

Document:-
A/CN.4/3243

Summary record of the 3243rd meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
2014, vol. I

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

43. With regard to draft conclusion 5 [6] (Conduct of the State as State practice), the title of the former draft had been refined and, following a discussion on the issue, it had been decided to no longer refer to the concept of “attribution”, the prevailing opinion being that the language used in the draft conclusions should be accessible.

44. In relation to draft conclusion 6 [7] (Forms of practice), the concept of inaction, which had originally been dealt with in a separate paragraph, had been moved to the end of the first paragraph. The non-exhaustive nature of the list of forms of practice contained in paragraph 2 was emphasized by the words “but are not limited to”. The formulation “executive conduct, including operational conduct ‘on the ground’” had been discussed at length. It referred generally to the conduct of the executive authorities and included the physical conduct of Governments, such as military operations in the context of a conflict. The “decisions of national courts” were to be understood broadly, as covering also relevant interlocutory decisions. The commentary to the draft conclusions would discuss other forms of practice not expressly included in the text. Paragraph 3, which contained the text of paragraph 1 of the former draft conclusion 8, had been placed after the list of forms of practice, the order of which had been chosen only as a matter of drafting.

45. With regard to draft conclusion 7 [8] (Assessing a State’s practice), the Drafting Committee had included in the first paragraph the statement that State practice should be taken as a whole, a requirement that had recently been recalled by the International Court of Justice. In the second paragraph, it was indicated that the weight given to a practice “may” be reduced. The use of the word “may” meant that the issue needed to be approached with caution, since the weight given to a practice that varied did not necessarily have to be reduced in all cases—for instance, when the lower and higher organs of the same State did not follow the same practice, it did not necessarily follow that less weight should be given to the practice of the higher organs.

46. With regard to draft conclusion 8 [9] (The practice must be general), its title emphasized the key aspect of the assessment of the material element of custom, which was a “general practice”. It had been stated in paragraph 4 of the former draft conclusion 9 that “[d]ue regard should be given to the practice of States whose interests are specially affected”. Bearing in mind the concerns that had been raised, there was no reference to that subject in the current draft conclusion and it would be further examined at the next session. The requirement that practice must be consistent was mentioned in the first paragraph, as it was inherent in the concept of generality of practice. Although, as it emerged from the jurisprudence of the International Court of Justice, no particular duration was required for a practice to be conclusive, paragraph 2 should not be interpreted as a recognition of “instant custom”.

47. In conclusion, he said that the Drafting Committee hoped to submit formally a set of draft conclusions for adoption at the sixty-seventh session.

The meeting rose at 6.15 p.m.

3243rd MEETING

Friday, 8 August 2014, at 10.05 a.m.

Chairperson: Mr. Kirill GEVORGIAN

Present: Mr. Caflisch, Mr. Candioti, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kittichaisaree, Mr. Laraba, Mr. Murase, Mr. Murphy, Mr. Niehaus, Mr. Nolte, Mr. Park, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Šturma, Mr. Tladi, Mr. Valencia-Ospina, Mr. Vázquez-Bermúdez, Mr. Wisnumurti, Sir Michael Wood.

Draft report of the Commission on the work of its sixty-sixth session (concluded)

CHAPTER X. *Identification of customary international law (A/CN.4/L.843)*

1. The CHAIRPERSON invited the Commission to consider chapter X of its draft report, as contained in document A/CN.4/L.843.

2. Sir Michael WOOD (Special Rapporteur), recalling that a considerable number of editorial errors had been introduced into the text of his second report (A/CN.4/672), said that a corrected version would be issued and made available on the Commission’s website. While the United Nations had its own editorial style rules, they should be applied with some flexibility when dealing with legal texts.

A. Introduction

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

Section A was adopted.

B. Consideration of the topic at the present session

Paragraph 3

3. Sir Michael WOOD (Special Rapporteur) requested that the paragraph be altered to refer to the corrected version of his second report, once its symbol was known.

On that understanding, paragraph 3 was adopted.

4. Sir Michael WOOD (Special Rapporteur) proposed the addition of a new paragraph after paragraph 3, to read:

“At its 3227th meeting, the Commission decided to refer the draft conclusions in the second report to the Drafting Committee. At its 3242nd meeting, on 7 August 2014, the Chairperson of the Drafting Committee presented the interim report of the Drafting Committee, containing the eight draft conclusions provisionally adopted by the Drafting Committee at the sixty-sixth session. The report, together with the draft conclusions, was presented for information only and is available on the Commission website.”

The new paragraph was adopted.

1. INTRODUCTION BY THE SPECIAL RAPPORTEUR OF THE SECOND REPORT

Paragraph 4

Paragraph 4 was adopted.

Paragraph [5]

5. Sir Michael WOOD (Special Rapporteur) suggested that, in the second sentence, the words “some of the terms that were considered useful to define” be changed to “some of the terms that it might be useful to define”. He added that he would submit a number of minor editorial amendments directly to the Secretariat.

On that understanding, paragraph [5], as amended, was adopted.

Paragraphs 5 to 14

*Paragraphs 5 to 14 were adopted.**Section B.1, as amended, was adopted.*

2. SUMMARY OF THE DEBATE

(a) General comments

Paragraphs 15 and 16

Paragraphs 15 and 16 were adopted.

Paragraph 17

6. Mr. KITTICHAISAREE, referring to the last sentence of the paragraph, recalled Mr. Kamto’s remarks during the debate to the effect that the International Court of Justice was the principal judicial organ of the United Nations and that the Commission should not challenge its jurisprudence; he also recalled the exchange that had followed. He suggested that the paragraph be amended to better capture that debate.

7. Sir Michael WOOD (Special Rapporteur) said that changing the words “other international courts and tribunals” to “other, more specialized courts and tribunals” might take account of that concern.

8. Mr. VÁZQUEZ-BERMÚDEZ said that there was a close, even symbiotic, relationship between the Court and the Commission, as reflected in the work of each. The last sentence of paragraph 17 could send an unfortunate message; he suggested that it be deleted altogether.

9. Mr. TLADI, while agreeing with the position taken by Mr. Vázquez-Bermúdez, observed that the text must accurately reflect the debate that had taken place. An additional sentence indicating that the members of the Commission had generally considered it appropriate to refer to the Court’s rulings might strike the right balance.

10. Mr. MURPHY suggested that a simpler solution might be to replace the word “overreliance” with “exclusive reliance”.

11. Sir Michael WOOD (Special Rapporteur) said he favoured the simple approach.

Paragraph 17, as amended by the Special Rapporteur and Mr. Murphy, was adopted.

Paragraph 18

12. Mr. KITTICHAISAREE suggested a minor editorial amendment to the English version of the text.

Paragraph 18, as amended, was adopted.

Paragraph 19

Paragraph 19 was adopted.

(b) Use of terms

Paragraph 20

Paragraph 20 was adopted.

Paragraph 21

13. Mr. MURPHY suggested that, in the third and fourth sentences, the word “doctrine” be altered to “writings”.

Paragraph 21, as amended, was adopted.

(c) Basic approach

14. Mr. VÁZQUEZ-BERMÚDEZ proposed the insertion of a new paragraph at the beginning of the section to read:

“Several members of the Commission agreed that the subjective element of custom, *opinio juris*, was not synonymous with the ‘consent’ or ‘will of States’, but rather signified a belief that a particular practice was followed in exercise of a right or to comply with an obligation under international law” [“*Varios miembros de la Comisión coincidieron en que el elemento subjetivo de la costumbre, la opinio juris, no es sinónimo de ‘consentimiento’ o ‘voluntad de los Estados’, sino que significa la creencia de que una determinada práctica es seguida porque se está ejerciendo un derecho o cumpliendo con una obligación conforme al derecho internacional*”].

15. Sir Michael WOOD (Special Rapporteur) agreed to that proposal, on the understanding that the text would be submitted in writing for official translation.

On that understanding, the additional paragraph proposed by Mr. Vázquez-Bermúdez was adopted.

Paragraph 22

16. Mr. NOLTE suggested that, in the second sentence, the phrase “was generally supported among the members of the Commission” be changed to “was supported by most members of the Commission”. The original wording suggested that the view in question had enjoyed broader support than had been the case.

17. Mr. KITTICHAISAREE suggested that, in the last sentence of the paragraph, the phrase “there were different approaches” be altered to “there appeared to be different approaches”.

Paragraph 22, as amended, was adopted.

Paragraphs 23 and 24

Paragraphs 23 and 24 were adopted.

(d) “A general practice”

Paragraph 25

Paragraph 25 was adopted.

Paragraph 26

18. Mr. NOLTE proposed that the final sentence be made more emphatic by replacing the word “could” with “would”.

Paragraph 26, as amended, was adopted.

Paragraph 27

19. Mr. NOLTE suggested that the words “for the purposes of customary international law” be added at the end of the third sentence, as acts carried out *ultra vires* could in fact serve as State practice in certain contexts. He further suggested that the last sentence be altered to read: “The question whether conduct of non-State actors acting on behalf of the State constituted relevant practice was also raised in this regard.”

Paragraph 27, as amended, was adopted.

Paragraph 28

20. Mr. NOLTE suggested that, in the third sentence, the words “solely verbal acts” should be changed to “verbal acts by themselves”.

Paragraph 28, as amended, was adopted.

Paragraphs 29 and 30

Paragraphs 29 and 30 were adopted.

Paragraph 31

21. Mr. NOLTE proposed that the words “of a State’s practice as a whole” be added at the end of the first sentence.

Paragraph 31, as amended, was adopted.

Paragraphs 32 and 33

Paragraphs 32 and 33 were adopted.

Paragraph 34

22. Mr. VÁZQUEZ-BERMÚDEZ said that, at the beginning of the fourth sentence, the words “Those members” should be altered to “Other members”, to avoid confusion. He proposed the addition of a new third sentence, to read: “It was pointed out that all States had an interest in the content, scope, creation and development of general international law in all fields, and that the practice of all States, whether through action or inaction, therefore carried the same weight” [*Se afirmó que todos los Estados tienen interés en el contenido y alcance, en la generación y evolución del derecho internacional general en todos los ámbitos, por lo cual la práctica de todos ellos, ya sea por acción o inacción, tiene el mismo valor*].

23. Sir Michael WOOD (Special Rapporteur) said that the proposed wording was too strong. Although the view described was held by some States, the weight to be accorded to State practice might depend on the particular circumstances involved.

24. Mr. PETRIČ expressed the view that the proposed addition was intended to reflect one of the positions taken during the debate, rather than that of the Commission.

25. Sir Michael WOOD (Special Rapporteur) said that some form of caveat to that effect should be included.

26. Mr. TLADI suggested that Sir Michael’s concern might be allayed by changing the phrase “carried the same weight” in the proposed new sentence to “was equally relevant”.

Paragraph 34, as amended by Mr. Vázquez-Bermúdez and Mr. Tladi, was adopted.

(e) “Accepted as law”

27. Mr. VÁZQUEZ-BERMÚDEZ suggested that the term *opinio juris* be included in parentheses at the end of the title.

It was so decided.

Paragraph 35

28. Mr. NOLTE proposed the deletion of the word “perhaps” in the final sentence.

Paragraph 35, as amended, was adopted.

Paragraph 36

29. Mr. KITTICHAISAREE suggested that, in the third sentence, the words “saw no issue” should be altered to “had no difficulty” or “had no problem”, for ease of understanding.

30. Sir Michael WOOD (Special Rapporteur) said that the word “issue” could simply be changed to “problem”.

Paragraph 36, as amended by the Special Rapporteur, was adopted.

Paragraph 37

31. Mr. KITTICHAISAREE proposed a new sentence for inclusion after the second sentence, to read: “Other members considered that such acceptance need not be nearly universal to establish such a rule.”

32. Mr. MURPHY suggested that inserting “but not other members” after “some members” in the original second sentence might be sufficient on its own to capture Mr. Kittichaisaree’s point, without adding an additional sentence.

33. Mr. KITTICHAISAREE agreed to that suggestion.

Paragraph 37, as amended by Mr. Murphy, was adopted.

Section B.2, as amended, was adopted.

3. CONCLUDING REMARKS OF THE SPECIAL RAPPORTEUR

Paragraphs 38 to 51

Paragraphs 38 to 51 were adopted.

Section B.3, as amended, was adopted.

Section B as a whole, as amended, was adopted.

Chapter X of the report of the Commission, as a whole, as amended, was adopted.

CHAPTER XII. Provisional application of treaties (A/CN.4/L.846)

34. The CHAIRPERSON invited the Commission to begin its consideration of chapter XII of the draft report, as contained in document A/CN.4/L.846.

A. Introduction

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

Section A was adopted.

B. Consideration of the topic at the present session

Paragraphs 3 and 4

Paragraphs 3 and 4 were adopted.

Paragraph 4 *bis*

35. The CHAIRPERSON drew attention to a proposal for an additional paragraph 4 *bis*, to read:

“At the 3243rd meeting, held on 8 August 2014, the Commission decided to request from the Secretariat a memorandum on the previous work undertaken by the Commission on this subject in the *travaux préparatoires* of the relevant provisions of the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations.”

Paragraph 4 bis was adopted.

1. INTRODUCTION BY THE SPECIAL RAPPORTEUR OF THE FIRST REPORT

36. Mr. KITTICHAISAREE pointed out that, in the English version of the heading, the word “first” should be replaced with “second”.

Paragraphs 5 to 7

Paragraphs 5 to 7 were adopted.

Paragraph 8

37. Mr. MURPHY said that, in the third sentence, the phrase “had been manifested” should be reworded more tentatively, to read “might be manifested”, since as yet there was no example of one of the possible scenarios contemplated by the Special Rapporteur.

Paragraph 8, as amended, was adopted.

Paragraph 9

Paragraph 9 was adopted.

Paragraph 10

38. Mr. MURPHY proposed that the first sentence be deleted, since it essentially repeated the context of the second sentence of paragraph 9.

Paragraph 10 was adopted with that amendment.

Paragraphs 11 and 12

Paragraphs 11 and 12 were adopted.

Section B.1, as amended, was adopted.

2. SUMMARY OF THE DEBATE

Paragraph 13

39. Mr. NOLTE proposed that, in the first sentence, the word “general” be replaced with “broad”, because a number of members had questioned the rather strong statement that the legal effects of the provisional application of a treaty were the same as if the treaty were in force.

The proposal was adopted.

40. Mr. KITTICHAISAREE said that the phrase “In terms of a further view” in the final sentence seemed rather strange and should be revised. He proposed that, in the first sentence, a footnote be inserted after the phrase “in force for that State”, to read: “However, it was not clarified whether the provisional application of treaties has legal effects that go beyond the provisions of article 18 of the Vienna Convention on the Law of Treaties.”

41. The CHAIRPERSON suggested that the phrase “In terms of a further view” be replaced with “According to another view”. With regard to the proposed footnote, he said that it would be more appropriate if the text read out by Mr. Kittichaisaree were inserted into the paragraph itself.

Paragraph 13, thus amended, was adopted.

Paragraph 14

Paragraph 14 was adopted.

Paragraph 15

42. Mr. NOLTE proposed that the first sentence be reworded to begin “Some members expressed support”, since that formulation would reflect the relative positions of members in the debate better than the current wording. With regard to the third sentence, he said that the intended meaning was not clear and that the word “validity” seemed out of place. He therefore suggested that either the sentence be deleted or “validity” be replaced with a more suitable alternative.

43. Mr. VÁZQUEZ-BERMÚDEZ, responding to Mr. Nolte’s concern with regard to the appropriateness of “validity”, said that it was his understanding that the sentence was intended to capture the idea that recourse to a clause permitting the provisional application of a treaty was not only a question of international law, but also of domestic legislation. He therefore proposed that the sentence begin “It was agreed that recourse to a clause”.

44. Mr. SABOIA said he thought the sentence sought to express the idea that some consideration should be given to domestic law because some countries had provisions in their constitutions or legislation that did not permit the provisional application of treaties. As to its deletion, he had no strong views either way.

45. Ms. ESCOBAR HERNÁNDEZ and Mr. TLADI said that the proposal by Mr. Vázquez-Bermúdez was acceptable.

46. Mr. MURPHY said that he was in favour of the approach taken by Mr. Vázquez-Bermúdez, but would prefer the sentence to begin “It was observed that a State’s resort to a clause”.

The proposal was adopted.

47. Mr. KITTICHAISAREE, referring to the fourth sentence, said that the word “legislative” should be replaced with “constitutional” because the debate had been on the constitutionality of a clause permitting provisional application.

48. Mr. NOLTE said that, while any study would be mostly concerned with the constitutional practice of States, consideration might also need to be given to relevant legislative practice. Furthermore, in most legal systems the adoption of, or amendment to, a constitution was considered to be a form of legislative practice. He was therefore in favour of maintaining the phrase “legislative practice”.

49. Mr. PETRIČ said that constitutional practice and legislative practice were two different matters: the first related mainly to the decisions of constitutional courts. He therefore proposed the insertion of “constitutional and” before “legislative”.

50. Mr. ŠTURMA supported that proposal.

51. Sir Michael WOOD said that in some countries the practice concerned might be neither constitutional nor legislative but, for example, customary.

52. Mr. SABOIA said that he agreed with the proposal by Mr. Petrič. However, in order to cover Sir Michael’s point, he proposed the following wording: “constitutional, legislative and any other relevant practice of States.”

The proposal was adopted.

Paragraph 15, as amended, was adopted.

Paragraphs 16 to 20

Paragraphs 16 to 20 were adopted.

Section B.2, as amended, was adopted.

3. CONCLUDING REMARKS OF THE SPECIAL RAPPORTEUR

Paragraphs 21 to 25

Paragraphs 21 to 25 were adopted.

Section B.3, as amended, was adopted.

Section B, as a whole, as amended, was adopted.

Chapter XII of the report of the Commission, as a whole, as amended, was adopted.

CHAPTER I. Introduction (A/CN.4/L.834)

Paragraph 1

Paragraph 1 was adopted.

A. Membership

Paragraph 2

Paragraph 2 was adopted.

B. Officers and the Enlarged Bureau

Paragraph 3

Paragraph 3 was adopted with a minor editorial amendment to the English text.

Paragraphs 4 and 5

Paragraphs 4 and 5 were adopted.

C. Drafting Committee

Paragraphs 6 and 7

Paragraphs 6 and 7 were adopted.

D. Working Groups and Study Group

Paragraphs 8 and 9

Paragraphs 8 and 9 were adopted.

E. Secretariat

Paragraph 10

Paragraph 10 was adopted.

F. Agenda

Paragraph 11

Paragraph 11 was adopted.

Chapter I of the report of the Commission, as a whole, as amended, was adopted.

CHAPTER II. Summary of the work of the Commission at its sixty-sixth session (A/CN.4/L.835)

Paragraph 1

53. Mr. MURPHY suggested that it might be appropriate to note that the Commission had had before it the ninth report of the Special Rapporteur on the expulsion of aliens, which dealt with the comments and observations of States (A/CN.4/670).

54. Mr. KORONTZIS (Secretary of the Commission) said that it was not customary to mention such reports in the context of a text’s adoption on second reading. However, the Secretariat would verify the point and amend the paragraph if appropriate.

Paragraph 1 was adopted on that understanding.

Paragraph 2

Paragraph 2 was adopted.

Paragraph 3

55. Mr. VALENCIA-OSPINA, referring to the final sentence, proposed that the words “including the” should be inserted before “Office for the Coordination of Humanitarian Affairs”. That would allow the Secretariat to request comments and observations from United Nations offices other than those specifically indicated, if it considered it appropriate to do so.

Paragraph 3 was adopted with that amendment and an editorial correction to the final sentence.

Paragraphs 4 to 7

Paragraphs 4 to 7 were adopted.

Paragraph 8

56. Sir Michael WOOD said that the final sentence was not entirely accurate, since the Commission had not taken note of the report of the Drafting Committee. He suggested that it be reformulated along the following lines: “The report of the Chairperson of the Drafting Committee, including the eight draft conclusions provisionally adopted by the Committee, was submitted to the Commission for information (chap. X).”

57. Mr. VÁZQUEZ-BERMÚDEZ proposed that, for the sake of consistency with what had been previously agreed upon, the words *opinio juris* be inserted after the phrase “accepted as law” at the end of the first sentence.

Paragraph 8 was adopted with those two amendments.

Paragraph 9

Paragraph 9 was adopted.

Paragraph 10

58. Mr. TLADI (Rapporteur) drew attention to a new version of paragraph 10, which read:

“10. As regards the topic ‘Provisional application of treaties’, the Commission had before it the second report of the Special Rapporteur (A/CN.4/675), which sought to provide a substantive analysis of the legal effects of the provisional application of treaties. The debate revealed general agreement that the basic premise underlying the topic was that, subject to the specificities of the treaty in question, the rights and obligations of a State that had decided to provisionally apply the treaty, or parts thereof, were the same as if the treaty were in force for that State (chap. XII).”

59. Mr. NOLTE asked whether the paragraph described a decision that had been taken by the Commission.

60. Mr. TLADI (Rapporteur) said that it was a description of the debate that had taken place and a summary of what the Commission had adopted in chapter X. He proposed that, in order to track the language of that summary more closely, the word “general” in the second sentence be replaced with “broad”.

Paragraph 10 was adopted with that amendment.

Paragraphs 11 to 13

Paragraphs 11 to 13 were adopted.

Paragraph 14

Paragraph 14 was adopted, subject to its completion by the Secretariat.

Chapter II of the report of the Commission, as a whole, as amended, was adopted.

CHAPTER III. Specific issues on which comments would be of particular interest to the Commission (A/CN.4/L.836)

A. Subsequent agreements and subsequent practice in relation to treaty interpretation

Paragraph 1

61. Mr. MURPHY said that, in order to align the paragraph with those that followed, the beginning of the first sentence should be deleted and the first part amended to read: “The Commission requests, by 31 January 2015, States and international organizations ...”.

Paragraph 1 was adopted with that amendment.

B. Protection of the atmosphere

Paragraph 2

Paragraph 2 was adopted.

C. Immunity of State officials from foreign criminal jurisdiction

Paragraph 3

62. Mr. MURPHY said that in subparagraph (ii) of the English text, the word “the” should be replaced with “any”.

Paragraph 3 was adopted with that amendment to the English version.

D. Identification of customary international law

Paragraph 4

63. Ms. ESCOBAR HERNÁNDEZ proposed replacing the word “suitable” (*adecuados*) with “used” (*empleados*), as the word “suitable” implied a value judgment, something that the Commission was not in the habit of requesting States to provide.

64. Sir Michael WOOD (Special Rapporteur) proposed simply to delete the word “suitable”.

Paragraph 4, as amended by Sir Michael Wood, was adopted.

Paragraph 5

Paragraph 5 was adopted.

E. Protection of the environment in relation to armed conflicts

Paragraph 6

65. Mr. MURPHY said that, having obtained the approval of the Special Rapporteur, he proposed to replace

the words “would like to have”, in the first sentence, with “requests”, and to insert the words “by 31 January 2015” between the words “States” and “on”.

Paragraph 6 was adopted with those amendments.

Paragraph 7

66. Mr. MURPHY proposed that, in the first sentence, the words “implemented” be deleted. In the second sentence, the word “all” was superfluous and should be deleted, and a hyphen should be inserted between the words “defence” and “related”. He had obtained the Special Rapporteur’s approval of those amendments.

Paragraph 7 was adopted with those amendments.

F. Provisional application of treaties

Paragraph 8

Paragraph 8 was adopted.

G. Crimes against humanity

Paragraph 9

67. Mr. MURPHY (Special Rapporteur) proposed that the words “by 31 January 2015,” be inserted between the words “information” and “on”.

68. Ms. ESCOBAR HERNÁNDEZ proposed, in subparagraph (c), deleting the portion of the text in parentheses, since the circumstances in which jurisdiction could be exercised over crimes against humanity varied widely from one State to the next. In the same subparagraph, she pointed out that the use of the word “offender” (*infractor*) could be interpreted as infringing the principle of the presumption of innocence.

69. Mr. MURPHY (Special Rapporteur) proposed that the examples in parentheses be retained because their purpose was simply to give States an idea of the type of information in which the Commission was interested.

That proposal was adopted.

70. Mr. CANDIOTI proposed that, in order to address the concerns expressed by Ms. Escobar Hernández, the words “an offender for” be replaced with “a person accused of” or “a person charged with”. The deadline for the provision of information to the Commission, which had been set for 31 January 2015 with respect to all topics, was unrealistically short, especially as States might not be informed of it until after the conclusion of the sixty-ninth session of the General Assembly.

71. After a procedural discussion in which Mr. MURPHY (Special Rapporteur), Ms. ESCOBAR HERNÁNDEZ, Mr. NOLTE and Sir Michael WOOD participated, Mr. MURPHY proposed to refer to “an alleged offender”, the term most often used in the relevant treaties, in order to allay the concerns raised by Ms. Escobar Hernández.

That proposal was adopted.

72. The CHAIRPERSON suggested that the Commission maintain the 31 January 2015 deadline with respect to all topics.

It was so decided.

Paragraph 9, as amended, was adopted.

Chapter III of the report of the Commission, as a whole, as amended, was adopted.

CHAPTER XIV. Other decisions and conclusions of the Commission (A/CN.4/L.848)

73. The CHAIRPERSON invited the Commission to consider the section of chapter XIV of the draft report contained in document A/CN.4/L.848.

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

Paragraphs 1 to 3

Paragraphs 1 to 3 were adopted.

1. INCLUSION OF NEW TOPICS ON THE PROGRAMME OF WORK OF THE COMMISSION

74. Mr. CANDIOTI proposed that, in the title of section 1, the word “topics” be replaced with the singular word “topic”, since there was only one new topic.

That proposal was adopted.

Paragraph 4

Paragraph 4 was adopted.

2. WORKING GROUP ON THE LONG-TERM PROGRAMME OF WORK

Paragraphs 5 to 10

Paragraphs 5 to 10 were adopted.

3. CONSIDERATION OF GENERAL ASSEMBLY RESOLUTION 68/116 OF 16 DECEMBER 2013 ON THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS

Paragraphs 11 to 18

Paragraphs 11 to 18 were adopted.

4. HONORARIA

Paragraph 19

Paragraph 19 was adopted.

5. DOCUMENTATION AND PUBLICATIONS

Paragraphs 20 to 23

Paragraphs 20 to 23 were adopted.

6. TRUST FUND ON THE BACKLOG RELATING TO THE YEARBOOK OF THE INTERNATIONAL LAW COMMISSION

Paragraph 24

Paragraph 24 was adopted.

7. ASSISTANCE OF THE CODIFICATION DIVISION

Paragraph 25

Paragraph 25 was adopted.

8. YEARBOOK OF THE INTERNATIONAL LAW COMMISSION

Paragraph 26

75. Mr. MURPHY proposed that the word “advancing” be replaced with “producing”.

76. In response to a query from Sir Michael WOOD, Mr. KORONTZIS (Secretary of the Commission) proposed to insert the words “production of the” between the words “the” and “Yearbook”.

Paragraph 26, as amended, was adopted.

9. WEBSITES

Paragraph 27

77. Ms. ESCOBAR HERNÁNDEZ, supported by Mr. VÁZQUEZ-BERMUDEZ, said that she wished to emphasize her own gratitude, as well as that of other Spanish-speaking members of the Commission and of the international community, for the enormous efforts carried out by the Secretariat over the past several years to digitize and publish the entire collection of the Commission’s documents in Spanish on the Commission’s website.

Paragraph 27 was adopted.

10. UNITED NATIONS AUDIOVISUAL LIBRARY OF INTERNATIONAL LAW

Paragraph 28

78. Mr. CANDIOTI proposed that the website address of the United Nations Audiovisual Library of International Law be included in a footnote to paragraph 28.

79. The CHAIRPERSON said that the Secretariat would ensure that such a reference was included.

On that understanding, paragraph 28 was adopted.

Section A as a whole, as amended, was adopted.

B. Date and place of the sixty-seventh session of the Commission

Paragraph 29

Paragraph 29 was adopted.

Paragraph 30

80. In response to a comment by Mr. VALENCIA-OSPINA, Mr. KORONTZIS (Secretary of the Commission) said that there were a few items that appeared in chapter XIV that did not necessarily appear in the summary of the Commission’s work in chapter II. The Secretariat considered that the information contained in paragraph 30 was part of a broader debate and should not be reflected in the summary.

81. Mr. MURPHY said that he hoped that the Secretariat would nevertheless attempt to determine the feasibility of holding a part of future sessions in New York and inform the Commission of its findings before the sixty-seventh

session, so that an informed discussion could be held on the advisability of such a course of action.

82. Following a comment by Mr. KITTICHAISAREE, Mr. CANDIOTI proposed that the word “recalled” be replaced with “considered”.

Paragraph 30, as amended by Mr. Candioti, was adopted.

Section B as a whole, as amended, was adopted.

C. Cooperation with other bodies

Paragraph 31

Paragraph 31 was adopted.

Paragraph 32

83. Mr. MURPHY said that, in the second sentence, the words “Formation and evidence” should be replaced with “Identification”.

Paragraph 32, as amended, was adopted.

Paragraph 33

Paragraph 33 was adopted.

Paragraph 34

84. Ms. ESCOBAR HERNÁNDEZ proposed that, at the beginning of the first sentence, the words “European Committee on Legal Cooperation and” be deleted, as that body had not been represented at the present session of the Commission.

Paragraph 34, as amended, was adopted.

Paragraph 35

With an editorial amendment proposed by Mr. Peter, paragraph 35 was adopted.

Section C as a whole, as amended, was adopted.

D. Representation at the sixty-ninth session of the General Assembly

Paragraph 36

85. The CHAIRPERSON said that, after consultation with several members of the Commission, he suggested that the Commission should request Mr. Valencia-Ospina, Special Rapporteur on the topic of protection of persons in the event of disasters, to attend the sixty-ninth session of the United Nations General Assembly, provided that adequate financial resources were available. He further suggested that a paragraph to that effect be added in section D.

On that understanding, paragraph 36 was adopted.

Section D, as amended, was adopted.

86. Mr. VALENCIA-OSPINA expressed his appreciation to the Commission for the confidence expressed in him.

E. International Law Seminar

Paragraphs 37 to 39

Paragraphs 37 to 39 were adopted.

Paragraph 40

Paragraph 40 was adopted, with a minor editorial amendment proposed by Mr. Kittichaisaree to the English text.

Paragraphs 41 to 48

Paragraphs 41 to 48 were adopted.

Section E, as amended, was adopted.

F. Commemoration of the 50th anniversary of the International Law Seminar

Paragraph 49

Paragraph 49 was adopted.

Section F was adopted.

Chapter XIV of the report of the Commission, as a whole, as amended, was adopted.

The report of the International Law Commission on the work of its sixty-sixth session, as a whole, as amended, was adopted.

Chairperson's concluding remarks

87. The CHAIRPERSON said that the sixty-sixth session had been a productive one. He was grateful to all the members of the Commission for their cooperation, and to his colleagues on the Bureau and the former chairpersons of the Commission for their advice and guidance in managing the Commission's work. He was also grateful for the competent assistance and continuous support provided by the Secretariat, the Codification Division and the Legal Liaison Office in Geneva. He wished to thank all the précis-writers, interpreters, conference officers, translators and other members of conference services who performed services for the Commission daily.

Closure of the session

88. After the customary exchange of courtesies, the CHAIRPERSON declared the sixty-sixth session of the International Law Commission closed.

The meeting rose at 12.30 p.m.