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Summary record of the 1875th meeting

Topic:
Other topics

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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE THIRTY-SEVENTH SESSION

Held at Geneva from 6 May to 26 July 1985

1875th MEETING

Monday, 6 May 1985, at 3.10 p.m.

Outgoing Chairman: Mr. Alexander YANKOV
Chairman: Mr. Satya Pal JAGOTA

Present: Chief Akinjide, Mr. Balandá, Mr. Barboza, Mr. Boutros Ghali, Mr. Calero Rodrigues, Mr. Castañeda, Mr. Díaz González, Mr. El Rasheed Mohamed Ahmed, Mr. Flitan, Mr. Francis, Mr. Jacovides, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ogiso, Mr. Razafindralambo, Mr. Reuter, Mr. Riphagen, Sir Ian Sinclair, Mr. Sucharitkul, Mr. Thiam, Mr. Ushakov.

Opening of the session

1. The OUTGOING CHAIRMAN declared the thirty-seventh session of the International Law Commission open and extended a warm welcome to members, to the Legal Counsel, to the Secretary of the Commission and to all the secretariat staff.

Tribute to the memory of Mr. Robert Q. Quentin-Baxter and Mr. Constantin A. Stavropoulos

2. The OUTGOING CHAIRMAN expressed members' shock and sadness at the deaths some months after the thirty-sixth session of Mr. Robert Quentin-Baxter and Mr. Constantin Stavropoulos. As international jurists, colleagues and gentlemen of the highest order, both men would be sorely missed.

At the invitation of the outgoing Chairman, the Commission observed one minute's silence in tribute to the memory of Mr. Robert Quentin-Baxter and Mr. Constantin Stavropoulos.

Congratulations to Mr. Jens Evensen and Mr. Zhengyu Ni, elected Judges of the International Court of Justice

3. The OUTGOING CHAIRMAN said that the Commission would also miss two other valued colleagues, Mr. Jens Evensen and Mr. Zhengyu Ni, who had been elected Judges of the ICJ. It could, however, take pride in those elections and all its members would no doubt wish him to convey their warmest congratulations to the two new Judges.

Statement by the outgoing Chairman

4. The OUTGOING CHAIRMAN said that he had presented the report of the Commission on the work of its thirty-sixth session (A/39/10) to the General Assembly at its thirty-ninth session; it had been well received and carefully considered in the Sixth Committee. A topical summary of the Sixth Committee's debate on the subject had been circulated by the Secretariat (A/CN.4/L.382). In presenting the report, he had indicated the progress achieved in the Commission and had stressed the permanent and dynamic nature of the interrelationship between the Sixth Committee and the Commission. He had also paid tribute to the late Prime Minister of India, Mrs. Indira Gandhi, for her valuable contribution to the strengthening of international peace and understanding.

5. By its resolution 39/85, the General Assembly had expressed appreciation for the Commission's work at its thirty-sixth session. It had also recommended that the Commission should continue its work on all the topics in its current programme, while taking into account the comments of Governments.

6. By its resolution 39/80, the General Assembly had requested the Commission to continue work on the draft Code of Offences against the Peace and Security of Mankind and, specifically, to prepare an introduction as well as a list of offences, taking into account the progress made at the Commission's thirty-sixth session and the views expressed at the thirty-ninth session of the General Assembly. It had also decided to include in the provisional agenda for its fortieth session an item on the draft code, for consideration in conjunction with the report of the Commission.

7. By its resolution 39/86, the General Assembly had decided that the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations should be held at Vienna from 18 February to 21 March 1986. It had further decided that the draft articles adopted by the Commission at its thirty-fourth session¹ should be referred to the Conference as the basic proposal for its consideration and had requested the Secretary-General to arrange for the presence at the Conference of Mr. Paul Reuter, Special Rapporteur for the topic.

8. The Commission had been represented at the annual sessions of the Asian-African Legal Consultative Committee, the European Committee on Legal

¹ See Yearbook ... 1982, vol. II (Part Two), pp. 17 et seq.

Co-operation and the Inter-American Juridical Committee by Mr. Sucharitkul, Sir Ian Sinclair and himself, respectively.

9. He expressed appreciation to all members of the Commission for their co-operation and to the Legal Counsel, the Secretary of the Commission and members of the secretariat for their assistance during his term of office.

Election of officers

Mr. Jagota was elected Chairman by acclamation.

Mr. Jagota took the Chair.

10. The CHAIRMAN expressed gratitude to Mr. Yankov for his able guidance as Chairman of the Commission and for his excellent report to the General Assembly on the work of the thirty-sixth session of the Commission. He was also grateful for Mr. Yankov's warm tribute on behalf of the Commission to the memory of Mrs. Indira Gandhi.

11. He thanked all members for the confidence reposed in him by his election and expressed appreciation for the kind words spoken in support of his nomination.

12. The Commission, the world's premier international law institution, represented all the major legal systems and regional groups. Its membership reflected unique expertise and experience in international law and diplomacy and its contribution to the codification and progressive development of international law had accordingly been substantial. The Commission had served the international community well and had been guided by that community's responses to its contributions.

13. In following on from Mr. Reuter, Mr. Francis and Mr. Yankov, it was his hope that a collective endeavour would be made to complete the Commission's work in certain areas by 1986, as required by the General Assembly.

14. In the forthcoming elections to fill casual vacancies, the Commission was faced with repairing the loss of much wisdom and expertise. It also had to appoint two special rapporteurs to succeed Mr. Evensen and Mr. Quentin-Baxter for their respective topics: the law of the non-navigational uses of international watercourses, and international liability for injurious consequences arising out of acts not prohibited by international law.

15. Consultations between members would be desirable to elect the other officers of the Commission and he suggested that the meeting should be adjourned to allow them to take place.

It was so agreed.

The meeting rose at 4.05 p.m.

1876th MEETING

Tuesday, 7 May 1985, at 10.20 a.m.

Chairman: Mr. Satya Pal JAGOTA

Present: Chief Akinjide, Mr. Balandá, Mr. Barboza, Mr. Boutros Ghali, Mr. Calero Rodrigues, Mr. Castañeda, Mr. Díaz González, Mr. El Rasheed Mohamed Ahmed, Mr. Flitan, Mr. Francis, Mr. Jacovides, Mr. Koroma, Mr. Lacleta Muñoz, Mr. Mahiou, Mr. Malek, Mr. McCaffrey, Mr. Ogiso, Mr. Pirzada, Mr. Razafindralambo, Mr. Reuter, Mr. Riphagen, Sir Ian Sinclair, Mr. Sucharitkul, Mr. Thiam, Mr. Ushakov, Mr. Yankov.

Election of officers (*concluded*)

Mr. El Rasheed Mohamed Ahmed was elected First Vice-Chairman by acclamation.

Sir Ian Sinclair was elected Second Vice-Chairman by acclamation.

Mr. Calero Rodrigues was elected Chairman of the Drafting Committee by acclamation.

Mr. Flitan was elected Rapporteur by acclamation.

Adoption of the agenda (A/CN.4/385)

1. The CHAIRMAN invited the Commission to adopt the provisional agenda (A/CN.4/385), on the understanding that it would have to take a decision later on the recommendations of the Enlarged Bureau concerning the order in which the various substantive items should be considered.

The provisional agenda (A/CN.4/385) was adopted.

Organization of work of the session

[Agenda item 1]

2. The CHAIRMAN suggested that the Enlarged Bureau, consisting of the officers of the Commission, its past chairmen and the special rapporteurs, should be invited to examine a number of questions: (1) the order in which the various topics should be taken up, especially during the first four weeks of the session; (2) the question of the filling of casual vacancies in the Commission (agenda item 2); (3) the appointment of two new special rapporteurs for agenda items 7 and 8, to replace Mr. Evensen, elected a Judge of the ICIJ, and the late Mr. Quentin-Baxter; (4) the appointment of a Planning Group, to be chaired by the First Vice-Chairman. The Enlarged Bureau would report to the Commission on those matters so that it could take decisions thereon.

3. Mr. BOUTROS GHALI proposed that casual vacancies should be filled as quickly as possible so that the Commission could resume its consideration of the items on its agenda.