposed that a sentence should be inserted in the report expressing the Commission’s appreciation to the Special Rapporteur, who had completed his difficult task in record time.

It was so agreed.