

Document:-
A/CN.4/SR.2287

Summary record of the 2287th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
1992, vol. I

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

of record. Yet it should be remembered that States were not isolated entities and that they were not only ready to condone intervention by the international community, but also sometimes expected it to act in the face of situations or events which were in principle a matter of national jurisdiction. That subject was more complex than might have been thought and one on which Mr. Villagran Kramer had just carried out a lengthy and profound study.

37. Mr. BARBOZA, speaking on behalf of members from the Latin American Group of States, said that the statement by the Observer for the Inter-American Juridical Committee once again provided him with an opportunity to welcome the fruitful collaboration established between that very long-standing body and the Commission. Mr. Villagran Kramer's statement had made it possible to form an idea of the extreme diversity of its concerns, some of which were directly linked to the topics the Commission itself was studying. He had in mind, for example, the work being done by the Committee in the field of public international law on the prevention of the international crime of drug trafficking.

38. Mr. RAZAFINDRALAMBO, speaking on behalf of members from the African Group of States, thanked Mr. Villagran Kramer for a clear and detailed account of the activities of the Inter-American Juridical Committee. Africa had always drawn great inspiration from the struggles and successes of the peoples of South America. He had no doubt that the relations between the Committee and the Commission were destined to develop further in the future.

39. Mr. JACOVIDES, speaking on behalf of members from the Asian Group of States, said that the Inter-American Juridical Committee had won the respect of international legal circles with the contribution it had made to international law. It had been seen how close its work was to the concerns of the Commission and not only with respect to the establishment of an international criminal court. He trusted that in that, as in many other areas, the two bodies would cultivate fruitful relations.

40. Mr. VERESHCHETIN, speaking on behalf of members from the Eastern European Group of States, said that the legal philosophy of Latin America had always had a profound influence on the philosophy and development of international law. The evolution in the activities of the Inter-American Juridical Committee was of great interest to the Commission, as also to the countries from which its members came. He had noted with interest, for example, that the Inter-American Juridical Committee had been working on the question of joint ventures between States. His own country would certainly like to be kept abreast of the progress of its work in that field.

The meeting rose at 1.15 p.m.

2287th MEETING

Friday, 17 July 1992, at 10.15 a.m.

Chairman: Mr. Andreas J. JACOVIDES

Present: Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Barboza, Mr. Bennouna, Mr. Bowett, Mr. Calero Rodrigues, Mr. Crawford, Mr. de Saram, Mr. Eiriksson, Mr. Fomba, Mr. Güney, Mr. Idris, Mr. Kabatsi, Mr. Koroma, Mr. Mahiou, Mr. Mikulka, Mr. Pambou-Tchivounda, Mr. Pellet, Mr. Sreenivasa Rao, Mr. Razafindralambo, Mr. Rosenstock, Mr. Shi, Mr. Szekely, Mr. Thiam, Mr. Vereshchetin, Mr. Villagran Kramer, Mr. Yamada, Mr. Yankov.

Draft Code of Crimes against the Peace and Security of Mankind¹ (concluded) (A/CN.4/442,² A/CN.4/L.469, sect. C, A/CN.4/L.471, A/CN.4/L.475 and Rev.1)

[Agenda item 3]

REPORT OF THE WORKING GROUP ON THE QUESTION OF AN INTERNATIONAL CRIMINAL JURISDICTION (concluded)

1. The CHAIRMAN drew attention to two papers³ which had been prepared by the Working Group on the question of an international criminal jurisdiction to take account of some amendments to certain key paragraphs in the report of the Working Group (A/CN.4/L.471). The first, which contained a revised version of paragraph 4 of part A of document A/CN.4/L.471 setting out the basic propositions, read:

“4. Since the Commission now seeks to go beyond the analysis and exploration of possible options and to adopt ‘concrete recommendations’, it was necessary for the Working Group to agree on the basic approach to be adopted in its report. The Working Group agreed on a number of basic propositions which form the basis of its report to the Commission. They are as follows:

“(a) An international criminal court should be established by a statute in the form of a multilateral treaty agreed to by States parties;

“(b) In the first phase of its operations, at least, a court should exercise jurisdiction only over private persons, as distinct from States;¹

¹ This is consistent with the approach taken by the Commission in relation to the draft Code of Crimes against the Peace and Security of Mankind: see *Yearbook . . . 1984*, vol. II (Part Two), para. 65. See also article 3 of the draft Code as provisionally adopted on first reading by the Commission in 1991, *Yearbook . . . 1991*, vol. II (Part Two), chap. IV.

¹ For text of the draft articles provisionally adopted on first reading, see *Yearbook . . . 1991*, vol. II (Part Two), chap. IV.

² Reproduced in *Yearbook . . . 1992*, vol. II (Part One).

³ These informal papers were not issued as official documents of the Commission.

“(c) The court’s jurisdiction should be limited to crimes of an international character defined in specified international treaties in force. This should include the crimes defined in the Code of Crimes against the Peace and Security of Mankind (upon its adoption and entry into force). But it should not be limited to the Code. A State should be able to become a party to the statute without thereby becoming a party to the Code;²

“(d) The court would be essentially a facility for States parties to its statute (and also, on defined terms, other States). In the first phase of its operations, at least, it should not have compulsory jurisdiction, in the sense of a general jurisdiction which a State party to the statute is obliged to accept *ipso facto* and without further agreement;

“(e) In the first phase of its operations, at least, the court would not be a standing full-time body. On the other hand, its constituent instrument should not be a mere draft or proposal, which would have to be agreed on before the institution could operate. Thus the statute should create an available legal mechanism which can be called into operation when and as soon as required;

“(f) Other mechanisms were suggested and considered, as reflected in part B of this report;

“(g) Whatever the precise structure of the court or other mechanism, it must guarantee due process, independence and impartiality in its procedures.”

² This leaves open the question whether any of the offences defined in the Code should be exclusively within the competence of an international criminal jurisdiction. Some members of the Working Group, at least, believe that the Code is inconceivable without an international criminal jurisdiction, and that it would be desirable, if not essential, to provide that a State party to the Code would thereby accept *ipso facto* the statute of a court.”

2. The second paper contained a proposed decision for adoption by the Commission, which read:

“1. The Commission accepts as a basis for its future work the propositions enumerated in paragraph 4 of part A of the Working Group’s report and the broad approach which is set out in the report;

“2. The Commission concludes that:

“(a) through the ninth and tenth reports of the Special Rapporteur on the draft Code of Crimes against the Peace and Security of Mankind and the debates thereon in plenary, and through the report of the Working Group, it has concluded the task of analysis of the ‘question of establishing an international criminal court or other international criminal trial mechanism’, entrusted to it by the General Assembly in resolution 44/39 of 4 December 1989;

“(b) that the more detailed study (which will be annexed to the relevant chapter of the report) confirms the view, expressed earlier by the Commission, that a structure along the lines of that suggested in the Working Group’s report could be a workable system;

“(c) that further work on the issue requires a renewed mandate from the Assembly, and needs to take the form not of still further general or exploratory

studies, but of a detailed project, in the form of a draft statute; and

“(d) that it is now a matter for the Assembly to decide whether the Commission should undertake a project for an international criminal jurisdiction, and on what basis.”

3. Mr. CRAWFORD (Rapporteur of the Working Group), introducing the changes made to the Working Group’s report, said that footnote 2 to the revised version of paragraph 4 reflected Mr. Bennouna’s point (2284th meeting) that it would be desirable to make it quite clear that parties to the Code would *ipso facto* be parties to the statute of the court. The fourth and fifth propositions had been revised in the light of Mr. Szekely’s suggestion (2286th meeting) and now contained references to the first phase of the operations of the court, the question of further development being left open. A new sixth proposition, dealing with the question of other mechanisms, had been added, and the references to other mechanisms in the first and fifth propositions as originally drafted had been deleted. Thus, the question would in effect be given separate treatment, and the discussion of the issue of other mechanisms contained in the full report would be incorporated by reference. The revised third proposition now referred to “crimes of an international character defined in specified international treaties in force”, to reflect Mr. Vereshchetin’s concern on that point (2284th meeting).

4. Adoption of the proposed decision would mean that the Commission accepted as a basis for its future work the propositions enumerated in paragraph 4 of part A of the Working Group’s report, as amended, and the broad approach set forth in that report. The Commission would also adopt the four conclusions set forth in paragraph 2 of the decision, which was based on paragraph 9 of part A of the Working Group’s report. It was now for the Commission to decide whether it wished to adopt that decision as drafted or in an amended form.

5. Mr. AL-KHASAWNEH said that he still entertained doubts about some of the propositions in the revised version of paragraph 4 of the Working Group’s report. In particular, it was regrettable that a role for ICJ had not been expressly envisaged, even as a theoretical possibility. Admittedly, that might create a number of problems and would require an amendment to the Statute of the Court, but a reference should none the less have been made to the possibility. He also had reservations with regard to the fifth proposition, since he could not accept the idea of a court that dealt with criminal justice but was not a full-time standing body.

6. Mr. THIAM (Special Rapporteur) pointed out that, in paragraph (d) of the proposed decision, the words “a project” should be replaced by the words “the project”, as had in fact been proposed and accepted.

7. Mr. ARANGIO-RUIZ, agreeing with Mr. Al-Khasawneh, said that he, too, saw no reason why ICJ could not be used, perhaps as a temporary measure. As to the trial of persons responsible for criminal acts, it was one thing to have a standing criminal court and another to have an ad hoc criminal tribunal, which was a

very strange notion to incorporate into the proposed decision. Ad hoc tribunals were conceivable in isolated cases, the Nürnberg Tribunal being a case in point, but that Tribunal had been set up in the very special circumstances of the Second World War and it was to be hoped that there would be no repetition of war on that scale ever again.

8. Mr. PELLET, referring to paragraph 2 (d) of the proposed decision, proposed that the words “undertake a project” should be replaced by the words “undertake consideration of a project”. Also, in the French version of the seventh proposition as revised, the words *ou d’un autre mécanisme*, which had appeared in the original provision, should be reinstated.

9. While he agreed with Mr. Al-Khasawneh and Mr. Arangio-Ruiz, he considered that their concern was met in part by the terms of the sixth proposition, which referred to other mechanisms as reflected in the relevant paragraphs of part B of the Group’s report. In that connection he would draw attention in particular to the reference therein to ICJ. In his view, therefore, the Working Group had not ruled out the possibility of having recourse to that organ.

10. Mr. KOROMA (Chairman of the Working Group) said that the Working Group had indeed considered the possibility of using ICJ as a criminal court, but that that would involve an amendment of the Statute of the Court, which, it had been felt, would not be feasible at the present stage. He had no doubt, however, that the Commission would revert to the question in the future. As to the precise nature of the international criminal court, the intention was that it should be a permanent, not an ad hoc, court. As he understood the position, the feeling had been that there would not be enough cases at the outset to require judges to sit full-time, and it would therefore be preferable to empanel them as and when they were needed. Subject to those remarks, he would recommend that the amendments to the Working Group’s report now before the Commission should be adopted.

11. Mr. BENNOUNA said that the words “should undertake a project for an international criminal court”, in paragraph 2 (d) of the proposed decision, should be replaced by “should undertake the elaboration of a statute for an international criminal court”.

12. Mr. THIAM (Special Rapporteur) supported that proposal.

13. Mr. VERESHCHETIN said he feared that the introduction of a reference to the statute of the court would alter the substance of the provision.

14. Following a brief exchange of views in which Mr. BARBOZA, Mr. IDRIS, Mr. KOROMA and Mr. YANKOV took part, Mr. CALERO RODRIGUES pointed out that, since a reference to a statute was already made in paragraph 2 (c) of the proposed decision, it was immaterial whether or not such a reference was made in paragraph 2 (d).

15. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission agreed to

adopt the proposed decision and the revised version of paragraph 4 of the Working Group’s report, as amended.

It was so agreed.

16. The CHAIRMAN said that the Commission had thus concluded its consideration of agenda item 3 on the draft Code of Crimes against the Peace and Security of Mankind.

Draft report of the Commission on the work of its forty-fourth session

17. The CHAIRMAN invited the Commission to consider the draft report on the work of its forty-fourth session, starting with chapter IV.

CHAPTER IV. International liability for injurious consequences arising out of acts not prohibited by international law (A/CN.4/L.476)

18. Mr. RAZAFINDRALAMBO (Rapporteur), introducing chapter IV of the Commission’s report, said that it consisted of two main parts: part A (Introduction), which dealt with the background to the topic, and part B (Consideration of the topic at the present session), which summarized the discussion in the Commission on the Special Rapporteur’s eighth report (A/CN.4/443).⁴ That summary reflected the main trends which had emerged in the discussion, individual opinions having been reflected only in so far as they concerned important issues. Paragraphs 65 to 73 incorporated the decisions reached by the Commission on the basis of the discussions in the open-ended Working Group which had been established to consider certain general issues. The Working Group’s report would be incorporated in the body of the Commission’s report to the General Assembly, and the Commission would therefore be deemed to have endorsed its recommendations.

19. The CHAIRMAN invited the Commission to consider chapter IV paragraph by paragraph.

A. Introduction

Paragraphs 1 to 4

Paragraphs 1 to 4 were adopted.

Section A was adopted.

B. Consideration of the topic at the present session

20. Mr. CALERO RODRIGUES suggested that some form of wording should be added to establish a link between the two main parts of the report, entitled “Consideration of the topic at the present session”, and “Decisions by the Commission”, respectively.

21. Mr. RAZAFINDRALAMBO (Rapporteur), agreeing with Mr. Calero Rodrigues, suggested that a new subsection 1 entitled “Consideration of the eighth report of the Special Rapporteur” should be inserted under sec-

⁴ Reproduced in *Yearbook... 1992*, vol. II (Part One).

tion B, and that subsection 6 (Decisions by the Commission) should become subsection 2, the rest of the report being restructured accordingly.

22. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission agreed to Mr. Calero Rodrigues' suggestion, as further elaborated by the Rapporteur.

It was so agreed.

1. CONSIDERATION OF THE EIGHTH REPORT OF THE SPECIAL RAP-
PORTEUR

Paragraphs 5 to 8

Paragraphs 5 to 8 were adopted.

(a) *General comments*

Paragraph 9

Paragraph 9 was adopted.

Paragraph 10

23. Mr. PELLET said that he was troubled by the use of the word fault (*faute*) in the third sentence, for it would only give rise to controversy in the Commission. It should be replaced by "failure" or "default" (*manquement*) or "internationally wrongful act".

24. Mr. BARBOZA (Special Rapporteur) said that, while he might agree with Mr. Pellet's observation, the Commission could not alter what had actually been said in the debate. The paragraph would therefore have to remain as it stood.

Paragraph 10 was adopted.

Paragraph 11

Paragraph 11 was adopted.

Paragraph 12

25. Mr. PELLET said that the form of language used in paragraph 12 implied that the act of nationalization lay within the realm of State responsibility. That was simply not the case. To clear up any ambiguity, the words "But all these circumstances", in the fifth sentence, should be replaced by wording which made it clear that that sentence referred only to the latter cases.

26. Mr. PAMBOU-TCHIVOUNDA said that the second sentence of paragraph 12 was difficult to follow. Did the sentence mean that it was difficult to conceive of a legal regime where it would be lawful to inflict harm on someone without the possibility of compensation? The words "provided that compensation was paid" should be replaced by "without the possibility of compensation".

27. Mr. BARBOZA (Special Rapporteur) said that, in accordance with the usual procedure, it was for the member who had made the original statement to request a correction, if he considered that his views had not been accurately reflected.

28. Mr. YAMADA said that, in the English version, the second sentence was an accurate reflection of the views he had expressed at the 2270th meeting. He agreed with Mr. Pellet that nationalization did not fall within the realm of State responsibility.

Paragraph 12, as amended by Mr. Pellet, was adopted.

Paragraph 13

29. Mr. VERESHCHETIN proposed that the first and second sentences should be combined to read: "It was also suggested that the concept of 'international liability' should be clarified, both from the theoretical point of view and from the point of view of determining whether liability ensued because of the risk posed or because of the transboundary harm caused." Following the amended sentence, a new sentence should then be added, reading: "In the discussion, reference was also made to the fact that in a number of national legal systems the concept of liability, as opposed to that of responsibility, does not exist and that this creates additional difficulties for the consideration of this topic, even from a terminological viewpoint."

30. Mr. BARBOZA (Special Rapporteur) said he wished to emphasize that any amendments should reflect what had actually been said during the debate.

31. Mr. RAZAFINDRALAMBO (Rapporteur) suggested that Mr. Vereshchetin should submit his amendment in writing to the Special Rapporteur, on the understanding that it would be accepted by the Commission.

Paragraph 13 was adopted on that understanding.

Paragraphs 14 and 15

Paragraphs 14 and 15 were adopted.

(b) *The nature of the instrument to be drafted*

Paragraph 16

Paragraph 16 was adopted.

Paragraph 17

32. Mr. PELLET said that paragraph 17 did not provide a balanced picture of the debate. According to the paragraph, those members who had advocated an early decision by the Commission on the nature of the instrument being drafted had wished to limit the draft articles to recommendations. However, during the debate the opposite view had also been expressed, namely that the articles should form the basis of a treaty. He proposed, therefore, that the following should be added: "The remark was made, on the other hand, that, inasmuch as the preventive obligations of States were well established in international law, it would be preferable to elaborate a treaty on this subject". He had already discussed the proposed amendment with the Special Rapporteur, who agreed to it.

Paragraph 17, as amended, was adopted.

Paragraph 18

Paragraph 18 was adopted.

(c) *Prevention*

Paragraphs 19 to 26

Paragraphs 19 to 26 were adopted.

(d) *Comments on specific articles*

Paragraphs 27 to 64

Paragraphs 27 to 64 were adopted.

Section B.1, as amended, was adopted.

33. Mr. EIRIKSSON said that in his opinion, if section B was subdivided as already decided (see paras. 20-22 above) there might be no need for the subheadings (a) to (i) to paragraphs 27 to 57.

34. Mr. RAZAFINDRALAMBO and Mr. CALERO RODRIGUES said that they endorsed Mr. Eiriksson's remark.

2. DECISIONS BY THE COMMISSION

Paragraphs 65 and 66

Paragraphs 65 and 66 were adopted.

Paragraph 67

35. Mr. EIRIKSSON said that the date on which the Commission had taken the decisions referred to in paragraph 67 should be specified.

36. Mr. CALERO RODRIGUES suggested adding the words: "with reservations by some members" at the end of the paragraph.

37. Mr. EIRIKSSON said that, since the reservations of some members had already been recorded in the report of the Working Group, it would be sufficient to mention the meeting at which the Commission had taken its decisions.

38. The CHAIRMAN said he agreed that the reference, in the report of the Working Group, to the reservations of some members would suffice.

39. Mr. BARBOZA (Special Rapporteur) said it might be preferable to specify the number of the meeting as well.

Paragraph 67, as amended by Mr. Barboza and Mr. Eiriksson, was adopted.

(a) *Scope of the topic*

(b) *The approach to be taken with regard to the nature of the articles or of the instrument to be drafted*

(c) *Title of the topic*

(d) *Recommendation on the report of the Special Rapporteur for the next year*

Paragraph 68

40. Mr. KOROMA suggested the addition, in paragraph 68, of a statement that the Commission had now refocused its approach to the topic, so as to include both preventive and remedial measures.

41. Mr. ARANGIO-RUIZ said that the first sentence of paragraph 68 was puzzling: how could the Commission identify the broad area and the outer limits of the topic without deciding on its precise scope?

Paragraph 68 was adopted.

Paragraph 69

42. Mr. PELLET, supported by Mr. BENNOUNA and Mr. PAMBOU-TCHIVOUNDA said that the term *remèdes*, which appeared for the first time in paragraph 69 of the French version, was not a standard legal term, and should not be used to render the notion of "remedial measures".

43. Mr. KOROMA said he had fundamental reservations about paragraph 69. He suggested amending the first two sentences to read: "Within the understanding set forth in paragraph 68 above, the Commission confirmed that the topic includes both preventive and remedial measures. However, the preventive measures should be considered first . . ."

44. Mr. VERESHCHETIN queried whether, under the Commission's rules of procedure, it was possible to amend substantive decisions already taken by the Commission. As for linguistic problems, he thought they were better resolved by the secretariat.

45. The CHAIRMAN explained that, although the paragraphs setting out the Commission's decisions on the scope of the topic had already been adopted, there was nothing to prevent the Commission from reconsidering them. However, it might be wiser not to do so, simply for the sake of expediting its work.

46. Mr. KOROMA said he was willing, in that light, to withdraw his amendment.

Paragraph 69 was adopted.

Paragraphs 70 to 73

Paragraphs 70 to 73 were adopted.

Section B.2, as amended, was adopted.

Chapter IV, as a whole, as amended, was adopted.

Organization of work of the session (concluded)*

[Agenda item 1]

47. The CHAIRMAN said that the articles adopted by the Drafting Committee on the topic of State responsibility were now available (A/CN.4/L.472), and the Chairman of the Drafting Committee would introduce them at the Commission's next meeting. He suggested that the

* Resumed from the 2257th meeting.

Commission should not discuss or act upon the articles at the present stage. Before taking a decision, it should wait until it had before it all of the chapter of part 2 to be devoted to the legal consequences of an international delict, together with the commentaries. Members were free, however, to speak on the general direction of the work.

48. Mr. EIRIKSSON said he hoped the Chairman of the Drafting Committee would make it clear that the draft articles were not being presented to the Commission for adoption, and that they did not form part of the Commission's report.

49. Mr. SHI said it was deplorable that the Commission was unable to adopt at its current session any of the draft articles completed by the Drafting Committee.

50. Mr. PELLET said that he endorsed that view. The Commission should review its methods of work, in order to move ahead with the draft articles. Another difficulty was that much of the draft report was not yet available.

51. Mr. KOROMA said he, too, was of the view that the Commission ought to be able to submit to the General Assembly the draft articles adopted by the Drafting Committee.

52. After an exchange of views in which Mr. ROSENSTOCK, Mr. CALERO RODRIGUES, Mr. VERESHCHETIN and Mr. PAMBOU-TCHIVOUNDA took part, the CHAIRMAN suggested that after the Chairman of the Drafting Committee had introduced the Committee's report, the Commission should consider the report by the Planning Group (A/CN.4/L.473).

It was so agreed.

The meeting rose at 12.20 p.m.

2288th MEETING

Monday, 20 July 1992, at 10 a.m.

Chairman: Mr. Christian TOMUSCHAT

Present: Mr. Al-Khasawneh, Mr. Arangio-Ruiz, Mr. Barboza, Mr. Bennouna, Mr. Bowett, Mr. Calero Rodrigues, Mr. Crawford, Mr. de Saram, Mr. Eiriksson, Mr. Fomba, Mr. Güney, Mr. Idris, Mr. Jacovides, Mr. Kabatsi, Mr. Koroma, Mr. Mahiou, Mr. Mikulka, Mr. Pambou-Tchivounda, Mr. Pellet, Mr. Razafindralambo, Mr. Rosenstock, Mr. Shi, Mr. Szekely, Mr. Thiam, Mr. Vereshchetin, Mr. Villagran Kramer, Mr. Yamada, Mr. Yankov.

State responsibility (continued)* (A/CN.4/440 and Add.1,¹ A/CN.4/444 and Add.1-3,² A/CN.4/L.469, sect. F, A/CN.4/L.472, A/CN.4/L.478 and Corr.1 and Add. 1-3, ILC(XLIV)/Conf.Room Doc.1 and 4)

[Agenda item 2]

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE

1. The CHAIRMAN recalled that, at the previous meeting, the Commission had decided that the articles adopted by the Drafting Committee at the current session on the subject of State responsibility would be introduced by the Chairman of that Committee but would not be discussed or acted upon in plenary at the present stage. Before taking a decision, the Commission would wait until it had before it the whole of the chapter of part 2 on the legal consequences of an international delict as well as the corresponding commentaries. Naturally, members wishing to speak on the general direction of the work could take the floor. He invited the Chairman of the Drafting Committee to report on the Committee's work.

2. Mr. YANKOV (Chairman of the Drafting Committee) said that the Drafting Committee had held 27 meetings, from 5 May to 15 July 1992. It had had before it draft articles referred to it by the Commission on: (a) State responsibility (draft articles 6 to 10 *bis*) and (b) international liability for injurious consequences arising out of acts not prohibited by international law (draft articles 1 to 10).

3. Following the recommendation of the Commission, the Drafting Committee had given priority to the consideration and adoption of draft articles on State responsibility, bearing in mind the limited time available and the fact that the Committee had not had an opportunity to deal with draft articles on that topic since the Commission's thirty-seventh session, in 1986. Furthermore, it had felt that following the report of the Working Group on international liability, the Commission could put forward recommendations which might affect the scope and conceptual approach to the topic, leading to certain changes regarding the priorities to be accorded to the draft articles already referred to the Drafting Committee. Therefore, the Committee had held only two meetings on international liability and its work had been devoted almost entirely to the articles on State responsibility, which took up 25 meetings altogether.

4. In accordance with the decision taken by the Commission at its previous meeting, he would introduce the report of the Drafting Committee as a whole, covering all the draft articles which it had adopted and which appeared in document A/CN.4/L.472, on the understanding that the articles worked on during the present session would not be discussed or acted upon for the time being. Furthermore, he proposed that those draft articles should be reproduced as an annex to the Commission's report in

* Resumed from the 2283rd meeting.

¹ Reproduced in *Yearbook* . . . 1991, vol. II (Part One).

² Reproduced in *Yearbook* . . . 1992, vol. II (Part One).