

Document:-  
**A/CN.4/2952**

**Summary record of the 2952nd meeting**

Topic:  
**<multiple topics>**

Extract from the Yearbook of the International Law Commission:-  
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protect the Department for General Assembly and Conference Management, which was not obliged to process documents exceeding the established word-limit within four weeks. The request for the exemption from the 10-week rule for submission of pre-session documents had been made in recognition of the fact that, without the exemption, all documents, including the Special Rapporteurs' reports, would have had to be submitted 10 weeks before the opening of the session.

Paragraph 12

*Paragraph 12 was adopted.*

(c) Backlog relating to the *Yearbook* of the International Law Commission

Paragraph 13

*Paragraph 13 was adopted.*

(d) Other publications and the assistance of the Codification Division

Paragraphs 14 and 15

*Paragraphs 14 and 15 were adopted.*

Paragraph 16

79. Mr. PELLET said that the words “in English” should be inserted after the phrase “the Codification Division issued this publication”. The publication had not appeared in any of the other official languages.

*Paragraph 16, as amended, was adopted.*

Paragraphs 17 to 23

*Paragraphs 17 to 23 were adopted.*

6. COMMEMORATION OF THE SIXTIETH ANNIVERSARY OF THE COMMISSION

Paragraph 24

80. Mr. NOLTE said that he had previously suggested that academic institutions should be encouraged to participate in the observance of the Commission's sixtieth anniversary. He therefore proposed that a comma and the words “academic institutions” should be inserted after the words “professional associations” in paragraph 24 (c).

81. Mr. VARGAS CARREÑO endorsed that proposal.

*Paragraph 24, as amended, was adopted.*

Paragraph 25

82. The CHAIRPERSON said that a footnote listing the members of the group would be added to the paragraph.

*Paragraph 25, as amended, was adopted.*

**B. Date and place of the sixtieth session of the Commission**

Paragraph 26

*Paragraph 26 was adopted.*

*The report of the Planning Group as a whole, as amended, was adopted.*

*The meeting rose at 6 p.m.*

## 2952nd MEETING

*Wednesday, 8 August 2007, at 10.05 a.m.*

*Chairperson:* Mr. Ian BROWNLIE

*Present:* Mr. Caflisch, Mr. Candioti, Mr. Comisário Afonso, Ms. Escameia, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Ms. Jacobson, Mr. Kolodkin, Mr. McRae, Mr. Nolte, Mr. Pellet, Mr. Perera, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Mr. Yamada.

### Cooperation with other bodies (concluded)\*

[Agenda item 10]

STATEMENT BY THE REPRESENTATIVE  
OF THE COUNCIL OF EUROPE

1. The CHAIRPERSON invited Mr. Lezertua, Director of Legal Advice and Public International Law of the Council of Europe, to take the floor.

2. Mr. LEZERTUA (Director, Legal Advice and Public International Law of the Council of Europe) said that the Warsaw Declaration and Action Plan, which had been adopted at the Council of Europe Summit held in 2005, attached great importance to legal activities. In the past year, the Council of Europe had focused much of its attention on action to combat terrorism. Since November 2001, it been endeavouring to make a practical contribution by offering the added value it had created to strengthen legal action and cooperation against terrorism and its sources of funding, and to safeguard fundamental values. It continued to carry out its work in that regard with a view to the full implementation of the standards adopted and the strengthening of the capacity of States to combat terrorism effectively while guaranteeing full respect for the human rights and fundamental freedoms without which Europe could not exist.

3. The new Council of Europe Convention on the Prevention of Terrorism, adopted in May 2005, had been followed by the adoption of Security Council resolution 1624 (2005) of 14 September 2005, which was based on the Convention. The Council of Europe Convention on the Prevention of Terrorism had entered into force on 1 June 2007 and had already been signed by 39 member States of the Council of Europe. It was the first of the three conventions adopted at the Warsaw Summit to enter into force. In addition, the new Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, which took account of recent trends in that regard, particularly the recommendations of the Financial Action Task Force, had been signed by 25 countries and ratified by two, and would enter into force when six States had ratified it. Those two conventions were open, under

\* Resumed from the 2944th meeting.

certain conditions, to non-member States of the Council of Europe. The process of the signature and ratification of the other Council of Europe instruments relating to counter-terrorism was also underway. Six States thus intended to ratify the Protocol amending the European Convention on the suppression of terrorism, which, to date, had been signed by 44 States and ratified by 25 others.

4. The Council of Europe Committee of Experts on Terrorism (CODEXTER) continued to prepare country profiles on legislative and institutional counter-terrorism capacity. Twenty such profiles already existed and had been extremely successful, as they were widely used by States and academic institutions. The Security Council Counter-Terrorism Committee was also using them for its own needs in connection with the monitoring of the implementation of Security Council resolution 1373 (2001) of 28 September 2001. That cooperation between the Council of Europe and the United Nations in the implementation of Security Council resolutions 1373 (2001) and 1624 (2005) was taking place at the operational level as well, since Council of Europe experts were taking part in evaluation visits by the Security Council Counter-Terrorism Committee in United Nations Member States that were also members of the Council of Europe.

5. CODEXTER also continued to identify gaps in international law and action against terrorism. In that connection, it was paying particular attention to the question of the use of the Internet for terrorist purposes and cyberterrorism and to the challenge that forged identity documents represented for immigration authorities. A new recommendation by the Committee of Ministers to member States on cooperation between the Council of Europe and its member States and INTERPOL had been added to the Council of Europe's legal arsenal, together with the four recommendations on special investigation techniques, the protection of witnesses and collaborators of justice, identity and travel documents and assistance to crime victims that had been drafted in the last two years.

6. An international conference entitled "WHY TERRORISM? Addressing the Conditions Conducive to the Spread of Terrorism" had been held in 2007 for the purpose of making a contribution to the United Nations Global Counter-Terrorism Strategy<sup>381</sup> and, in particular, chapter I of the Plan of Action on "measures to address the conditions conducive to the spread of terrorism" and article 3 of the Council of Europe Convention on the Prevention of Terrorism. For that same purpose, the Secretary-General of the Council of Europe had convened an *ad hoc* meeting in April 2007 of the chairmen of the relevant Council of Europe committees on terrorism to discuss the Council of Europe's contribution in that regard. The meeting had adopted a road map for the Council of Europe's contribution to the implementation of the United Nations Global Counter-Terrorism Strategy. A third Council of Europe Convention on Action against Trafficking in Human Beings had been opened for signature at the Warsaw Summit. To date, it had been signed by 36 States and ratified by seven. Ten ratifications were necessary for its entry into force.

7. With regard to action to combat corruption, he recalled that, with the Group of States against Corruption (GRECO), the Council of Europe had an integrated monitoring and fully operational system that might serve as an example for action to be taken at the global level. GRECO had recently been joined by Italy and Monaco and now had 46 member States; it continued to evaluate its members, including the United States, using methods that had been tried and tested. The Third Evaluation Round, which had been inaugurated in early 2007, related to transparency in the financing of political parties and the incriminations provided for in the Council of Europe Criminal Law Convention on Corruption and the additional protocol thereto.

8. Nationality law was another important aspect of the Council of Europe's work that had traditionally been of interest to the International Law Commission. The Council of Europe Convention on the avoidance of statelessness in relation to State succession had been signed by four member States and ratified by one. To enter into force, it had to be ratified by three. It had been prepared in accordance with a 1999 recommendation by the Committee of Ministers to member States on the prevention and reduction of statelessness and was based on practical experience built up in recent years on succession of States and statelessness in a number of countries. It also took account of the Convention on the reduction of statelessness, the 1996 Venice Commission Declaration on the Consequences of State Succession for the Nationality of Natural Persons and the work of the International Law Commission, particularly the draft articles on nationality of natural persons in relation to the succession of States.<sup>382</sup>

9. The Council of Europe continued to coordinate and, where possible, develop synergies between the various bodies responsible for improving the functioning of justice. A good example was the work that would soon begin on the revision of recommendation No. R (94) 12 on the independence, efficiency and role of judges.

10. As far as family law was concerned, the revision of the European Convention on the adoption of children was a priority. A draft Council of Europe convention on the adoption of children (revised) and its explanatory report had been finalized and approved by the Committee of Ministers and transmitted to the Parliamentary Assembly for its opinion. The drafting of the convention was thus in the final phase and it should be adopted within the next few months.

11. Action to combat cybercrime was another key area of the Council of Europe's work, in which it had a definite advantage, namely, the Convention on cybercrime, which had entered into force in 2004 and was still the only international treaty on the subject. The Council of Europe recommended the widest possible ratification of that Convention and the Additional Protocol to the Convention concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, which had entered into force in 2006. The Committee set up under the Convention on cybercrime had met in June 2007 to consider some specific questions concerning provisions of the Convention, including those relating to

<sup>381</sup> General Assembly resolution 60/288 of 8 September 2006, Annex.

<sup>382</sup> *Yearbook ... 1999*, vol. II (Part Two), p. 20, para. 47.

liability of legal persons, spam, phishing, pharming, the expedited preservation of stored computer data, terrorist propaganda on the Internet, mutual assistance in cases of computer-related offences, site blocking and evidence in electronic form.

12. With regard to action to combat crime, particular attention was being given to counterfeit medicines and pharmaceutical crime with a view to the preparation of a binding legal instrument, to be based on the conclusions of the international conference on that topic held in Moscow in October 2006. The implementation of the Council of Europe conventions on cooperation in the criminal justice field was being given particular attention in order to provide specific solutions to the practical problems that arose in that regard, to speed up procedures and to prevent disputes between States. Consideration was also being given to updating some legal instruments on the transfer of convicted persons.

13. Referring to the activities being carried out by the Committee of Legal Advisers on Public International Law (CAHDI), he welcomed the excellent cooperation between that body and the International Law Commission. CAHDI had worked to improve the implementation of sanctions adopted by the United Nations, as well as respect for human rights. In that connection, a database on the situation in the member States of the Council of Europe had been set up in addition to those on the practice of States and the organization and functions of the Office of the Legal Adviser in Ministries for Foreign Affairs, which were public and provided updated information on those questions.

14. CAHDI also played an important role as European Observatory on Reservations to International Treaties, whose activities had increased when the scope of its work had been expanded to include reservations to international treaties against terrorism, whether or not objections could be made to them. CAHDI had therefore drawn up a list of “possibly problematic” reservations and, on its recommendation, the Secretary-General of the Council of Europe had taken measures with a view to the withdrawal of such reservations. A dialogue had thus been established between CAHDI and reserving States, whether or not they were members of the Council of Europe.

15. The next meeting of CAHDI would be held on 10 and 11 September 2007 in Strasbourg. It would be an opportunity for legal advisers to discuss the report on the fifty-ninth session of the International Law Commission. CAHDI would also focus on digests of State practice and the work of the ICJ. The adoption of a draft recommendation by the Committee of Ministers to member States on acceptance of the jurisdiction of the ICJ was on the agenda, as was another draft recommendation on the nomination of international arbitrators and conciliators. CAHDI would continue to support the International Criminal Court (ICC). On the initiative of CAHDI, the Council of Europe had organized the fourth consultation meeting in Athens in September 2006 with the participation of the President and the Chief Prosecutor of the ICC; the meeting had discussed the interaction between ICC and national courts, agreements on witnesses and the implementation of ICC decisions.

16. The Committee of Ministers of the Council of Europe had, moreover, recently invited CAHDI to look into the so-called “disconnection clause”, which had appeared in the last few years in several Council of Europe conventions, including the three conventions adopted at the Warsaw Summit and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in July 2007. CAHDI would be called upon specifically to examine the consequences of that clause in international law.

17. The Council of Europe’s constitutional law and electoral activities were carried out primarily by the European Commission for Democracy through Law, better known as the Venice Commission. At the request of the Committee of Ministers, the Venice Commission had submitted a report on democratic oversight of security services in the member States of the Council of Europe that had been prepared as a result of proposals by the Secretary-General following the investigation, under article 52 of the European Convention on Human Rights, of allegations of secret detentions and illegal inter-State transfers of detainees involving member States of the Council of Europe. The Venice Commission had adopted an important opinion on the very sensitive issue of video surveillance by private operators in public places and the private sphere and by public authorities in the private sphere. It had also handed down other opinions, for example, on the draft constitution of Montenegro, early elections in Ukraine, amendments to the election code of Armenia and the Kosovo ombudsman bill.

18. High-level conferences had been held in autumn 2006 and in 2007. For example, the twenty-seventh Conference of European Ministers of Justice had been held in Yerevan in October 2006 and the Ministers had adopted a resolution on the victims of crime. In that connection, he recalled that the Council of Europe Convention on the Prevention of Terrorism was the only treaty now in force in the world containing a provision on the protection and compensation of victims of terrorism. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in July 2007, would be open for signature at the Conference of European Ministers of Justice, to be held in Lanzarote, Spain, in October 2007.

19. A High-Level Conference of Ministers of Justice and the Interior had been held in Moscow in November 2006 to consider ways of improving European cooperation in the criminal justice field. That topic had also been on the agenda of the European Conference of Prosecutors held in Warsaw in June 2007.

20. In conclusion, he stressed that the Council of Europe’s aim was to build a Europe without dividing lines based on the common values embodied in the Statute of the Council of Europe, namely, democracy, human rights and the rule of law.

21. The CHAIRPERSON invited the members of the Commission to put questions to Mr. Lezertua.

22. Mr. PELLET said that relations between the Commission and CAHDI were very close, but, in his view,

extremely formal. He wondered whether other methods of operation might be possible. He also wished to know what proposals the Council of Europe intended to make concerning the nomination of international arbitrators and conciliators.

23. Ms. ESCARAMEIA, referring to Mr. Lezertua's comment on action to combat cybercrime, said that she wished to know whether he thought it might be of some interest for the Commission to carry out a possible study of cyberterrorism and cybercrime in general. She also wished to know whether CAHDI was planning to devote one of its sessions to the work of the Commission.

24. Mr. NOLTE asked Mr. Lezertua whether the Council of Europe was involved in any way in the United Nations General Assembly's work on the rule of law at the national and international levels. He also wished to know the Council of Europe's position on the protection of human rights in relation to the sanctions provided for by the Security Council as part of action to combat terrorism. Referring to the conclusion by the Venice Commission on CIA flights, namely, that a number of member States of the Council of Europe must improve their vigilance, he asked what role the Council of Europe might play in monitoring international standards in that regard.

25. Mr. LEZERTUA (Director, Legal Advice and Public International Law of the Council of Europe), replying to the questions by Mr. Pellet and Ms. Escameia on the formality of relations between CAHDI and the Commission and the possible holding of a special session of CAHDI on the work of the Commission, said the fact that CAHDI met only twice a year for one week was an obstacle to the establishment of a more lively and fruitful debate. However, since he too was convinced of the need to introduce greater flexibility in exchanges between the two bodies, he would work with his colleagues to ensure more active cooperation.

26. The question of international arbitration was on the agenda of the next meeting of CAHDI, which would be held in September 2007. As part of the Third Evaluation Round, moreover, GRECO would be considering the implementation of the Additional Protocol to the Criminal Law Convention on Corruption relating specifically to corruption in connection with arbitration.

27. Considerable efforts had been made to prepare the Convention on cybercrime because it was very difficult to set standards in that regard. The Cybercrime Convention Committee had already met once and the Commission could probably provide it with valuable assistance, perhaps by convincing some non-European States of the need for that instrument; that might offer an opportunity for more dynamic exchanges between the Council of Europe and the Commission.

28. In reply to Mr. Nolte, he said that he was not aware of any particular reactions within the Council of Europe as a result of the adoption of United Nations General Assembly resolution 61/39 of 4 December 2006 on the rule of law at the national and international levels. However, the Council participated actively in the implementation of General Assembly and Security Council resolutions, in particular in the area of the fight against terrorism.

29. With regard to action on the case of the CIA flights, pressure on European Governments to consider the need to monitor the activities of foreign military intelligence services in their territory had increased since the publication of the second report by Mr. Marty, the Rapporteur of the Council of Europe Parliamentary Assembly on that question. The new recommendation the Parliamentary Assembly had just submitted to the Committee of Ministers might lead to the adoption of measures.

30. Mr. BENÍTEZ (Secretary of CAHDI and Chief, Public International Law and Anti-Terrorism Division of the Council of Europe) said that the question of the rule of law at the national and international levels had been on CAHDI's agenda since 2006 and that the proposals by Mexico and Switzerland on ways and means of implementing the General Assembly resolution were being considered. CAHDI would continue its consideration of that question at its September 2007 meeting and Mr. Pellet, who would be present, would be able to report on it to the members of the Commission.

31. The question of targeted sanctions provided interesting examples of "quiet diplomacy". From the very beginning, CAHDI had understood the dilemma faced by the member States of the Council of Europe, which must, on the one hand, comply with the provisions of the European Convention on Human Rights and, on the other, with the requirements of the Charter of the United Nations. It had not prepared any normative texts or recommendations because it had considered that it was not its place to focus on the United Nations system of sanctions, but it had concentrated on the national aspect of the question, namely, the attitude of domestic courts towards persons contesting decisions adopted by national authorities in accordance with Security Council resolutions, and on the establishment of a restricted database relating to such cases, which the President of the Security Council had asked to consult.

32. Replying to Ms. Escameia, he said that, although the Convention on cybercrime was an instrument adopted by a regional organization, it was open to signature by non-member States of the Council of Europe, and that explained why the Council was not at present in favour of the negotiation of an instrument of universal scope and preferred to give priority to promoting the full implementation of that Convention. The Council had, however, held a debate on whether the Convention on cybercrime really made it possible to deal with the reality of cyberterrorist attacks, particularly those targeting critical infrastructures. The Council had requested a study which had concluded that it was not necessary to prepare a specific instrument against cyberterrorism and that it was enough to rely on the combination of the Convention on cybercrime and the Council of Europe Convention on the Prevention of Terrorism.

33. Mr. HASSOUNA asked whether CAHDI cooperated with regional organizations in Africa, Asia and Latin America which played a role similar to that of the Council of Europe.

34. Ms. JACOBSSON said that she would like further information on the intentions of the Council of Europe with regard to the consequences of the "disconnection

clause” contained in several recent instruments, a matter which the Commission had discussed in connection with its work on the fragmentation of international law.

35. Mr. GALICKI, referring to Ms. Jacobsson’s question, recalled that the problem had arisen in particularly acute form at the time of the adoption of the Council of Europe Convention on the Prevention of Terrorism.

36. Mr. LEZERTUA (Director, Legal Advice and Public International Law of the Council of Europe) said that relations between the Council of Europe and the African Union and the Organization of American States were sporadic. They were in no way comparable to the relations that had been established with universal organizations such as the United Nations. In the framework of intercultural dialogue, more regular exchanges had taken place with the Member States of the United Nations, but they were admittedly limited to that type of question.

37. “Disconnection clauses” were a complex matter that had given rise to major problems on two occasions. The first had been when the three “Warsaw Conventions”, namely, the Council of Europe Convention on the Prevention of Terrorism, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism and the Council of Europe Convention on Action against Trafficking in Human Beings, had been opened for signature by the member States of the Council of Europe. The European Commission had requested the inclusion of a disconnection clause in each of the treaties for the purpose of regulating the relations established by them among the member countries of the European Union; that had been accepted after the Council of Europe and the European Commission had agreed that those clauses would relate only to the possibility of implementing means other than those provided for in the texts in question and could not have the effect of exempting the States concerned from their treaty obligations.

38. The European Commission had also requested the inclusion of a disconnection clause at the time of the signature of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, and it had been accepted. However, since some member States had stressed that this was an *ad hoc* solution adopted as a matter of urgency and that it in no way prejudged the inclusion of such a clause in other conventions in future, it had been decided that CAHDI should be entrusted with the task of carrying out a study on the consequences of disconnection clauses for international law. The contours of that study would be defined in September 2007 by the Committee of Ministers of the Council of Europe and the first report by CAHDI on the question was scheduled for March 2008.

### **Draft report of the Commission on the Work of its fifty-ninth session (continued)**

#### **CHAPTER VIII. Responsibility of international organizations (continued) (A/CN.4/L.713 and Add.1–3)**

#### **C. Text of the draft articles on responsibility of international organizations provisionally adopted so far by the Commission (continued) (A/CN.4/L.713/Add.1–3)**

#### **2. TEXT OF THE DRAFT ARTICLES WITH COMMENTARIES THERETO ADOPTED BY THE COMMISSION AT ITS FIFTY-NINTH SESSION (continued)**

##### *Commentary to draft article 39 (Compensation) (continued)*

##### *Paragraph (4) (continued)*

39. The CHAIRPERSON, suggesting that the members of the Commission might take up an issue left pending at the preceding meeting, invited them to consider Ms. Escameia’s proposal that the following new paragraph 4 *bis* should be added to the commentary to article 39: “Since article 39 must be read in conjunction with article 36, paragraph 2, on the scope of international obligations, the existence of rights that directly accrue to individuals is not prejudiced.” The footnote would read: “See, for example, General Assembly resolution 52/247, dated 26 June 1998, on compensation of individuals injured as a result of wrongful acts by United Nations peacekeeping forces.”

40. Mr. GAJA (Special Rapporteur) said he did not think that it was wise to add such a paragraph to the commentary to article 39, which related to compensation, because the same thing would then have to be done for the other forms of reparation for injury. If something was to be added, it should be done in paragraph (5) of the commentary to article 36 (Scope of international obligations set out in this Part).

41. Ms. ESCAMEIA said that she did not object to the Special Rapporteur’s suggestion, but she would like the wording adopted to be as close as possible to the wording she had proposed.

42. The CHAIRPERSON proposed that the Special Rapporteur and Ms. Escameia should agree on specific wording that the Commission might adopt at a later meeting.

*It was so decided.*

##### *Paragraph (1) (concluded)*

43. After an exchange of views in which Mr. PELLET and Mr. GAJA (Special Rapporteur) took part, it was decided that the third and fourth sentences should be combined and that the words “the respective States” should be followed by the following words: “in accordance with the statement by the United Nations in the letter that it would not evade responsibility...”.

*Paragraph (1), as amended, was adopted.*

##### *Commentary to draft article 40 (Satisfaction)*

##### *Paragraphs (1) to (6)*

*Paragraphs (1) to (6) were adopted.*

*The commentary to draft article 40 was adopted.*

##### *Commentary to draft article 41 (Interest)*

*The commentary to draft article 41 was adopted.*

*Commentary to draft article 42 (Contribution to the injury)*

Paragraphs (1) to (4)

*Paragraphs (1) to (4) were adopted.*

*The commentary to draft article 42 was adopted.*

*Commentary to draft article 43 (Ensuring the effective performance of the obligation of reparation)*

Paragraph (2)

44. Mr. PELLET said that, in order to justify the very important fact that the purpose of draft article 43 was not to transfer the responsibility of an international organization to a State, the commentary was based on opinions expressed by States and on practice. However, an equally important theoretical consideration did not appear in the commentary: since international organizations were considered to have legal personality, they were responsible, and their responsibility could not be transferred to a State. In order to reflect that consideration in the commentary, the following sentence should be added at the end of paragraph (2): "Moreover, since it is recognized that international organizations have international legal personality of their own, it is [in theory] inconceivable that they should not be held solely responsible for their internationally wrongful acts." A footnote referring to the advisory opinion of the ICJ in the case concerning *Certain Expenses of the United Nations* might also be added after the words "of their own".

45. Mr. GAJA (Special Rapporteur) said that the footnote was inappropriate because it referred only to the United Nations. Moreover, the text proposed by Mr. Pellet was unnecessary and belonged more at the beginning of the commentary, in connection with paragraph (1).

46. The CHAIRPERSON proposed that the Special Rapporteur and Mr. Pellet should agree on wording and that the Special Rapporteur should report back to the Commission at the next meeting, until when the adoption of paragraphs (1) and (2) would be suspended.

*It was so decided.*

Paragraph (3)

*Paragraph (3) was adopted.*

Paragraph (4)

47. Mr. GAJA (Special Rapporteur), supported by Mr. PELLET, proposed that the words "in the Drafting Committee" in the first line should be deleted and that the words "the Drafting Committee" in the last line should be replaced by the words should be replaced by the words "the Commission".

*Paragraph (4), as amended, was adopted.*

Paragraph (5)

48. Mr. PELLET said that the words "of the Drafting Committee" should also be deleted.

*Paragraph (5), as amended, was adopted.*

Paragraph (6)

49. Mr. NOLTE said that the second sentence, which went too far, should be toned down somewhat because it implied that, for all organizations, the general duty to cooperate involved an obligation to finance the organization. That was open to question, however, as the example of the International Tin Council showed. He therefore proposed that the word "generally" should be added after the word "may" in the second sentence.

*Paragraph (6), as amended, was adopted.*

Paragraph (7)

50. Mr. PELLET said that the two opinions reflected in paragraph (7) should be shown separately in two sentences, the first ending with the words "general international law" and the second, which would follow on immediately, beginning with the words "Other members considered that that principle could be stated by the Commission...".

51. After a discussion in which Ms. ESCARAMEIA, Mr. GAJA (Special Rapporteur), Mr. HMOUD, Mr. NOLTE and Mr. PELLET took part, Mr. Pellet's proposal was adopted following an indicative vote.

*Paragraph (7), as amended, was adopted.*

*The meeting rose at 12.55 p.m.*

## 2953rd MEETING

*Wednesday, 8 August 2007, at 3.05 p.m.*

*Chairperson: Mr. Ian BROWNLIE*

*Present:* Mr. Caflisch, Mr. Candioti, Mr. Comisário Afonso, Ms. Escameia, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Ms. Jacobson, Mr. Kolodkin, Mr. McRae, Mr. Pellet, Mr. Perera, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Mr. Yamada.

### Draft report of the Commission on the work of its fifty-ninth session (*continued*)

CHAPTER VIII. *Responsibility of international organizations (continued)* (A/CN.4/L.713 and Add.1-3)

C. **Text of the draft articles on responsibility of international organizations provisionally adopted so far by the Commission (*continued*)** (A/CN.4/L.713/Add.1-3)

2. TEXT OF THE DRAFT ARTICLES WITH COMMENTARIES THERETO ADOPTED BY THE COMMISSION AT ITS FIFTY-NINTH SESSION (*continued*)

1. The CHAIRPERSON drew attention to the portion of chapter VIII contained in document A/CN.4/L.713/Add.1. One issue remained to be settled, namely a proposal by Ms. Escameia for an additional sentence to be inserted in paragraph (5) of the commentary to draft article 36.