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Summary record of the 2575th meeting

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Extract from the Yearbook of the International Law Commission:-
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persons and the Commission would have to return to that question in the context of part two, when dealing with the questions of restitution and compensation.

56. The draft articles were based on the proposition that each State was responsible for its own conduct, even if it acted in collaboration with other States. The underlying principle was thus that each State was responsible for its own wrongful conduct, in other words, for conduct attributable to it under the articles of chapter II or for conduct in which it was implicated under the articles of chapter IV. In his view, there was no need to go beyond that proposition. That approach might be spelled out more explicitly in the commentary, in the introduction to chapter IV or even in the introduction to chapter II.

57. He reminded members that he proposed replacing the current title of chapter IV by the title “Responsibility of a State for the acts of another State” because he did not think it possible to assume that the act committed by the other State would be internationally wrongful, as the act might be held not to be wrongful under the provisions of chapter V (Circumstances precluding wrongfulness). Moreover, because, as he had explained, he did not think that, in the framework of secondary rules, at least in the context of article 27, it should be considered that States incurred responsibility in case of breaches of obligations other than those by which they were bound, he proposed that article 27 as adopted on first reading should be amended to establish that State responsibility arose on two conditions: first, that the implicated State had acted with knowledge of the circumstances of the internationally wrongful act and, secondly, that the act in question would be internationally wrongful if it had been committed by that State. The original wording of article 27 was too vague. Furthermore, the words “rendered for the commission of an internationally wrongful act” that appeared therein were ambiguous, particularly if account was taken of aid programmes, for it might be that the aid provided was used for the commission of an internationally wrongful act in circumstances where the State giving the aid ought not to be held responsible. Moreover, in order to respect the *pacta tertiis nec nocent nec prosunt* principle, it was also important to make it clear that a State that had assisted another State incurred responsibility only if the act performed would have been wrongful if it had committed it itself. Thus, the new text proposed in the second report considerably limited the scope of article 27 and set forth what could properly be regarded as a secondary principle of responsibility.

58. He also proposed a new article 28 in his second report. In his view, the wording of article 28 as adopted on first reading had raised several problems. To begin with, as several Governments had pointed out, the term “coercion” as used in paragraph 2 was too imprecise. He took the term in the strong sense, as something more than persuasion, encouragement or inducement, but without the sense of unlawful use of force in violation of Article 2, paragraph 4, of the Charter of the United Nations. It could be argued that the same approach should be adopted for article 28 as was now adopted in the case of article 27, namely, that the coercing State should be regarded as responsible only for an act which would have been internationally wrongful if it had committed it itself. However,

adopting a strong notion of coercion, that would lead to difficulties because, in certain circumstances provided for in chapter V, the acting State could be excused from responsibility by reason of force majeure. One could acknowledge that coercion itself was not unlawful, but that it was unlawful for a State to coerce another State to commit an unlawful act. The coercing State must also have acted with knowledge of the circumstances. He thus proposed that article 28, paragraph 2, should be amended to make it clearer and also that it should be the subject of a separate article.

59. As paragraph 1 of article 28 was too broad in scope, but had points in common with article 27, it would be deleted and some of its components taken up in article 27 proposed in the second report. The mere fact that a State could have prevented another State from committing an internationally wrongful act by reason of some abstract power of direction or control did not seem to be a sufficient basis for saying that the passive State was internationally responsible. Of course, matters were quite different when a primary obligation imposed on a State, as it did in the case of humanitarian law, a positive obligation of conduct.

60. Article 28, paragraph 3, was a “without prejudice” clause that must be applied to the whole of chapter IV. As the scope of articles 27 and 28 was limited, it nevertheless seemed necessary to retain the structure of chapter IV so as to cover the relatively frequent situations in which States coerced other States to commit certain breaches. It was also significant that no Government had argued for the complete deletion of that chapter. The task at the current time was to make chapter IV coherent with the framework of the text.

The meeting rose at 1.10 p.m.

2575th MEETING

Friday, 21 May 1999, at 10.05 a.m.

Chairman: Mr. Zdzisław GALICKI

Present: Mr. Addo, Mr. Baena Soares, Mr. Candiotti, Mr. Dugard, Mr. Economides, Mr. Elaraby, Mr. Goco, Mr. Hafner, Mr. He, Mr. Herdocia Sacasa, Mr. Kabatsi, Mr. Kamto, Mr. Kateka, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Pambou-Tchivounda, Mr. Sreenivasa Rao, Mr. Rosenstock, Mr. Sepúlveda, Mr. Yamada.

Programme, procedures and working methods of the Commission, and its documentation (A/CN.4/496, sect. G, A/CN.4/L.577 and Add.1, A/CN.4/L.589)

[Agenda item 10]

INTERIM REPORT OF THE PLANNING GROUP

1. Mr. GOCO (Chairman of the Planning Group) said that the Planning Group had held its first meeting on 12 May 1999. It had had several items on its agenda: re-establishment of the Working Group on the long-term programme of work; establishment of a working group on the proposal to hold split sessions; cooperation with other bodies; and the work plan of the Commission for the remaining years of the current quinquennium.

2. As to the first item, at the fiftieth session, the Planning Group had established the Working Group on the long-term programme of work to consider topics which might be taken up by the Commission beyond the current quinquennium. It had been chaired by Mr. Brownlie. The Planning Group had decided to re-establish the Working Group under the same chairman and had done so in conformity with the Commission's decision at the previous session that the Working Group should be re-established to complete its task.¹ The composition of the Working Group, which was of course an open-ended group, was unaltered from the previous year.

3. Mr. Economides had presented to the Planning Group a paper on a new topic entitled "The law of collective security" (ILC(LI)/INFORMAL/1). The Planning Group had decided that that proposal should be referred to the Working Group on the long-term programme of work, which was to hold its first meeting the following week.

4. The Commission had agreed on the criteria determining the selection of topics for the long-term programme: first, account should be taken of the needs of States in respect of progressive development and codification of international law; second, the topic should be sufficiently advanced in terms of State practice, and also concrete and feasible, to permit progressive development and codification. Furthermore, the Commission had agreed that it should not restrict itself to traditional topics, but could also consider those that reflected new developments in international law and pressing concerns of the international community. That approach had been encouraged by the General Assembly in paragraph 6 of resolution 53/102.

5. At the fiftieth session, the Commission had decided to hold its fifty-second session at Geneva from 24 April to 2 June and from 3 July to 11 August 2000. However, in paragraph 9 of resolution 53/102, the General Assembly had requested the Commission to examine the advantages and disadvantages of split sessions and had decided to return to that matter at its fifty-fourth session. The Planning Group had felt that the request involved two issues: first, the presentation of arguments supporting the Commission's decision to hold a split session in 2000; and secondly, the presentation of the advantages and disadvantages of split sessions in general, in view of the

decision taken by the Commission at its previous session that, barring unforeseen circumstances, sessions subsequent to the fifty-first session, in 1999, should be scheduled to take place in two fairly even parts, with a reasonable intervening period, for a total of 12 weeks, in Geneva.² Accordingly, the Planning Group had decided to establish a working group on those issues, chaired by Mr. Rosenstock and composed of Mr. Baena Soares, Mr. Economides, Mr. Kateka, Mr. Pambou-Tchivounda and Mr. Yamada. The Working Group had held its first meeting on 14 May 1999 and, once its task was completed, it would submit a report to the Planning Group for transmission to the Commission.

6. Under agenda item 11, "Cooperation with other bodies", the Planning Group had taken note of paragraph 10 of General Assembly resolution 53/102, which stressed the desirability of enhancing dialogue between the Commission and the Sixth Committee and requested the Commission to submit any recommendations to that effect. That request was proof of the attention with which the Assembly followed the Commission's work and of the importance it attached to cooperation between the two bodies. The Planning Group would therefore consider the matter in more detail and would submit suggestions to the Commission.

7. The Planning Group had also taken note of paragraph 12 of General Assembly resolution 53/102, in which the Assembly requested the Commission to continue the implementation of article 16, paragraph (e), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation, and invited the Commission to provide the Sixth Committee with updated information in that regard at the Assembly's fifty-fourth session. Article 16, paragraph (e), of the Commission's statute referred to consultations by the Commission with scientific institutions and individual experts. Article 26, paragraph 1, related to consultations with any international or national organization, official or non-official, on any subject entrusted to the Commission, while paragraph 2 referred to a list of national and international organizations concerned with questions of international law, for the purpose of distribution of documents. The request by the Assembly thus involved an overview of the Commission's relationship with other bodies concerned with international law. Besides referring to the institutionalized cooperation maintained by the Commission with various regional bodies, the request also touched on possible consultations with other bodies on specific issues, something which would thus pertain to the Commission's methods of work. The Planning Group intended to consider the issue further, and to make recommendations to the Commission thereafter.

8. The Planning Group had noted that the work programme for the quinquennium established at the forty-ninth session required amendment.³ No decision had been taken on the form such an adjustment should take, but the Planning Group had felt that a review of the work programme for the remaining years of the quinquennium was

¹ See *Yearbook ... 1998*, vol. II (Part Two), p. 111, para. 554.

² *Ibid.*, p. 112, para. 562.

³ See *Yearbook ... 1997*, vol. II (Part Two), pp. 68-70, para. 221.

needed. As a first step, it called on the special rapporteurs clearly to indicate their intentions for the remaining years of the Commission's mandate.

9. Mr. ECONOMIDES, referring to agenda item 11, urged the Planning Group to look carefully into the question of relations between the Commission and ICJ, relations which left a great deal to be desired. The Commission had little or no knowledge of the Court's activities. For instance, it had absolutely no information concerning the applications instituting proceedings filed with the Court recently by Yugoslavia. One 20-minute presentation delivered annually to the Commission by a member of the Court was not sufficient to provide the requisite information. In both bodies' interests, steps should be taken to ensure proper provision of full information, through regular exchanges of documents.

10. Mr. GOCO (Chairman of the Planning Group) said that, at the previous session, the President of ICJ had addressed the Commission on several important aspects of the Court's work and would again be addressing the Commission at the current session. The forthcoming meeting with the President of ICJ would provide an ideal opportunity for Mr. Economides to develop his comments.

11. Mr. DUGARD proposed that the Commission should consider inviting the Chairman of the Sixth Committee of the General Assembly to address it each year, with a view to strengthening links between the two bodies and giving the Commission a clearer picture of the attitude of the Sixth Committee towards many of the projects the Commission was pursuing.

12. The CHAIRMAN said that the question of the technical feasibility of Mr. Dugard's proposal should be looked into.

13. Mr. LUKASHUK said that 1999 afforded an opportunity to take stock of the achievements of the United Nations Decade of International Law⁴ as it drew to a close. Unfortunately, the Planning Group's report had made no mention of the Decade. The Commission was particularly well placed to analyse the achievements of the Decade and to make recommendations thereon to the General Assembly for discussion at its fifty-fourth session. Unfortunately, the achievements of the Decade could hardly be described as entirely satisfactory. It was drawing to a close amidst the sounds of uninterrupted bombing. Some 1,300 persons had been killed in the conflict in Yugoslavia, 5,000 had been injured, and the refugees numbered about 1 million. However, it was not for members of the Commission to be emotional: their job as experts was to analyse the facts. During the cold war years, many had seen the main cause of the unsatisfactory state of international law and order as the existence of a so-called "Empire of Evil". The empire had now disappeared, but the evil persisted. The question had to be asked: who was now playing the "Empire of Evil" role?

14. A report published by the United Nations University in 1994,⁵ had contained the statement, which had been

endorsed by most jurists at the time, that the United Nations has once again become a centre of global diplomacy after having been marginalized in the foreign policies of the most powerful States during the cold war years. Alas, those hopes had not been borne out by subsequent events. Not only had the role of the United Nations not been strengthened; it had actually diminished. The lesson to be drawn from the events in Yugoslavia was that force was still the important factor in international relations. In the past, it had guaranteed the achievement of the goal set. Now, it failed to guarantee the attainment of that goal, but guaranteed only the impunity of those who abused force.

15. Democracy and the rule of law had always been considered to be guarantors of a peaceful foreign policy and of respect for international law. Recent events had shown, however, that with regard to the rule of law, charity began at home but did not always cross State borders. In an article published in 1992,⁶ Falk had written that it was difficult to say whether the interventionist policies of the United States of America and other Western powers would continue or not after the cold war. The answer to that question was now quite clear.

16. The status of international law and the attitude taken by States towards the Decade of International Law could be discerned from General Assembly resolution 53/100, which related specifically to the Decade and set out its main purposes but made absolutely no mention of the Commission. Did the Commission really deserve to be passed over in silence, especially when another resolution mentioned the role of the Commission in the fulfilment of the objectives of the Decade (Assembly resolution 53/102, third paragraph of the preamble)? In his opinion, the Commission must contribute to the assessment of the Decade's results, and an item on that subject should be included in the agenda. He endorsed Mr. Economides' proposal for inclusion of the principles of collective security in the long-term programme of work.

17. An issue of decisive importance was promotion of the teaching of international law and dissemination of knowledge of that subject, for international law permeated all aspects of daily life. In a great many countries, international law was not even one of the compulsory disciplines of study for lawyers. The level of understanding of international law among politicians was extremely low, as could be seen from some of their statements.

18. The mass media were crucial to the dissemination of knowledge of international law. Unfortunately, however, journalists often misrepresented the provisions of international instruments or simply ignored them. The General Assembly adopted more than 150 resolutions every year, but what happened to those texts? They were consigned to the archives. The public was totally unaware of their existence, and even the most important of them were not covered in the media. True, it would be impossible to give mass distribution to all the resolutions of the Assembly, and their length and complexity militated against an understanding of them by the general public. But concise, clear resolutions should be adopted on the major issues discussed by the Assembly and the Security Council, and

⁴ Proclaimed by the General Assembly in its resolution 44/23.

⁵ *Global transformation: Challenges to the state system*, Y. Sakamoto, ed. (Tokyo, New York, Paris, United Nations University Press, 1994).

⁶ R. Falk, "Recycling interventionism", *Journal of Peace Research* (Oslo), vol. 29, No. 2 (May 1992), pp. 129-134.

the Assembly should encourage States to ensure that they were publicized by the media. In particular, the Commission in the first instance, and then the Assembly, should adopt an informative and carefully worded resolution or declaration on the results of the United Nations Decade of International Law.

19. There was a statue in front of the headquarters of ILO that depicted a man attempting to move a massive boulder. The Commission, like that man, was attempting to move the huge mass of international law. He was convinced that, despite the magnitude of the task, it would be able to overcome the difficulties. Its adoption of the draft statute for an international criminal court⁷ was merely one example of the historic breakthroughs of which it was capable.

20. Mr. HE said he fully endorsed Mr. Lukashuk's comments on current developments, which should be of great concern in international law circles in general and to the Commission in particular. He likewise endorsed Mr. Economides' proposal to include the topic of principles of collective security in the long-term programme of work.

21. On cooperation with other bodies, he noted that the Commission had established a good level of cooperation with the Asian-African Legal Consultative Committee, the Inter-American Juridical Committee and the Committee of Legal Advisers on Public International Law (CAHDI). It should, however, strengthen its relations with ICJ, the Institute of International Law and ILA, including by requesting their views on specific issues within the topic of State responsibility, for example. It should also establish relations with other regional and national bodies in the field of international law.

22. Mr. Sreenivasa RAO said that, while the relationship between the Commission, the Sixth Committee and ICJ should be enhanced, that should not entail systematic integration of the work of one body with that of another. The place of each in the overall United Nations system had to be respected. While ICJ was able to produce press releases to inform the public about its current activities, the Commission's work did not lend itself so easily to such an approach, for it was a constantly evolving and collegial process in which the views of members changed in response to points raised by other members. Careful and unhurried consideration should be undertaken, initially in the Planning Group, of ways of informing other international law institutions about the Commission's work. The Planning Group should also look into ways of improving relations with regional organizations in the field of international law. Above all, the Commission's independence and status as an expert body must be kept uppermost in mind, and its capacity to work in a professional manner, out of the public eye, must be preserved.

23. Mr. DUGARD, responding to Mr. Lukashuk's remarks, said he agreed that it was incumbent upon the Commission to be concerned about current events that presented a real threat to international law and to address them within the framework of its own capabilities. In thinking about future topics, that must be kept in mind. Principles of collective security had been proposed as one

topic for future consideration, but another that cried out for attention in the present international climate was that of humanitarian intervention. The Commission was arguably better placed to consider the real issues confronting international law than any other body in the United Nations system, but it had a tendency to avoid doing so, and he did not think that was proper.

24. Mr. ROSENSTOCK said it would be entirely appropriate for the Commission to do something to mark the completion of the United Nations Decade of International Law. The views voiced by Mr. Sreenivasa Rao, the most experienced member of the Commission, were intended to serve the Commission's interests, in contrast to other, more transient considerations.

25. Mr. HAFNER, responding to the comments by Mr. HE on the Commission's relations with other international law institutions, said an exchange of views with ILA would certainly be helpful in the Commission's work, particularly since ILA closely followed the Commission's discussions and had established committees on the topics it considered.

26. Mr. LUKASHUK noted that in paragraph 3 (b) of General Assembly resolution 53/99, the Commission was encouraged to consider participating in the commemoration of the centennial of the first International Peace Conference. Perhaps the Chairman could be sent to represent the Commission at the centennial celebrations at The Hague and at St Petersburg.

Statement by the Legal Counsel

27. Mr. CORELL (Under-Secretary-General for Legal Affairs, the Legal Counsel) congratulated the three new members of the Commission on their election and welcomed Mr. Mikulka, a former member of the Commission, in his new capacity as Director of the Codification Division and Secretary to the Commission. The Commission and Mr. Sreenivasa Rao, its Special Rapporteur on the topic of international liability for injurious consequences arising out of acts not prohibited by international law (prevention of transboundary damage for hazardous activities), also deserved to be congratulated on the adoption of the draft articles on first reading.⁸ Congratulations were also due for progress made with the topic of State responsibility, which had been on the Commission's agenda for many years. He understood that the second reading of part one of the draft might be completed at the current session and that efforts were being made to complete the consideration of the topic by the end of the current quinquennium. Again, the first reading of the draft articles on nationality of natural persons in relation to the succession of States had been completed at the forty-ninth session,⁹ and he welcomed the Commission's intention to finish the second reading at the current session. Progress was also being made with the topics of reservations to treaties and unilateral acts of States, both of which were extremely important from the point of view of their practical relevance to all States in the day-by-day conduct of international relations.

⁷ *Yearbook ... 1994*, vol. II (Part Two), pp. 26 et seq.

⁸ *Yearbook ... 1998*, vol. II (Part Two), pp. 21 et seq., para. 55.

⁹ *Yearbook ... 1997*, vol. II (Part Two), pp. 14 et seq.

28. While acknowledging those achievements, he noted that some other topics on the agenda were running behind the work plan adopted at the forty-ninth session. In one case the delay was due to an unforeseen circumstance, namely, the departure of the Special Rapporteur. He was, however, confident that the Commission, with its usual diligence and sense of responsibility, would make every effort to move ahead on those topics as well.

29. Going on to refer to General Assembly resolution 53/98, concerning the Convention on jurisdictional immunities of States and their property, the Assembly decided to establish at its fifty-fourth session an open-ended working group of the Sixth Committee to consider outstanding substantive issues related to the draft articles on jurisdictional immunities of States and their property. He recalled that in paragraph 2 of the same resolution, the Assembly invited the Commission to present by 31 August 1999 any preliminary comments it might have regarding such issues. Such comments would certainly be very helpful to the Sixth Committee in connection with a delicate and complex issue that had been on the agenda for some time.

30. The Commission's achievements included, of course, the draft statute for an international criminal court, ultimately adopted by consensus as the Rome Statute of the International Criminal Court¹⁰ by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held at Rome from 15 June to 17 July 1998. The establishment of the International Criminal Court was one of the greatest projects of the age, and the Commission could be proud of the contribution it had made. The fact that the initial draft had undergone many modifications both in the Preparatory Committee and at the Conference in no way diminished the value of the work the Commission had accomplished in a remarkably short time. As of 14 May 1999, the Rome Statute had been signed by 82 States and ratified by 3 States. He wished to take the opportunity to invite members of the Commission to do everything in their power to promote the ratification of the Rome Statute whenever and wherever possible. It was hoped that the matters still remaining to be decided upon before the International Criminal Court became operative—in particular, the rules of procedure and the so-called "elements of crimes"—would have been resolved and referred by 30 June 2000 to the Preparatory Commission mandated by the General Assembly in resolution 53/105.

31. The Commission had in recent years made remarkable improvements in the organization of its work, the presentation of its report to the General Assembly and its dialogue with the Sixth Committee. The debate on the report of the Commission to the General Assembly on the work of its session was one of the highlights of the Sixth Committee's work every year, and the dialogue between the Sixth Committee and the Commission, further enhanced and revitalized by a number of important innovations such as the presence of Special Rapporteurs and the thematic discussion, was an important element in the process of progressive development and codification of international law. The request for recommendations in

that connection addressed to the Commission in Assembly resolution 53/102 showed the importance the Assembly attached to continuing and deepening the dialogue.

32. With regard to organizational issues, the Commission would be able to hold the same number of meetings at its fifty-first session as at its fiftieth, but he was regretfully obliged to inform members that the ongoing financial crisis besetting the Organization would also affect the Commission's work. He would expatiate on that point at the private meeting to be held later that morning. It should be noted, however, that in the annex to resolution 49/221 B, the General Assembly had reaffirmed its previous decisions concerning, *inter alia*, the provision of summary records for the Commission.

33. With regard to documentation, he referred to paragraphs 543 and 544 of the report of the Commission on the work of its fiftieth session inviting Special Rapporteurs to submit their reports to the Secretariat in good time and requesting the Secretariat to distribute to all members, upon receipt of the report and after its editing, the special rapporteur's report in the language submitted. The Secretariat had complied scrupulously with that request. While recognizing the complexity of the task of special rapporteurs, he wished to emphasize once again that the Office of Conference Services could not guarantee the distribution before the opening of the session of documents not submitted at least 10 weeks prior to the session, especially in view of the financial constraints under which the Organization was operating at the current time.

34. On the subject of the United Nations Decade of International Law, he drew attention to General Assembly resolutions 53/99 and 53/100, as well as to resolution 44/23 setting out the purposes of the Decade. While it was mainly for States to implement the Decade's major purposes of encouraging the progressive development of international law and its codification and promoting the acceptance of and respect for the principles of international law, many tasks had fallen to the United Nations with regard to another major purpose, namely, encouraging the teaching, study, dissemination and wider appreciation of international law. In that context, workshops and seminars had been organized by UNITAR and other United Nations bodies on a number of topics, several web sites had been created and considerable progress had been achieved in establishing the United Nations Treaty Database.¹¹ A United Nations Audiovisual Library in International Law¹² had been set up and a special section for documents relating to international law had been created in the online United Nations Documentation Research Guide.¹³ The United Nations and the United States Library of Congress had signed an agreement to store United Nations legal data in the Global Legal Information Network (GLIN) database.¹⁴ The Assembly, in resolution 53/100, also authorized the Secretary-General to deposit, on behalf of the United Nations, an act of formal confirmation of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, an instrument

¹¹ untreaty.un.org.

¹² www.un.org/law/audio.htm.

¹³ www.un.org/Depts/dhl/resguide/specil.htm.

¹⁴ memory.loc.gov/glin/x-un-org.html.

¹⁰ A/CONF.183/9.

which had originated in the Commission and which, it was hoped, would shortly enter into force.

35. As for publications issued under the responsibility of the Office of Legal Affairs, the *Yearbook of the International Law Commission*, 1994, vol. II (Part One) and the *Yearbook of the International Law Commission*, 1996, vol. II (Part Two) were being printed. The proceedings of the United Nations Colloquium on Progressive Development and Codification of International Law, held in New York on 28 and 29 October 1997, had been published in June 1998.¹⁵ An *Analytical Guide to the Work of the International Law Commission 1949-1997*¹⁶ had been published in July 1998 to commemorate the fiftieth anniversary of the Commission and to complement *The Work of the International Law Commission*, currently in its fifth edition.¹⁷ As for the *United Nations Juridical Yearbook*, the 1994 and 1995 editions were in the press and the Codification Division was finishing the 1996 edition. Work was also being completed on the 1989 edition, so that there would be no backlog as from the year 2000. The Codification Division had issued Volume XXI of the *United Nations Reports of International Arbitral Awards*¹⁸ and was at present working on Volume XXII. It was finalizing the proceedings of the Seminar to commemorate the fiftieth anniversary of the Commission, held at Geneva on 21 and 22 April 1998, as well as a collection of essays by legal advisers of States, legal advisers of international organizations and practitioners in the field of international law, to be published at the close of the United Nations Decade of International Law. Referring again to General Assembly resolution 53/99, he said that the first part of the centennial celebrations for the First International Peace Conference had taken place at The Hague earlier that week, the second part being scheduled for June at St Petersburg.

36. In regard to the comment by Mr. Economides about the relationship between the Commission and ICJ, it was, of course, for the Commission to decide upon the form that relationship should take. It should be noted, however, that everything concerning ICJ could now be immediately accessed on the Internet.¹⁹ In that connection, he drew attention to a most important advisory opinion on the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, handed down by the Court only a few days earlier on the subject of the privileges and immunities of experts appointed by human rights bodies. Members would be interested to hear that the advisory opinion contained references to articles on that topic which had been elaborated by the Commission.

37. With reference to Mr. Lukashuk's comments, while it could not be denied that much remained to be done with regard to the observance of international law in the fields

of international peace and security, human rights and humanitarian law, the situation in many other fields such as communications and public health could be described as excellent. The worldwide availability of information on the Internet, the ever-increasing importance of the activities of non-governmental organizations and the immense contribution being made by civil society in general should not be overlooked. What was needed was not more law but closer observance of the law and a higher quality of statesmanship at the political level.

38. In conclusion, he assured members that the Secretariat was doing its best to provide a level of services commensurate with the importance of the Commission's role.

The meeting rose at 11.30 a.m.

2576th MEETING

Tuesday, 25 May 1999, at 10.05 a.m.

Chairman: Mr. Zdzislaw GALICKI

Present: Mr. Addo, Mr. Baena Soares, Mr. Brownlie, Mr. Candioti, Mr. Crawford, Mr. Dugard, Mr. Economides, Mr. Gaja, Mr. Goco, Mr. Hafner, Mr. He, Mr. Kabatsi, Mr. Kateka, Mr. Kusuma-Atmadja, Mr. Pambou-Tchivounda, Mr. Sreenivasa Rao, Mr. Rosenstock, Mr. Sepúlveda, Mr. Simma, Mr. Yamada.

Cooperation with other bodies (*continued*)*

[Agenda item 11]

STATEMENT BY THE OBSERVER FOR THE ASIAN-AFRICAN
LEGAL CONSULTATIVE COMMITTEE

1. The CHAIRMAN invited Mr. Tang Chengyuan, Secretary-General of the Asian-African Legal Consultative Committee (AALCC), to address the Commission on the Committee's activities.

2. Mr. TANG Chengyuan (Observer for the Asian-African Legal Consultative Committee) said that his organization attached great significance to its longstanding ties with the Commission and profoundly appreciated the latter's role in the progressive development and codification of international law. It was customary for the Commission to be represented at the annual sessions of AALCC and, in recent years, the Commission had also been repre-

¹⁵ *Making Better International Law: The International Law Commission at 50* (United Nations publication, Sales No. E/F.98.V.5).

¹⁶ United Nations publication, Sales No. E.98.V.10.

¹⁷ *Ibid.*, E.95.V.6.

¹⁸ *Ibid.*, E/F.95.V.2.

¹⁹ www.icj.cij.org.

* Resumed from the 2573rd meeting.