

Chapter IX

OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION

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

722. Having regard to paragraphs 8, 9 and 11 of General Assembly resolution 54/111 of 9 December 1999, the Commission considered the matter under item 8 of its agenda entitled “Programme, procedures and working methods of the Commission, and its documentation” and referred it to the Planning Group of the Enlarged Bureau.

723. The Planning Group held four meetings. It had before it section E of the topical summary of the discussion held in the Sixth Committee of the General Assembly during its fifty-fourth session entitled: “Other decisions and conclusions of the Commission”.³⁶⁰

724. The Planning Group re-established the informal working group on split sessions as well as the Working Group on the long-term programme of work.³⁶¹

725. At its 2664th meeting on 18 August 2000, the Commission considered and endorsed the report of the Planning Group.

1. LONG-TERM PROGRAMME OF WORK

726. The Commission took note of the report of the Planning Group stating that, in terms of the method of work, and at the request of the Chairman, the members of the Working Group on long-term programme of work at the outset identified a number of subjects which it might be useful to examine further as to their appropriateness to be recommended for inclusion in the long-term programme of work of the Commission. Those subjects dealt with different and important aspects of international law, such as human rights, environment, responsibility and treaties. Upon further examination the Working Group narrowed down the list to the following:

Legal aspects of corruption and related practices
Jurisdictional aspect of transnational organized crime
Responsibility of international organizations
The risk of the fragmentation of international law
The law of collective security
Humanitarian protection
The effect of armed conflict on treaties

³⁶⁰ A/CN.4/504, paras. 181–188.

³⁶¹ For the composition of the working groups, see paragraph 10 above.

The position of the individual in international law

Right of asylum

The law relating to the expulsion of aliens

The international legal consequences of violations of human rights

Non-discrimination in international law

Feasibility study on the law of environment: guidelines for international control for avoidance of environmental conflict

The precautionary principle

Shared resources of States

The polluter pays principle.

727. Each of the selected topics was assigned to a member of the Commission for a feasibility study to determine their potential for inclusion in the long-term programme of work.

728. The Commission took note of the report of the Planning Group stating that, with regard to the criteria for the selection of the topics, the Working Group, bearing in mind the recommendation of the Commission at its forty-ninth session, had agreed that it should be guided by the following:

(a) The topic should reflect the needs of States in respect of the progressive development and codification of international law;

(b) The topic should be sufficiently advanced in stage in terms of State practice to permit progressive development and codification;

(c) The topic is concrete and feasible for progressive development and codification

and

... the Commission should not restrict itself to traditional topics, but could also consider those that reflect new developments in international law and pressing concerns of the international community.³⁶²

729. The Commission agreed with the conclusions of the Planning Group that, on the basis of the above criteria and after careful examination of the preliminary studies on the above subjects, the following topics are appropriate for inclusion in the long-term programme of work:

1. Responsibility of international organizations;
2. Effects of armed conflict on treaties;
3. Shared natural resources of States;
4. Expulsion of aliens;
5. Risks ensuing from fragmentation of international law.

³⁶² *Yearbook* ... 1997, vol. II (Part Two), pp. 71–72, para. 238.

730. The syllabuses on topics recommended for inclusion in the long-term programme of work of the Commission is annexed to the present report.

731. The Commission took note that the last topic, "Risks ensuing from fragmentation of international law", was different from other topics which the Commission had so far considered. Nevertheless, the Commission was of the view that the topic involved increasingly important issues relating to international law and that the Commission could make a contribution to the better understanding of the issues in this area. The Commission also took note that the method and the outcome of the work of the Commission on this topic, while they did not fall strictly within the normal form of codification, was well within the competence of the Commission and in accordance with its statute.

732. The Commission also took note of a number of useful preliminary studies with regard to the topic of the environment. But it was of the view that any decision about further work in the area of the law of the environment should usefully be deferred until the next quinquennium. In particular, it was noted that it was desirable to have a more integrated approach to the development of feasibility studies in the field of the environment.

733. The Commission also noted that two topics on issues related to corruption and humanitarian protection are worthy of further examination by the Commission, during its next quinquennium. But at the present session, the Commission was not in a position to make a recommendation for their inclusion in the list of topics for the long-term programme of work.

2. LENGTH, NATURE AND PLACE OF FUTURE SESSIONS OF THE COMMISSION

734. Having taken note of the report of the Planning Group, the Commission is of the view, as explained in detail in its report on the work of its fifty-first session,³⁶³ that, in order to continue to increase the efficiency and productivity of its work and to facilitate the attendance by its members, the sessions of its next quinquennium should also be split into two half sessions of an equal duration. The Commission would, in principle, continue to meet in Geneva. However, in order to enhance the relationship between the Commission and the Sixth Committee, one or two of its half sessions could be held in New York, towards the middle of the mandate.

735. Furthermore, the Commission reiterates its views expressed in its report on the work of its forty-eighth session to the effect that,

[I]n the longer term, the length of sessions is related to the question of [its work] organization

and that

if a split session is adopted . . . its work can usually be effectively done in a period of less than 12 weeks a year. It sees good reason for reverting to the older practice of a total annual provision of 10 weeks, with the possibility of extension to 12 weeks in particular years, as required.³⁶⁴

Consequently, and unless significant reasons related to the organization of its work otherwise require, the length of the sessions during the initial years of the Commission's future mandate should be of 10 weeks and, during the final years, of 12 weeks.

B. Date and place of the fifty-third session

736. Since the next session of the Commission will be the last of its present quinquennium, the Commission is of the view that the requirements of its work make it essential to hold a 12-week split session, at the United Nations Office at Geneva, from 23 April to 1 June and from 2 July to 10 August 2001.

C. Cooperation with other bodies

737. The Inter-American Juridical Committee was represented at the present session of the Commission by Mr. Brynmor Pollard. Mr. Pollard addressed the Commission at its 2648th meeting, on 28 July 2000, and his statement is recorded in the summary record of that meeting.

738. The Commission was represented at the thirty-ninth session of the Asian-African Legal Consultative Committee, held in Cairo, in February 2000, by Mr. Gerhard Hafner who attended the session and addressed the Committee on behalf of the Commission. The Committee was represented at the present session of the Commission by the Secretary-General of the Committee, Mr. Wafik Kamil. Mr. Kamil addressed the Commission at its 2654th meeting, on 10 August 2000, and his statement is recorded in the summary record of that meeting.

739. The European Committee on Legal Cooperation and the Ad Hoc Committee of Legal Advisers on Public International Law were represented at the present session of the Commission by Mr. Rafael Benítez. Mr. Benítez addressed the Commission at its 2655th meeting, on 11 August 2000, and his statement is recorded in the summary record of that meeting.

740. At the 2658th meeting, on 15 August 2000, Mr. Gilbert Guillaume, President of ICJ, addressed the Commission and informed it of the Court's recent activities and of the cases currently before it. An exchange of views followed. The Commission finds it very useful and rewarding to continue this ongoing exchange with the Court.

741. On 27 July 2000, an informal exchange of views was held between members of the Commission and members of the legal services of ICRC on topics of mutual interest for the two institutions.

D. Representation at the fifty-fifth session of the General Assembly

742. The Commission decided that it should be represented at the fifty-fifth session of the General Assembly by its Chairman, Mr. Chusei Yamada.

³⁶³ *Yearbook* . . . 1999, vol. II (Part Two), pp. 144–145, document A/54/10, paras. 635–637.

³⁶⁴ *Yearbook* . . . 1996, vol. II (Part Two), p. 95, document A/51/10, para. 226.

743. Moreover, at its 2664th meeting, on 18 August 2000, the Commission requested Mr. Pemmaraju Sreenivasa Rao, Special Rapporteur on “International liability for injurious consequences arising out of acts not prohibited by international law (prevention of trans-boundary damage from hazardous activities)” to attend the fifty-fifth session of the General Assembly under the terms of paragraph 5 of Assembly resolution 44/35 of 4 December 1989.

E. International Law Seminar

744. Pursuant to General Assembly resolution 54/111 of 9 December 1999, the thirty-sixth session of the International Law Seminar was held at the Palais des Nations from 10 to 28 July 2000, during the present session of the Commission. The Seminar is intended for advanced students specializing in international law and for young professors or government officials pursuing an academic or diplomatic career or posts in the civil service in their country.

745. Twenty-four participants of different nationalities, mostly from developing countries, were able to take part in the session.³⁶⁵ The participants in the Seminar observed plenary meetings of the Commission, attended specially arranged lectures, and participated in working groups on specific topics.

746. The Seminar was opened by the Commission’s Chairman, Mr. Chusei Yamada. Mr. Ulrich von Blumenthal, Senior Legal Officer of the United Nations Office at Geneva, was responsible for the administration and organization of the Seminar.

747. The following lectures were given by members of the Commission: Mr. Pemmaraju Sreenivasa Rao: “The Work of the ILC”; Mr. Christopher Dugard: “Diplomatic Protection”; Mr. Ian Brownlie: “The International Court of Justice”; Mr. Giorgio Gaja: “The concept of ‘Injured State’”; Mr. Djamchid Momtaz: “Rome Statute of the International Criminal Court”; Mr. Victor Rodríguez Cedeño: “Unilateral Acts of States”; and Mr. James Crawford: “Countermeasures”.

748. Lectures were also given by Mr. Gudmundur Eiriksson, a former member of the Commission, Judge

at the United Nations International Tribunal for the Law of the Sea: “The International Tribunal for the Law of the Sea”; Mr. Pieter Kuijper, Director, Legal Affairs Division, WTO: “WTO Dispute Settlement Mechanism”; Mr. Volker Türk, Legal Adviser, Department of International Protection, UNHCR: “International Protection of Refugees”; Mr. Bertrand Ramcharan, Deputy High Commissioner for Human Rights: “Activities of the Office of the High Commissioner for Human Rights”; and Mrs. Anne Ryniker, Legal Adviser, ICRC: “International Humanitarian Law and the Work of the ICRC”.

749. Seminar participants were assigned to working groups whose main task consisted of preparing the discussions following each conference and of submitting written summary reports on each lecture. A collection of the reports was compiled and distributed to the participants. Under the guidance of Mr. Gerhard Hafner, one group elaborated an annotated bibliography on “The Effects of Armed Conflicts on Treaties”.

750. Participants were also given the opportunity to make use of the facilities of the United Nations Library and to visit the ICRC Museum.

751. The Republic and Canton of Geneva offered its traditional hospitality to the participants with a guided visit of the Alabama and Grand Council Rooms followed by a reception.

752. Mr. Chusei Yamada, Chairman of the Commission, Mr. Ulrich von Blumenthal, on behalf of the United Nations Office at Geneva, and Ms. Monica Feria Tinta and Mr. Payam Shahrjerdi, on behalf of the participants, addressed the Commission and the participants at the close of the Seminar. Each participant was presented with a certificate attesting to his or her participation in the thirty-sixth session of the Seminar.

753. The Commission noted with particular appreciation that the Governments of Denmark, Finland, Germany and Switzerland had made voluntary contributions to the United Nations Trust Fund for the International Law Seminar. The financial situation of the Fund allowed the award of a sufficient number of fellowships to achieve adequate geographical distribution of participants and to bring from developing countries deserving candidates who would otherwise have been prevented from taking part in the session. This year, full fellowships (travel and subsistence allowance) were awarded to 12 candidates and partial fellowship (subsistence or travel only) to 5 candidates.

754. Of the 807 participants, representing 147 nationalities, who have taken part in the Seminar since its inception in 1965, 461 have received a fellowship.

755. The Commission stresses the importance it attaches to the sessions of the Seminar, which enables young lawyers, especially those from developing countries, to familiarize themselves with the work of the Commission and the activities of the many international organizations which have their headquarters in Geneva. The Commission recommends that the General Assembly should again appeal to States to make voluntary

³⁶⁵ The list of participants in the thirty-sixth session of the International Law Seminar is as follows: Mr. Abdelrahman Afifi (Palestinian); Mr. Chatri Archjananun (Thailand); Mr. Boukar Ary Tanimoune (Niger); Mr. Vidjea Barathy (India); Ms. Maria Manuela Farrajota (Portugal); Ms. Monica Feria Tinta (Peru); Mr. Márcio Garcia (Brazil); Ms. Julie Gaudreau (Canada); Mr. Mahmoud Hmoud (Jordan); Mr. Frank Hoffmeister (Germany); Mr. Mactar Kamara (Senegal); Mr. Konstantin Korkelia (Georgia); Mr. Davorin Lapas Croatia); Mr. Erasmo Lara-Cabrera (Mexico); Ms. Carolane Mayanja (Uganda); Mr. Mischa Morgenbesser (Switzerland); Ms. Lipuo Moteetee (Lesotho); Ms. Karen Odaba (Kenya); Mr. Marcos Orellana (Chile); Mr. Guillermo Padrón-Wells (Venezuela); Mr. Payam Shahrjerdi (Islamic Republic of Iran); Ms. Maria Isabel Torres Cazorla (Spain); Ms. Barbara Tószegi (Hungary); Mr. Alain Edouard Traore (Burkina Faso). A Selection Committee, under the Chairmanship of Professor Nguyen-Huu Tru (Honorary Professor, Graduate Institute of International Studies, Geneva), met on 18 May 2000 and selected 24 candidates out of 124 applications for participation in the Seminar.

contributions in order to secure the holding of the Seminar in 2001 with as broad a participation as possible. It has to be emphasized that, due to the increasingly limited number of contributors, the organizers of the Seminar had to draw on the reserve of the Fund this year. Should this situation continue, it is to be feared that the financial situation of the Fund will not allow the same amount of fellowships to be awarded in the future.

756. The Commission noted with satisfaction that in 2000 comprehensive interpretation services were made available to the Seminar. It expresses the hope that the same services will be provided for the Seminar at the next session, despite existing financial constraints.

F. Gilberto Amado Memorial Lecture

757. The fifteenth Memorial Lecture, in honour of Gilberto Amado, the illustrious Brazilian jurist and former Member of the Commission, was given on 18 July 2000 by Mr. Alain Pellet, Professor of International Law at the University of Paris X-Nanterre, member of the Commission, on the subject “‘Human Rightism’ and International Law”.

758. The Gilberto Amado Memorial Lectures have been made possible through the generous contributions of the Government of Brazil, to which the Commission expressed its gratitude. It requested the Chairman to convey its gratitude to the Government of Brazil.