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A/CN.4/SR.2206

Summary record of the 2206th meeting

Topic:
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Organization of work of the session

[Agenda item 1]

14. Mr. NJENGA, referring to paragraph 11 of General Assembly resolution 45/41 in which the Assembly takes note of the intention of the International Law Commission, expressed in paragraph 548 of its report, to allow for two weeks of concentrated work in the Drafting Committee at the beginning of the forty-third session of the Commission and requests the Commission to report to it on the results of that arrangement, said that it would be useful for the Commission to discuss in a plenary meeting the manner in which the Drafting Committee should proceed.

15. Following an exchange of views in which Prince AJIBOLA, Mr. PAWLAK (Chairman of the Drafting Committee) and Mr. NJENGA took part, Mr. CALERO RODRIGUES suggested that the meeting should be suspended to enable the Chairman of the Drafting Committee to consult the other members of the Commission as to how best the Drafting Committee should conduct its work.

16. Mr. PAWLAK (Chairman of the Drafting Committee) announced that the following members of the Commission had agreed to participate in the Drafting Committee: Mr. Al-Baharna, Mr. Al-Khasawneh, Mr. Barsegov, Mr. Bennouna, Mr. Calero Rodrigues, Mr. Eiriksson, Mr. Hayes, Mr. Koroma, Mr. McCaffrey, Mr. Ogiso, Mr. Pellet, Mr. Sreenivas Rao, Mr. Razafulambo, Mr. Sepiilveda Gutierrez and Mr. Shi.

17. Recalling that the Commission had agreed at its forty-second session that, in order to meet the goals it had set for itself, it should allow for two weeks of concentrated work in the Drafting Committee at the beginning of the present session, he suggested that all the members of the Commission present in Geneva should take part in the meetings of the Drafting Committee during those two weeks.

18. The CHAIRMAN announced that, from Tuesday, 30 April to Friday, 3 May, the Drafting Committee would meet mornings and afternoons and that the Commission would hold a plenary meeting on Friday, 3 May, at 10 a.m. to hear a progress report on the drafting work.

19. Mr. THIAM asked for more details about the organization of the work of the Drafting Committee, he wished to know in particular which topics would be taken up at the morning meetings and which at the afternoon meetings.

20. The CHAIRMAN said that the Commission had decided at the previous session that the Drafting Committee would start by considering the draft articles on jurisdictional immunities, the second reading of which the Commission wished to complete at the present session, and, that, then, depending on the status of the work and the rate of progress, it should devote several meetings during the second week to the question of the draft Code of Crimes against the Peace and Security of Mankind or to the question of the law of the non-navigational uses of international watercourses, before reverting to the topic of jurisdictional immunities.

22. The CHAIRMAN said that, if there was no objection, he would take it that the Commission accepted Mr. Pawlak's suggestion.

It was so agreed.

The meeting rose at 6.15 p.m.

2206th MEETING

Friday, 3 May 1991, at 10 a.m.

Chairman: Mr. Abdul G. KOROMA

Present: Mr. Al-Baharna, Mr. Barsegov, Mr. Beesley, Mr. Calero Rodrigues, Mr. Eiriksson, Mr. Graefrath, Mr. Hayes, Mr. Illueca, Mr. Jacovides, Mr. Mahiou, Mr. Njenga, Mr. Ogiso, Mr. Pawlak, Mr. Pellet, Mr. Razafindralambo, Mr. Roucouinas, Mr. Sepivelveda Gutierrez, Mr. Shi, Mr. Solari Tudela, Mr. Thiam, Mr. Tomuschat.

Election of officers (concluded)

1. The CHAIRMAN recalled that the election of the First Vice-Chairman had been deferred from the previous meeting.

Mr. Beesley was elected First Vice-Chairman by acclamation.

The meeting was suspended at 10.05 a.m. and resumed at 10.30 a.m.

Progress report by the Chairman of the Drafting Committee

2. Mr. PAWLAK (Chairman of the Drafting Committee) said he was pleased to inform the Commission that the Drafting Committee, which was assigned a particu-
larily important task at the present session, had made some progress thanks to the dedication and sense of responsibility of all of its members as well as of other members of the Commission. The Committee had continued the second reading of articles presented by the Special Rapporteur on the topic of jurisdictional immunities of States and their property (agenda item 3), and had provisionally adopted articles 17 and 18, subject to certain additions to article 18 that would be examined at a later stage. The Committee had now embarked on the consideration of one of the most difficult problems presented by the draft articles, namely, State enterprises, and had already made substantial headway. It had adopted part of article 2, having drafted a new paragraph 1 (b) (iii), and had started on a compromise formula for article 11 bis, which would probably become part of article 10. The Committee intended to pursue its work on the topic, with a brief interruption to consider articles outstanding from the draft Code of Crimes against the Peace and Security of Mankind (agenda item 4), and hoped to complete the work by the end of the following week. Finally, he proposed that Mr. Solari Tudela should be appointed to serve on the Drafting Committee.

It was so agreed.

3. The CHAIRMAN thanked the Chairman of the Drafting Committee for his report and congratulated him and all those who had participated in the Committee’s work on the progress accomplished so far.

Organization of work of the session (continued)

[Agenda item 1]

4. The CHAIRMAN said that, since several of the Special Rapporteurs were absent, the Enlarged Bureau did not deem it appropriate at that stage to recommend a complete calendar for the present session, but merely to recommend that, when the two-week period of concentrated work in the Drafting Committee ended, the Commission should revert to its normal pattern of meetings. Accordingly, the first substantive meeting should be held on Tuesday, 14 May, and the first topic to be taken up should be the draft Code of Crimes against the Peace and Security of Mankind (agenda item 4), and hoped to complete the work by the end of the following week. Finally, he proposed that Mr. Solari Tudela should be appointed to serve on the Drafting Committee.

It was so agreed.

5. The CHAIRMAN said he had received a letter from the Chairman of the Committee on Conferences reminding the Commission of the contents of General Assembly resolution 45/238 A, of 21 December 1990. The letter suggested various means whereby United Nations organs might make optimum use of the conference-servicing resources provided to them without detriment to the success of their work, and requested him to note the suggestions made and to inform the Commission of the contents of the letter as well as of the relevant portions of resolution 45/238 A. With the Commission’s permission, he intended to reply that the International Law Commission, which had an excellent record of utilizing conference resources, had taken due note of the suggestions and would continue to do its best to maintain its exceptionally high rate of utilization of conference resources.

It was so agreed.

6. Mr. KOTLIAR (Secretary to the Commission), replying to inquiries by Mr. BEESLEY and Mr. CALERO RODRIGUES, confirmed that 9 and 20 May 1991 were official holidays at the United Nations Office at Geneva and that no meetings would be held on those dates.

7. Mr. PELLET expressed his protest that 1 May, which was a holiday in most parts of the world, was not observed at the United Nations Office at Geneva, whereas it closed for holidays less universal in character.

8. The CHAIRMAN said that Mr. Pellet’s comment would be conveyed to the appropriate officials.

The meeting rose at 10.45 a.m.

2207th MEETING

Tuesday, 14 May 1991, at 10.05 a.m.

Chairman: Mr. Abdul G. KOROMA

Present: Mr. Al-Baharna, Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Barboza, Mr. Barsegov, Mr. Beesley, Mr. Calero Rodrigues, Mr. Díaz González, Mr. Eiriísksson, Mr. Graefrath, Mr. Hayes, Mr. Illueca, Mr. Mahiou, Mr. McCaffrey, Mr. Ogiso, Mr. Pawlak, Mr. Pellet, Mr. Razafindralambo, Mr. Roucounas, Mr. Sepúlveda Gutiérrez, Mr. Shi, Mr. Solari Tudela, Mr. Thiam, Mr. Tomuschat.

Progress report by the Chairman of the Drafting Committee (concluded)

1. Mr. PAWLAK (Chairman of the Drafting Committee) said that the Committee had used the time allotted to it to good advantage. Following two weeks of hard work, it had virtually completed its consideration on second reading of the draft articles on jurisdictional immunities of States and their property; only two points remained to be settled. The text to be submitted for consideration by the Commission contained two fewer articles than the original text, as two draft articles had been merged into one and another had been deleted. He thanked all the members of the Committee, the other members of the Commission, and the Special Rapporteur for their cooperation.

2. The CHAIRMAN thanked the Chairman of the Drafting Committee and all who had taken part in the