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Summary record of the 1990th meeting

Topic:
Other topics

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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE THIRTY-NINTH SESSION

Held at Geneva from 4 May to 17 July 1987

1990th MEETING

Monday, 4 May 1987, at 3.30 p.m.

Outgoing Chairman: Mr. Doudou THIAM

Chairman: Mr. Stephen C. McCaffrey

Present: Prince Ajibola, Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Barsegov, Mr. Beesley, Mr. Bennouna, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Eiriksson, Mr. Francis, Mr. Graefrath, Mr. Hayes, Mr. Illueca, Mr. Jacovides, Mr. Mahiou, Mr. Njenga, Mr. Ogiso, Mr. Pawlak, Mr. Sreenivasa Rao, Mr. Razafindralambo, Mr. Reuter, Mr. Roucounas, Mr. Sepúlveda Gutiérrez, Mr. Shi, Mr. Solari Tudela, Mr. Yankov.

Opening of the session

1. The OUTGOING CHAIRMAN declared open the thirty-ninth session of the International Law Commission.

Statement by the outgoing Chairman

2. The OUTGOING CHAIRMAN welcomed the members of the Commission, both old and new, and expressed the hope that the new period which the Commission was entering would be rich and fruitful. He paid tribute to the former members of the Commission who, for various reasons, had not come back and expressed the Commission's gratitude to them for the outstanding services they had rendered.

3. In accordance with the mandate given him, he had represented the Commission at the forty-first session of the General Assembly, where he had been struck by the increasing interest shown in the Commission's work. The topics reported on had been carefully studied, and interesting and very useful suggestions had been made. The Commission's methods of work had again been examined, and it would be able to study the comments made on them.

4. As further requested by the Commission, he had also represented it at the sessions of the Inter-American Juridical Committee, held at Rio de Janeiro in January 1987, and of the Asian-African Legal Consultative Committee, held at Bangkok, also in January 1987. The

Inter-American Juridical Committee had particularly asked that the Commission should be represented at its August session rather than its January session, so that the Commission's representative could devote a few hours to courses or lectures at the Committee's seminar usually organized in August. The Commission had been represented at the session of the European Committee on Legal Co-operation held at Strasbourg in December 1986 by Mr. Reuter.

5. The length of the present session would be 11 weeks, which was one week longer than the previous session. That decision by the General Assembly, which was quite exceptional under the policy of austerity at present in force, bore witness to the interest taken in the Commission's work and the high regard in which it was held. Nevertheless, he hoped to see a return to the customary 12-week session as soon as the financial position had improved.

6. Lastly, he expressed his thanks to the whole Secretariat for the valuable assistance it had given him throughout his term of office.

Election of officers

Mr. McCaffrey was elected Chairman by acclamation.

Mr. McCaffrey took the Chair.

7. The CHAIRMAN thanked the members of the Commission for the honour done him and paid tribute to the outgoing Chairman's outstanding contribution to the work of the previous session, when, for the first time in its history, the Commission had been able to complete the first reading of draft articles on two important topics at the same session.

8. He welcomed back those members who had been re-elected and extended a most cordial welcome to the newly elected members, whose contributions to the Commission's work would certainly be very valuable.

The meeting was suspended at 3.45 p.m. and resumed at 4.15 p.m.

Mr. Díaz González was elected First Vice-Chairman by acclamation.

Mr. Al-Qaysi was elected Second Vice-Chairman by acclamation.

Mr. Razafindralambo was elected Chairman of the Drafting Committee by acclamation.

Mr. Pawlak was elected Rapporteur by acclamation.

Adoption of the agenda (A/CN.4/403)

9. The CHAIRMAN invited the Commission to adopt the provisional agenda (A/CN.4/403), on the understanding that its adoption would be without prejudice to the order of consideration of the topics, which would be decided later.

The provisional agenda (A/CN.4/403) was adopted.

10. The CHAIRMAN, drawing attention to General Assembly resolution 41/81 of 3 December 1986, suggested that the request in paragraph 5 of that resolution should be taken up under item 9 of the agenda (Programme, procedures and working methods of the Commission, and its documentation).

It was so agreed.

Organization of work of the session

[Agenda item 1]

11. Mr. YANKOV suggested that members of the Commission who were not members of the Enlarged Bureau should be permitted to attend the meetings of the Bureau as observers.

It was so agreed.

The meeting rose at 5 p.m.

1991st MEETING

Tuesday, 5 May 1987, at 12.10 p.m.

Chairman: Mr. Stephen C. McCaffrey

Present: Prince Ajibola, Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Barsegov, Mr. Beesley, Mr. Bennouna, Mr. Boutros-Ghali, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Eiriksson, Mr. Francis, Mr. Graefrath, Mr. Hayes, Mr. Illueca, Mr. Jacovides, Mr. Koroma, Mr. Mahiou, Mr. Njenga, Mr. Ogiso, Mr. Pawlak, Mr. Sreenivasa Rao, Mr. Razafindralambo, Mr. Reuter, Mr. Roucounas, Mr. Sepúlveda Gutiérrez, Mr. Shi, Mr. Solari Tudela, Mr. Thiam, Mr. Tomuschat, Mr. Yankov.

Organization of work of the session (continued)

[Agenda item 1]

1. The CHAIRMAN said that the Enlarged Bureau had recommended that, of the seven meetings per week to which the Commission was entitled, four should be allocated to plenary meetings, to be held in the morning from Tuesday to Friday each week, and three to meetings of the Drafting Committee and/or the Planning Group, to be held in the afternoon, starting on Monday. One additional meeting could, if necessary, be held, provided conference facilities were available. Any

time saved in the consideration of a topic in plenary meetings would be allocated to the Drafting Committee or the Planning Group.

2. The Enlarged Bureau had recommended that the Commission should consider the items on the agenda in the following order:

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| 1. Draft Code of Offences against the Peace and Security of Mankind (item 5) | 10 to 12 meetings |
| 2. The law of the non-navigational uses of international watercourses (item 6) | 10 meetings |
| 3. International liability for injurious consequences arising out of acts not prohibited by international law (item 7) | 8 meetings |
| 4. Relations between States and international organizations (second part of the topic) (item 8) | 6 meetings, on the understanding that that number could be increased, if necessary |
| 5. Programme, procedures and working methods of the Commission, and its documentation (item 9) | 2 meetings |

One meeting would be held in reserve. The Commission's report to the General Assembly would be considered and adopted in the last week of the session. The Enlarged Bureau had also recommended flexibility in the application of that timetable.

3. Mr. EIRIKSSON said that he was grateful to the Secretariat for circulating a letter he had addressed to members containing certain suggestions for restructuring the Commission's work, but regretted that some of his colleagues had apparently not received it. He therefore wished to draw attention to one point in particular made in the letter, namely the absence of any provision for an intermediate stage in the discussion of topics, between discussion in plenary and discussion in the Drafting Committee. That seemed to be important because the Drafting Committee had often had before it subjects that had not been adequately dealt with in the Commission itself.

4. The CHAIRMAN said that that point could perhaps best be dealt with in the Planning Group, which was to meet that afternoon.

5. Mr. CALERO RODRIGUES noted that the Planning Group was likely to have more work than usual at the current session, which might deprive the Drafting Committee of time it sorely needed given its backlog of work. He therefore urged that serious consideration be given to the possibility of having four afternoon meetings each week, rather than three.

6. Mr. HAYES, agreeing with Mr. Calero Rodrigues, stressed the need to adopt a flexible approach, in order to allow the Drafting Committee extra time when necessary and to make full use of the time available to the Commission.

7. Mr. BARSEGOV said that the allocation of meetings to the various topics under study proposed by the Enlarged Bureau was, in the main, well balanced. Nevertheless, for obvious practical reasons, the Commission should be able to proceed flexibly and devote more meetings than scheduled to topics whose con-