

## **Chapter X**

### **Other decisions and conclusions of the Commission**

#### **A. Special memorial meetings**

247. At its 3641st meeting, held on 20 July 2023, the Commission convened a memorial meeting in honour of the memory of former members Mr. Gaetano Arangio-Ruiz, Mr. Guillaume Pambou-Tchivounda, Mr. Sompong Sucharitkul and Mr. Nugroho Wisnumurti.

248. At its 3652nd meeting, held on 3 August 2023, the Commission convened a memorial meeting in honour of the memory of former member Mr. João Clemente Baena Soares.

#### **B. Inclusion of new topics in the programme of work**

249. At its 3656th meeting, on 4 August 2023, the Commission decided to include the topic “Non-legally binding international agreements” in its programme of work and to appoint Mr. Mathias Forteau as Special Rapporteur.

#### **C. Immunity of State officials from foreign criminal jurisdiction**

250. At its 3621st meeting, on 10 May 2023, the Commission decided to appoint Mr. Claudio Grossman Guiloff as Special Rapporteur for the topic “Immunity of State officials from foreign criminal jurisdiction” to replace Ms. Concepción Escobar Hernández, who was no longer with the Commission. On 17, 18 and 19 July 2023, the Special Rapporteur held informal consultations on the topic, for which the Commission had completed its first reading of the draft articles at its seventy-third session (2022). The Commission awaits comments and observations of Governments to resume consideration at its seventy-fifth session (2024).

#### **D. Programme, procedures and working methods of the Commission and its documentation**

251. On 28 April 2023, the Planning Group was constituted for the present session.

252. The Planning Group held five meetings on 28 April and on 7, 14, 20 and 21 July 2023. It had before it the topical summary of the discussion held in the Sixth Committee of the General Assembly during its seventy-seventh session, prepared by the Secretariat ([A/CN.4/755](#)); General Assembly resolution 77/103 of 7 December 2022 on the report of the International Law Commission on the work of its seventy-third session; General Assembly resolution 77/110 of 7 December 2022 on the rule of law at the national and international levels; and the proposed programme budget for 2024, Programme 6, Legal affairs, subprogramme 3, concerning the progressive development and codification of international law. The Chair of the Planning Group presented an oral report on the work of the Planning Group at the current session to the Commission, at its 3648th meeting, on 27 July 2023. The Commission took note of the oral report.

##### **1. Working Group on the long-term programme of work**

253. At its 1st meeting, on 28 April 2023, the Planning Group decided to establish the Working Group on the long-term programme of work for the present quinquennium, and elected Mr. Marcelo Vázquez-Bermúdez as Chair. The Chair of the Working Group presented an oral report on the work of the Working Group, including on proposals for topics being considered, at the current session to the Planning Group, at its fourth meeting, on 20 July 2023. The Planning Group took note of the oral report.

## 2. Working Group on methods of work of the Commission

254. At its 1st meeting, on 28 April 2023, the Planning Group decided to reconstitute the Working Group on methods of work of the Commission, and elected Mr. Charles Chernor Jalloh as Chair. The Working Group held four meetings on 5 May and 12 and 13 July 2023.

255. The Working Group first held a general exchange of views on the working methods of the Commission, at which time several issues for possible future consideration by the Working Group were raised. These included: the possibility of developing rules of procedure for the Commission; the possibility of developing an internal practice manual on the working methods and procedures of the Commission; the question of possible limits on the length of interventions made in the plenary, as well as on Special Rapporteur reports; the membership size of the Drafting Committees; the possibility of developing guidance on the nomenclature of the texts and instruments adopted by the Commission, including the meaning of output on topics described as draft articles, draft conclusions, draft guidelines, and draft principles; the allocation of time for the deliberation of topics on the programme of the Commission; the question of participation in meetings of the Drafting Committees and Working Groups; the timing of the issuance and distribution of official documents including in the various official languages; the possibility of establishing some mechanism for reviewing the reception by Member States of the past products of the Commission; and the role of the Special Rapporteurs. Views were also expressed on how best to enhance the interaction with the Sixth Committee and other legal bodies, including expert bodies. It was stressed that the relationship between the Commission and the Sixth Committee should be given priority, through formal and informal contact, but that consideration should also be given to how to deepen cooperation with other legal bodies, including regional codification bodies; for example, by organizing regular intersessional virtual meetings, briefings and exchanges of view on topics of shared interest. Additional suggestions included the preparation of a code of conduct for members in relation to issues of conflict of interest and even the possibility of undertaking a review of the statute to address, *inter alia*, issues of representation including gender parity in composition. A further suggestion was that the Working Group undertake a review of the implementation of its prior reports, particularly those adopted in 1996 and 2011. The Working Group also adopted several procedural recommendations (see below).

256. The Chair of the Working Group presented an oral report on the work of the Working Group at the current session to the Planning Group at its 4th meeting, on 20 July 2023. The Planning Group took note of the oral report.

257. The Commission noted the decision of the Working Group to establish a standing agenda, which will serve to organize its work into the future, until the Working Group decides otherwise, composed of the following three items:

1. Revitalization of the working methods and procedures of the International Law Commission.
2. Relationship of the International Law Commission with the General Assembly and other bodies.
3. Other issues.

258. The above standing agenda items are the broad themes under which specific working methods issues concerning both the more internal and external aspects of the work of the Commission will be discussed and debated each year.

259. The Commission further endorsed the recommendations of the Working Group that a new reporting practice be adopted whereby a brief summary of the Working Group's deliberations will be included in the Commission's annual report to the General Assembly, and that from the seventy-fifth session, in 2024, onwards the Working Group will be designated as the "Working Group on methods of work and procedures of the Commission".

260. The Commission requests the Secretariat, under the guidance of the Chair, to prepare a draft of an internal practice guide, handbook or manual on the working methods and procedures of the Commission, containing relevant material drawn from volume I of the *Work of the International Law Commission* and the reports of the Commission addressing methods of work from 1996 and 2011, as well as proposals for improvement made by

members in the previous quinquennium, to be considered by the Working Group once it has concluded its current work on another report on working methods.

### 3. Work programme of the Commission for the remainder of the quinquennium

261. The Commission recalled its decision in 2011 that the Planning Group should cooperate with Special Rapporteurs to define, at the beginning of any new topic, a tentative schedule for the development of the topic over a number of years as may be required, and periodically review the attainment of annual targets in such schedule, updating it when appropriate.<sup>307</sup> The Commission further recalled that it was customary at the beginning of each quinquennium to prepare the Commission's work programme for the remainder of the quinquennium, setting out in general terms the anticipated goals in respect of each topic on the basis of indications by the Special Rapporteurs. It is the understanding of the Commission that the work programme has a tentative character, since the nature and the complexities of the work preclude certainty in making predictions in advance.

#### Work programme (2024–2027)

(a) *Immunity of State officials from foreign criminal jurisdiction*

##### 2024

First (and final) report: discussing *inter alia* the comments received from Governments and possible amendments to the draft articles adopted on first reading.

Completion of the draft articles on second reading.

(b) *Succession of States in respect of State responsibility*

See chapter IX of the present report.

(c) *General principles of law*

##### 2025

Fourth (and final) report: discussing *inter alia* the comments received from Governments and possible amendments to the draft conclusions adopted on first reading.

Completion of the draft conclusions on second reading.

(d) *Sea-level rise in relation to international law*

##### 2024

Additional paper to the second issues paper relating to statehood and protection of persons.

##### 2025

The Study Group will seek to finalize a substantive report on the topic as a whole by consolidating the results of the work undertaken.

(e) *Settlement of disputes to which international organizations are parties*

##### 2024

Second report: analysis of the practice of the settlement of disputes between international organizations and States, as well as between international organizations; formulation of recommended practices for the settlement of such disputes.

##### 2025

Third report: analysis of the practice of the settlement of disputes between international organizations and private parties; formulation of recommended practices for the settlement of such disputes.

Completion of the draft guidelines on first reading.

<sup>307</sup> *Yearbook ... 2011*, vol. II (Part Two), para. 378 (c).

**2027**

Fourth (and final) report: discussing, *inter alia*, the comments received from Governments and possible amendments to the draft guidelines adopted on first reading.

Completion of the draft guidelines on second reading.

(f) *Prevention and repression of piracy and armed robbery at sea*

**2024**

Second report: analysis of regional and subregional practice and initiatives for combating piracy and armed robbery at sea, as well as the resolutions of relevant international organizations, in particular the International Maritime Organization.

**2025**

Third report: analysis of trends in academic writings and the views of learned societies on the topic, as well as the resolutions of the General Assembly and Security Council.

Completion of the draft articles on first reading.

**2027**

Fourth (and final) report: discussing, *inter alia*, the comments received from Governments and possible amendments to the draft articles adopted on first reading.

Completion of the draft articles on second reading.

(g) *Subsidiary means for the determination of rules of international law*

**2024**

Second report: focusing on the function of subsidiary means, especially judicial decisions and their relationship to the sources of international law, namely treaties, customary international law and general principles of law. Possible consideration of the question of the unity and coherence of international law in relation to conflicting judicial decisions by different courts and tribunals.

Preliminary consideration of the memorandum by the Secretariat surveying the case law of international courts and tribunals, and other bodies, which could be particularly relevant for the future work on the topic of subsidiary means for the determination of rules of international law.

**2025**

Third report: analysis of teachings and other subsidiary means for the determination of rules of international law, *inter alia*, the work of public and private expert bodies and the resolutions of international organizations; any other miscellaneous issues arising from the study of subsidiary means and the input of States on the topic.

Completion of the draft conclusions on first reading.

**2027**

Fourth (and final) report: discussing, *inter alia*, the comments received from Governments, international organizations and others, and possible amendments to the draft conclusions adopted on first reading.

Completion of the draft conclusions on second reading.

**4. Consideration of General Assembly resolution 77/110 of 7 December 2022 on the rule of law at the national and international levels**

262. The General Assembly, in its resolution 77/110 on the rule of law at the national and international levels, *inter alia*, reiterated its invitation to the Commission to comment, in its report to the General Assembly, on its current role in promoting the rule of law. Since its sixtieth session (2008), the Commission has commented at each of its sessions on its role in promoting the rule of law. The Commission notes that the comments contained in paragraphs

341 to 346 of its 2008 report<sup>308</sup> remain relevant and reiterates the comments made at its previous sessions.<sup>309</sup>

263. The Commission recalls that the rule of law is of the essence of its work. The Commission's purpose, as set out in article 1 of its statute, is to promote the progressive development of international law and its codification.

264. Having in mind the principle of the rule of law in all its work, the Commission is fully conscious of the importance of the implementation of international law at the national level, and aims at promoting respect for the rule of law at the international level.

265. In fulfilling its mandate concerning the progressive development of international law and its codification, the Commission will continue to take into account the rule of law as a principle of governance and the human rights and sustainable development that are fundamental to the rule of law, as reflected in the preamble and Article 13 of the Charter of the United Nations and in the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels.<sup>310</sup>

266. In its current work, the Commission is aware of "the interrelationship between the rule of law and the three pillars of the United Nations (peace and security, development, and human rights)",<sup>311</sup> without emphasizing one at the expense of the other. The Commission also welcomes recent developments addressing sustainable development and climate change, and the recourse to advisory proceedings, in particular, the General Assembly's request for an advisory opinion submitted by consensus to the International Court of Justice.<sup>312</sup>

267. In fulfilling its mandate concerning the progressive development and codification of international law, the Commission is conscious of current challenges to the rule of law, including the need to ensure gender parity in national and international institutions. In this regard, the Commission itself recognizes the need for gender parity in its own composition.

268. Recalling that the General Assembly has stressed the importance of promoting the sharing of national best practices on the rule of law,<sup>313</sup> the Commission wishes to recall that much of its work consists of collecting and analysing national practices related to the rule of law with a view to assessing their possible contribution to the progressive development and codification of international law.

269. The Commission particularly welcomes the decision of the General Assembly inviting Member States to focus their comments regarding the rule of law, during the

<sup>308</sup> *Yearbook ... 2008*, vol. II (Part Two), pp. 146–147.

<sup>309</sup> *Yearbook ... 2009*, vol. II (Part Two), p. 150, para. 231; *Yearbook ... 2010*, vol. II (Part Two), pp. 202–204, paras. 390–393; *Yearbook ... 2011*, vol. II (Part Two), p. 178, paras. 392–398; *Yearbook ... 2012*, vol. II (Part Two), p. 87, paras. 274–279; *Yearbook ... 2013*, vol. II (Part Two), p. 79, paras. 171–179; *Yearbook ... 2014*, vol. II (Part Two) and Corr.1, p. 165, paras. 273–280; *Yearbook ... 2015*, vol. II (Part Two), p. 85, paras. 288–295; *Yearbook ... 2016*, vol. II (Part Two), pp. 227–228, paras. 314–322; *Yearbook ... 2017*, vol. II (Part Two), pp. 149–150, paras. 269–278; *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, paras. 372–380; *ibid.*, *Seventy-fourth Session, Supplement No. 10 (A/74/10)*, paras. 293–301; *ibid.*, *Seventy-sixth Session, Supplement No. 10 (A/76/10)*, paras. 304–312; and *ibid.*, *Seventy-seventh Session, Supplement No. 10 (A/77/10)*, paras. 258–269.

<sup>310</sup> General Assembly resolution 67/1 of 24 September 2012 on the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, para. 41.

<sup>311</sup> Report of the Secretary-General on measuring the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations, [S/2013/341](#), para. 70.

<sup>312</sup> General Assembly resolution 77/276 of 29 March 2023, entitled, "Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of Climate Change". See International Tribunal for the Law of the Sea, Request for an advisory opinion submitted by the Commission of Small Island States on Climate Change and International Law, 12 December 2022; and Inter-American Court of Human Rights, Request for an advisory opinion on the climate emergency and human rights submitted by Chile and Colombia, 9 January 2023.

<sup>313</sup> General Assembly resolution 77/110 of 19 December 2022 on the rule of law at the national and international levels, paras. 2 and 19.

upcoming Sixth Committee debate at the seventy-eighth session of the General Assembly, on the subtopic “Using technology to advance access to justice for all”.<sup>314</sup>

270. In this regard, the Commission notes that technological innovations may both pose challenges and provide opportunities for international law. For example, as evidenced by the work on the topic of prevention and repression of piracy and armed robbery at sea, which was considered in the present session, technology has changed the way in which these crimes are carried out. The Commission in its debate considered current and emerging technologies and the role that they may play in both combating piracy and armed robbery at sea, as well as facilitating the international cooperation essential to ensure justice and access to justice for those affected by these crimes. The Commission is consistently mindful of technological challenges faced by the various nations of the world and works to ensure that the outcomes of Commission topics are sufficiently inclusive and practical to be of greatest possible value now and in the future. Accordingly, the Commission wishes to reiterate the great value of input from States and international organizations, particularly on how they are using technologies to improve access to justice for all within their own States and within their international partnerships. The Commission stressed the importance of its website to disseminate its work.<sup>315</sup>

271. Bearing in mind the role of multilateral treaty processes in advancing the rule of law,<sup>316</sup> the Commission recalls that the work of the Commission on different topics has led to several multilateral treaty processes and to the adoption of a number of multilateral treaties.<sup>317</sup>

272. The Commission is of the view that the rule of law is greatly served when the law in such multilateral treaties may be supported by new technologies. In this regard, the Commission noted the reference by Mr. Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, in his statement of 11 May 2023 to the Commission,<sup>318</sup> that the legal regime under the United Nations Convention on the Law of the Sea continues to evolve, pursuant to General Assembly resolution 72/249 of 24 December 2017,<sup>319</sup> with the finalization of the text of an agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction which, *inter alia*, includes substantive provisions to further cooperation in capacity-building and the transfer of marine technology to strengthen the rule of law and help ensure the continued health of our global waters. The text of this agreement was subsequently adopted by the intergovernmental conference on 19 June 2023.<sup>320</sup>

273. In the course of the present session, in the first year in which the Commission returned to its usual working methods without the constraints of the COVID-19 pandemic, the Commission continues to make its contribution to the promotion of the rule of law, including by working on the topics in the programme of work for the present session: “General principles of law” (adopted on first reading at the present session); “Succession of States in respect of State responsibility”; “Sea-level rise in relation to international law”; “Settlement of disputes to which international organizations are parties”; “Prevention and repression of

<sup>314</sup> *Ibid.*, para. 23.

<sup>315</sup> See section 11, below, and <https://legal.un.org/ilc/>.

<sup>316</sup> General Assembly resolution 77/110 of 19 December 2022 on the rule of law at the national and international level, para. 8.

<sup>317</sup> See, more specifically, *Yearbook ... 2015*, vol. II (Part Two), para. 294.

<sup>318</sup> See United Nations Office of Legal Affairs, Statement by Mr. Miguel de Serpa Soares to the International Law Commission, Geneva, 11 May 2023, pp. 24–26.

<sup>319</sup> General Assembly resolution 72/249 of 24 December 2017 on international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, paras. 1, 2, 6–9, and 23 (considering the recommendations in the Report of the Preparatory Committee (A/AC.287/2017/PC.4/2), established by General Assembly resolution 69/292 of 19 June 2015).

<sup>320</sup> Intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (A/CONF.232/2023/4).

piracy and armed robbery at sea”; and “Subsidiary means for the determination of rules of international law”.

274. The Commission reiterates its commitment to the promotion of the rule of law in all of its activities.

## 5. Commemoration of the seventy-fifth anniversary of the International Law Commission

275. The Commission discussed the holding of the seventy-fifth anniversary session in Geneva in 2024 and agreed that during the first part of the session:

(a) there should be a solemn meeting of the Commission to which dignitaries, including the Secretary-General, the President of the General Assembly, the President of the International Court of Justice, the United Nations High Commissioner for Human Rights, and representatives of the host Government should be invited;

(b) there should be one and a half days of meetings with legal advisers of Ministries of Foreign Affairs dedicated to the work of the Commission;

(c) Member States, in association with regional organizations, professional associations, academic institutions and members of the Commission concerned, should be encouraged to convene national or regional meetings, which would be dedicated to the work of the Commission.

276. The Commission recommended that the Secretariat, in consultation with the Chair and Bureau of the seventy-fourth session for the remainder of 2023, and then in consultation with the Chair designate and Bureau designate for the seventy-fifth session in 2024, assist in making arrangements for the implementation of (a) and (b).

## 6. Honoraria

277. The Commission reiterates its views concerning the question of honoraria, resulting from the adoption by the General Assembly of its resolution 56/272 of 27 March 2002, which have been expressed in the previous reports of the Commission.<sup>321</sup> The Commission emphasizes that resolution 56/272 especially affects Special Rapporteurs, as it compromises support for their research. This is without prejudice to the establishment of the trust fund pursuant to paragraph 37 of resolution 77/103 of 7 December 2022.

## 7. Documentation and publications

278. The Commission underscored once more the unique nature of its functioning in the progressive development of international law and its codification, in that it attaches particular relevance to State practice and the decisions of national and international courts in its treatment of questions of international law. The Commission reiterated the importance of providing and making available all evidence of State practice and other sources of international law relevant to the performance of the function of the Commission. The reports of its Special Rapporteurs require an adequate presentation of precedents and other relevant data, including treaties, judicial decisions and doctrine, and a thorough analysis of the questions under consideration. The Commission stressed that it and its Special Rapporteurs

<sup>321</sup> See *Yearbook ... 2002*, vol. II (Part Two), pp. 102–103, paras. 525–531; *Yearbook ... 2003*, vol. II (Part Two), p. 101, para. 447; *Yearbook ... 2004*, vol. II (Part Two), pp. 120–121, para. 369; *Yearbook ... 2005*, vol. II (Part Two), p. 92, para. 501; *Yearbook ... 2006*, vol. II (Part Two), p. 187, para. 269; *Yearbook ... 2007*, vol. II (Part Two), p. 100, para. 379; *Yearbook ... 2008*, vol. II (Part Two), p. 148, para. 358; *Yearbook ... 2009*, vol. II (Part Two), p. 151, para. 240; *Yearbook ... 2010*, vol. II (Part Two), p. 203, para. 396; *Yearbook ... 2011*, vol. II (Part Two), p. 178, para. 399; *Yearbook ... 2012*, vol. II (Part Two), p. 87, para. 280; *Yearbook ... 2013*, vol. II (Part Two), p. 79, para. 181; *Yearbook ... 2014*, vol. II (Part Two) and Corr.1, p. 165, para. 281; *Yearbook ... 2015*, vol. II (Part Two), p. 87, para. 299; *Yearbook ... 2016*, vol. II (Part Two), p. 229, para. 333; *Yearbook ... 2017*, vol. II (Part Two), p. 150, para. 282; *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, para. 382; *ibid.*, *Seventy-fourth Session, Supplement No. 10 (A/74/10)*, para. 302; *ibid.*, *Seventy-sixth Session, Supplement No. 10 (A/76/10)*, para. 317; and *ibid.*, *Seventy-seventh Session, Supplement No. 10 (A/77/10)*, para. 270.

are fully conscious of the need to achieve economies whenever possible in the overall volume of documentation and will continue to bear such considerations in mind. While the Commission is aware of the advantages of being as concise as possible, it reiterates its strong belief that an *a priori* limitation cannot be placed on the length of the documentation and research projects relating to the work of the Commission. It follows that Special Rapporteurs cannot be asked to reduce the length of their reports following submission to the Secretariat, irrespective of any estimates of their length made in advance of submission to the Secretariat. Word limits are not applicable to Commission documentation, as has been consistently reiterated by the General Assembly.<sup>322</sup> The Commission stresses also the importance of the timely preparation of reports by Special Rapporteurs and their submission to the Secretariat for processing and submission to the Commission sufficiently in advance so that the reports are issued in all official languages, ideally four weeks before the start of the relevant part of the session of the Commission. In this respect, the Commission reiterates the importance of Special Rapporteurs submitting their reports within the time limits specified by the Secretariat. Only on this basis can the Secretariat ensure that official documents of the Commission are published in due time in the six official languages of the United Nations.

279. On the other hand, the Commission called on the Secretariat to ensure that the documentation services involved in editing and translating documents increase their efficiencies, in particular, in ensuring the timely processing and circulation of Special Rapporteur reports from the original languages in which they are prepared and all the other official languages of the United Nations.

280. The Commission recognizes the particular relevance and significant value to the work of the Commission of the legal publications prepared by the Secretariat.<sup>323</sup> The Commission notes with appreciation the efforts of the Secretariat in desktop publishing, which greatly enhanced the timely issuance of such publications for the Commission, despite constraints due to lack of resources. The Commission expressed its appreciation for the issuance, at the beginning of the present quinquennium, of the tenth edition in English of *The Work of the International Law Commission*, which is a vital tool in the Commission's work, and urges that its early availability in the various official languages be ensured.

281. The Commission reiterated its firm view that the summary records of the Commission, constituting crucial *travaux préparatoires* in the progressive development and codification of international law, cannot be subject to arbitrary length restrictions. The Commission once more noted with satisfaction that the measures introduced at its sixty-fifth session (2013) to streamline the processing of its summary records had resulted in the more expeditious transmission to members of the Commission of the English version for timely correction and prompt release. The Commission once more called on the Secretariat to resume the practice of preparing provisional summary records in both English and French, and to continue its efforts to sustain the measures in question, in order to ensure the expeditious transmission of the provisional records to members of the Commission. The Commission further noted that the more recent practice of submitting to the members of the Commission the provisional records electronically for corrections to be made in track changes was working smoothly. The Commission also welcomed the fact that those working methods had led to the more rational use of resources and called on the Secretariat to continue its efforts to facilitate the preparation of the definitive records in all official languages, without compromising their integrity.

282. The Commission expressed its gratitude to all Services involved in the processing of documentation, both in Geneva and in New York, for their efforts in seeking to ensure timely and efficient processing of the Commission's documents, often under narrow time constraints. It emphasized that timely and efficient processing of documentation was

<sup>322</sup> For considerations relating to page limits on the reports of Special Rapporteurs, see, for example, *Yearbook ... 1977*, vol. II (Part Two), p. 132, and *Yearbook ... 1982*, vol. II (Part Two), pp. 123–124. See also General Assembly resolution 32/151 of 9 December 1977, para. 10, and General Assembly resolution 37/111 of 16 December 1982, para. 5, as well as subsequent resolutions on the annual reports of the Commission to the General Assembly.

<sup>323</sup> See *Yearbook ... 2007*, vol. II (Part Two), paras. 387–395. See also *Yearbook ... 2013*, vol. II (Part Two), para. 185.



essential for the smooth conduct of the Commission's work. The work done by all Services was all the more appreciated under the current conditions.

283. The Commission reaffirmed its commitment to multilingualism and recalled the paramount importance to be given in its work to the equality of the six official languages of the United Nations, which had been emphasized in General Assembly resolution 76/268 of 10 June 2022.<sup>324</sup>

284. The Commission expressed its gratitude for the continued efforts by the United Nations Library at Geneva to provide effective research support services, including the online information package and multilingual bibliographies that are prepared by the Library exclusively for the Commission, and expressed its gratitude for the briefings on library services and the guided tour of the Library and Archives it received in May 2023. The Commission commends the continuing efforts of the Library to maintain excellence in service despite the effects of protracted budget restrictions, which have begun to impact the capacity of the Library to implement its mandate and to adequately maintain its collections. The Commission noted that library services are essential to the functioning of the Commission and expressed concern that current budget restrictions may inhibit the Library's ability to provide specialized research assistance and to procure additional digital products and publications required to support the Commission during the closing of the Library building due to renovations. The Commission emphasized both the need to maintain the budget and staff resources of the Library and to limit as much as possible the impact of the renovations on the access to research spaces and the legal collection of the Library, especially during the Commission's seventy-fifth session. Finally, the Commission wished to encourage the continuing evolution of the United Nations Library at Geneva towards a research centre of excellence to build research capacity and to improve the accessibility and diversity of resources available to the Commission in the performance of its mandate.

## 8. *Yearbook of the International Law Commission*

285. The Commission reiterated that the *Yearbook of the International Law Commission* was critical to the understanding of the Commission's work in the progressive development of international law and its codification, as well as in the strengthening of the rule of law in international relations. The Commission took note that the General Assembly, in its resolution 77/103 of 7 December 2022, expressed its appreciation to Governments that had made voluntary contributions to the Trust Fund on the backlog relating to the *Yearbook of the International Law Commission*, and encouraged further contributions to the Trust Fund.

286. The Commission recommends that the General Assembly, as in its resolution 77/103, *express its satisfaction* with the remarkable progress achieved in recent years in catching up with the backlog of the *Yearbook of the International Law Commission* in all six languages, and *welcome the efforts* made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog; and *encourage* the Division of Conference Management to continue providing all necessary support to the Editing Section in advancing work on the *Yearbook*.

## 9. **Trust fund on Assistance to Special Rapporteurs**

287. The Commission notes with appreciation that, pursuant to paragraph 37 of General Assembly resolution 77/103 of 7 December 2022, the Secretary-General had established a trust fund to receive voluntary contributions for assistance to Special Rapporteurs of the International Law Commission or Chairs of its Study Groups and matters ancillary thereto. While reiterating the importance of ensuring necessary allocations for the Commission and its secretariat in the regular budget, the Commission appeals to Member States, NGOs, private entities and individuals to contribute to the trust fund, in accordance with the terms of the trust fund, including the need for the financial contributions not to be earmarked for

<sup>324</sup> See also General Assembly resolutions 69/324 of 11 September 2015; 71/328 of 17 September 2017; and 73/346 of 16 September 2019. See further General Assembly resolution 77/103 of 7 December 2022.

any specific activity of the International Law Commission, its Special Rapporteurs or Chairs of its Study Groups.

#### **10. Assistance of the Codification Division**

288. The Commission expressed its appreciation for the invaluable assistance of the Codification Division of the Secretariat in its substantive servicing of the Commission and the ongoing assistance provided to Special Rapporteurs and the preparation of in-depth research studies pertaining to aspects of topics presently under consideration, as requested by the Commission. In particular, the Commission expressed its appreciation to the Secretariat for the preparation of memorandums on prevention and repression of piracy and armed robbery at sea (A/CN.4/757); and on subsidiary means for the determination of rules of international law – elements in the previous work of the International Law Commission that could be particularly relevant to the topic (A/CN.4/759). The Commission also recognized the work of the Codification Division in providing texts in different languages to ensure the quality and representativeness of the work of the Drafting Committee.

#### **11. Websites**

289. The Commission expressed its appreciation to the Secretariat for the website on the work of the Commission, and welcomed its continuous updating and improvement.<sup>325</sup> The Commission reiterated that the website and other websites maintained by the Codification Division<sup>326</sup> constitute an invaluable resource for the Commission and for researchers of the work of the Commission in the wider community, thereby contributing to the rule of law and to the overall strengthening of the teaching, study, dissemination and wider appreciation of international law. The Commission welcomed the fact that the website on the work of the Commission included information on the current status of the topics on the agenda of the Commission, as well as links to the advance edited versions of the summary records of the Commission and the audio and video recordings of the plenary meetings of the Commission.

#### **12. United Nations Audiovisual Library of International Law**

290. The Commission once more noted with appreciation the extraordinary value of the United Nations Audiovisual Library of International Law<sup>327</sup> in promoting a better knowledge of international law and the work of the United Nations in the field, including the work of the Commission.

#### **13. Consideration of the convening in the present quinquennium of the first part of a session of the Commission in New York**

291. Further to paragraph 281 of the report of its seventy-third session (2022), in which the Commission recommended the holding of the first part of a session in New York during the next quinquennium with the view to enhancing its dialogue with the General Assembly to facilitate direct contact between the Commission and delegates of the Sixth Committee, the Commission takes note that it will not be able to meet at the United Nations Headquarters in New York due to the unavailability of conference rooms for the first part of its seventy-fifth (2024) or seventy-sixth session (2025). It therefore recommends that the first part of its seventy-seventh session (2026) be held in New York. The Commission requests the Secretariat to proceed with the necessary administrative and organizational arrangements to facilitate the holding of that part of the session in New York. Particular attention was drawn to the need to ensure access to sufficient conference and library facilities at Headquarters and electronic access to the resources and research assistance of the Library of the United Nations Office at Geneva. The need to ensure access and sufficient space for assistants to members of the Commission to attend meetings of the Commission was also emphasized.

<sup>325</sup> <http://legal.un.org/ilc>.

<sup>326</sup> In general, available from: <http://legal.un.org/cod/>.

<sup>327</sup> [http://legal.un.org/avl/intro/welcome\\_avl.html](http://legal.un.org/avl/intro/welcome_avl.html).

## **E. Date and place of the seventy-fifth session of the Commission**

292. The Commission decided that its seventy-fifth session would be held in Geneva from 15 April to 31 May and from 1 July to 2 August 2024.

## **F. Cooperation with other bodies**

293. At the 3639th meeting, on 18 July 2023, Judge Joan E. Donoghue, President of the International Court of Justice, addressed the Commission and briefed it on the recent judicial activities of the Court.<sup>328</sup> An exchange of views followed.

294. The Inter-American Juridical Committee was represented at the present session of the Commission by Mr. George Rodrigo Bandeira Galindo, member of the Committee, who addressed the Commission at the 3636th meeting, on 4 July 2023, and gave an overview of the activities of the Committee on various legal issues.<sup>329</sup> An exchange of views followed.

295. The African Union Commission on International Law was represented at the present session of the Commission by Ms. Hajer Gueldich, Chair of the Commission and Mr. Kevin Ferdinand Ndjimba, its General Rapporteur. They addressed the Commission at its 3637th meeting, on 6 July 2023, and gave an overview of the activities of the African Union Commission on various legal issues.<sup>330</sup> An exchange of views followed.

296. The Committee of Legal Advisers on Public International Law of the Council of Europe was represented at the present session of the Commission by Mr. Helmut Tichy, Chair of the Committee, and Mr. Jörg Polakiewicz, Legal Adviser to the Council of Europe, who addressed the Commission at its 3638th meeting, on 13 July 2023.<sup>331</sup> They focused on the current activities of the Committee in the field of public international law, as well of the Council of Europe. An exchange of views followed.

297. The Asian-African Legal Consultative Organization was represented at the present session of the Commission by Mr. Kamalinne Pinitpuvadol, the Secretary-General of the Organization, who addressed the Commission at its 3639th meeting, on 18 July 2023.<sup>332</sup> He briefed the Commission on the organization and provided an overview of its activities. An exchange of views followed.

298. On 4 July 2023, an informal exchange of views was held between members of the Commission and the International Committee of the Red Cross (ICRC) on matters of mutual interest. Welcoming remarks were made by Mr. Nils Melzer, Director, International Law, Policy and Humanitarian Diplomacy, ICRC, and opening remarks by Ms. Cordula Droege, Chief Legal Officer and Head of the Legal Division, ICRC, and Ms. Patrícia Galvão Teles, Chair of the Commission. A discussion was held on “Current challenges for the implementation of international law”, moderated by Ms. Droege. Presentations were made on the topics “International humanitarian law and cyber operations during armed conflicts” by Mr. Tilman Rodenhäuser and Mr. Kubo Mačák, Legal Advisers, ICRC, and on “Subsidiary means for the determination of rules of international law” by Mr. Charles C. Jalloh, Special Rapporteur on the topic. Each set of presentations was followed by a discussion moderated by Ms. Droege. Concluding remarks were made by Mr. Melzer.

## **G. Representation at the seventy-eighth session of the General Assembly**

299. The Commission decided that it should be represented at the seventy-eighth session of the General Assembly by its Chair, Ms. Patrícia Galvão Teles. The Chair during the first part of the session, Ms. Nilüfer Oral, will also attend.

<sup>328</sup> The statement is recorded in the summary record of that meeting.

<sup>329</sup> *Idem.*

<sup>330</sup> *Idem.*

<sup>331</sup> *Idem.*

<sup>332</sup> *Idem.*

## H. International Law Seminar

300. Pursuant to General Assembly resolution 77/103 of 19 December 2022, the fifty-seventh session of the International Law Seminar was held at the Palais des Nations from 3 to 21 July 2023, during the present session of the Commission. The Seminar is intended for young jurists specializing in international law, and young professors or government officials pursuing an academic or diplomatic career in posts in the civil service of their countries.

301. Twenty-three participants of different nationalities, from all regional groups, took part in the session.<sup>333</sup> The participants attended plenary meetings of the Commission and specially arranged lectures, and participated in working groups on specific topics.

302. Ms. Patrícia Galvão Teles, Chair of the Commission, and Ms. Nilüfer Oral opened the Seminar. Mr. Markus Schmidt, Senior Legal Adviser to the United Nations Office at Geneva, was responsible for the administration, organization and conduct of the Seminar and served as its Director. Mr. Vittorio Mainetti, international law expert and consultant, acted as Coordinator, assisted by Ms. Kira Reitemeier and Ms. Nomungerel Jamsranjav, legal assistants.

303. The following lectures were given by members of the Commission: “Introduction to the work of the International Law Commission” by Mr. Mathias Forteau; “The contribution of the International Law Commission to the development of international law” by Mr. Dapo Akande; “Subsidiary means for the determination of rules of international law” by Mr. Charles C. Jalloh; “Particular customary international law” by Mr. George Rodrigo Bandeira Galindo; “The International Law Commission and the Sixth Committee” by Mr. Giuseppe Nesi; “General principles of law” by Mr. Marcelo Vázquez-Bermúdez; “The impact of the burden of proof on the overall determination of reparations in *Democratic Republic of the Congo v. Uganda* case (International Court of Justice 2022)” by Mr. Ivon Mingashang; “Immunity of State officials from foreign criminal jurisdiction” by Mr. Claudio Grossman Guiloff; “Prevention and repression of piracy and armed robbery at sea” by Mr. Yacouba Cissé; “Settlement of disputes to which international organizations are parties” by Mr. August Reinisch; “Legal aspects of Governmental representation at the United Nations” by Ms. Phoebe Okowa; and “The International Criminal Court and the issue of immunities” by Mr. Dapo Akande and Mr. Rolf Einar Fife. In addition, a round table was organized with four co-Chairs of the Study Group on the topic “Sea-level rise in relation to international law”, Mr. Bogdan Aurescu, Ms. Patrícia Galvão Teles, Ms. Nilüfer Oral and Mr. Juan José Ruda Santolaria.

304. A lecture was given by Ms. Laurence Boisson de Chazournes, Professor at the University of Geneva, on “Prevention and settlement of disputes relating to the environment and climate change”.

305. Participants visited the exhibition “100 years of Multilateral Cooperation in Geneva” at the United Nations Museum Geneva, led by Mr. Alex Renault, historian and adviser to the United Nations Library and Archives Geneva. Participants also visited the International Labour Organization (ILO), under the guidance of Mr. Remo Becci, Director of the ILO Archives, and attended two presentations given by Mr. Dražen Petrović, Registrar of the ILO Administrative Tribunal, on “International administrative tribunals”, and Mr. Georges

<sup>333</sup> The following persons participated in the Seminar: Ms. Meriem Agrebi (Tunisia); Mr. Manduul Alimaa (Mongolia); Mr. Gergó Barna Balázs (Hungary); Ms. Kezia Campbell-Erskine (Guyana); Mr. Stefano D’Aloia (Italy); Mr. Joel Diaz Rodriguez (Peru); Mr. Moussa Fadiga (Côte d’Ivoire); Mr. Natnael Fitsum Tekeste (Eritrea); Ms. Frida Fostvedt (Norway); Ms. Omnia Gadalla (Egypt); Ms. Bahareh Ghanoon (Islamic Republic of Iran); Ms. Randa Hasfura (El Salvador); Mr. Marvin Ikondere (Uganda); Ms. Natalia Jiménez Alegria (Mexico); Ms. Jolane T. Lauzon (Canada); Ms. Yasmine Luhandjula (Democratic Republic of the Congo); Mr. Neil Nucup (Philippines); Ms. Magma Sountouma (Togo); Ms. Dana Talic (Saudi Arabia); Ms. Ornela Flavia Vanzillotta (Argentina); Ms. Anita Yadav (India); Mr. Satomi Yanagidani (Japan); and Ms. Patricia Zghibarta (Republic of Moldova). The Selection Committee, chaired by Mr. Makane Moïse Mbengue, Professor of International Law at the University of Geneva, met on 3 May 2023 and selected 23 candidates from 105 applications.

Politakis, ILO Legal Adviser, on “ILO standard-setting”. They also visited the World Trade Organization (WTO) and attended presentations by Ms. Gabrielle Marceau, Senior Counsellor at the Research Division, and Mr. Juan Pablo Moya Hoyos, Dispute settlement Lawyer at WTO.

306. A day trip was organized to Lausanne to the Swiss Institute of Comparative Law, where a special programme was specifically designed, with the participation of Mr. Lukas Heckendorn Urscheler, Acting Director, Ms. Nathalie Matthey, Head of the Library, Mr. John Curran, Legal Adviser, Common Law, Ms. Ilaria Pretelli, Legal Adviser, Italian Law, Ms. Carole Viennet, Legal Adviser, French Law, and Mr. Henrik Westermark, Legal Adviser, Scandinavian Law.

307. Participants attended a workshop hosted by the University of Geneva on the topic “Unravelling waves: exploring climate change’s impact on the law of the sea and international water law”, with the participation of Ms. Laurence Boisson de Chazournes, Professor at the University of Geneva, Ms. Mara Tignino, Reader, University of Geneva, and Coordinator of the Platform for International Water Law/Geneva Water Hub, and Ms. Patrícia Galvão Teles, Ms. Nilüfer Oral, Mr. Mario Oyarzábal, Mr. Juan José Ruda Santolaria, members of the Commission. They also attended a conference on “Social justice and the future of ILO”, in honour of Mr. Francis Maupain, former ILO legal adviser, at the Graduate Institute of International and Development Studies, Geneva.

308. Two working groups, on “Identifying new topics for the International Law Commission” and “Regionalism and universalism in the work of the International Law Commission” were organized and participants were assigned to one of them. Two members of the Commission, Mr. Dapo Akande and Mr. George Rodrigo Bandeira Galindo, respectively, supervised and provided guidance to the working groups. Each group prepared a report and presented its findings during the last working session of the Seminar. The reports were compiled and distributed to all participants, as well as to the members of the Commission.

309. Participants also attended a session with the International Law Seminar Alumni Network. Ms. Verity Robson (alumna 2017), President of the Network, Mr. Moritz Rudolf (alumnus 2017), Vice-President of the Network, Ms. Mary Chong (alumna 2017), Vice-President of the Network, and Mr. Vittorio Mainetti, Secretary-General of the Network and Coordinator of the International Law Seminar, addressed the participants and presented the work of the Network.

310. The Republic and Canton of Geneva offered its traditional hospitality at the Geneva Hôtel de Ville. Seminar participants visited the Alabama room and the premises of the cantonal authorities, guided by Mr. Samy Bensalem, Deputy Head of Protocol of the Republic and Canton of Geneva.

311. The Chair of the Commission, the Director of the International Law Seminar and Mr. Marvin Ikondere (Uganda), on behalf of participants attending the Seminar, addressed the Commission during the ceremony of diplomas. Each participant was presented with a diploma.

312. The Commission noted with preoccupation that, in recent years, the finances of the International Law Seminar have been adversely affected by economic and financial factors, which in turn has had an impact on what the Seminar can offer in terms of stipends. The situation is now much better than it was in 2019, due to two large voluntary contributions the Seminar have now secured on a regular basis. However, the Seminar must nonetheless reflect on ways and means to broaden its financial basis in the future. In 2023, 16 fellowships were granted (15 for travel and subsistence, 1 for subsistence only).

313. Since its inception in 1965, 1,307 participants, representing 178 nationalities, have taken part in the Seminar. Some 797 participants have received a fellowship.

314. The Commission stresses the importance it attaches to 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 based in Geneva. The Commission recommends that the General Assembly should again appeal to States to make voluntary contributions in order to secure the organization of the Seminar in 2024 with as broad participation as possible, and an adequate geographical distribution.

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