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Summary record of the 2426th meeting

Topic:
Other topics

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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE FORTY-EIGHTH SESSION

Held at Geneva from 6 May to 21 July 1996

2426th MEETING

Monday, 6 May 1996, at 3.10 p.m.

Acting Chairman: Mr. Pemmaraju Sreenivasa RAO

Chairman: Mr. Ahmed MAHIU

Present: Mr. Arangio-Ruiz, Mr. Bowett, Mr. Calero Rodrigues, Mr. Crawford, Mr. de Saram, Mr. Fomba, Mr. Güney, Mr. He, Mr. Idris, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Mikulka, Mr. Pellet, Mr. Rosenstock, Mr. Thiam, Mr. Villagrán Kramer, Mr. Yamada.

Opening of the session

1. The ACTING CHAIRMAN declared open the forty-eighth session of the International Law Commission. He welcomed members to Geneva and expressed his wishes for the success of the session.

2. As to the various meetings at which the Commission had been represented since the end of its forty-seventh session, in August 1995, Mr. de Saram had represented it at the Inter-American Juridical Committee, which had expressed its interest in the Commission's work and the hope that cooperation and communication between the two bodies would be strengthened.

3. He himself had represented the Commission at the fiftieth session of the General Assembly of the United Nations which had marked its fiftieth anniversary. In the discussions in the Sixth Committee, emphasis had been

placed on the need for an ongoing review of the Commission's working methods with a view to deriving the most benefit from its meetings and to ensuring that the documents that resulted from its work were fully appreciated and, if possible, adopted without undue difficulty. Members might wish to refer in that connection to Assembly resolution 50/45, entitled "Report of the International Law Commission on the work of its forty-seventh session", and in particular to paragraph 9 thereof.

4. During the fiftieth session of the General Assembly, he had taken part in the usual meeting of legal advisers of the Ministries of Foreign Affairs of States Members of the United Nations.

5. He had been invited to the meeting of the European Committee on Legal Cooperation in December 1995, but very much regretted that budgetary considerations had prevented him from attending.

6. He said that Mr. Idris had represented the Commission at the meeting of the Asian-African Legal Consultative Committee held in Manila in March 1996. The Committee had devoted three meetings to a detailed consideration of the establishment of an international criminal court. Discussions had also been held on the environment and the law of the sea in particular.

7. As the headquarters of the Asian-African Legal Consultative Committee was in New Delhi, there had been no difficulty for him in representing the Commission at a number of its meetings and in particular at a seminar on the establishment of an international criminal court and at a seminar on the fiftieth anniversary of ICJ, which Mr. Weeramantry, a Judge at the Court, had also attended.

8. Other important events in which he or other members of the Commission had participated included the celebration of the fiftieth anniversary of ICJ in The Hague in April 1996. Along with Messrs. Al-Khasawneh, Crawford and Pellet, he had contributed to that event, which had afforded an opportunity for detailed consideration of the Court's future role, ways of making its jurisdiction more widely acceptable, and a

possible adjustment of its working methods and procedure to facilitate the efforts of parties and thus obtain the best possible result.

9. He thanked all members of the Commission for their cooperation and trust and also expressed appreciation to the officers of the Bureau and to the secretariat. He informed members that Ms. Dauchy had retired, and emphasized the valuable contribution she had made to the work of the codification and progressive development of international law. He introduced Mr. Lee to the Commission, who succeeded her as Secretary to the Commission.

10. He suggested that the meeting should be suspended to enable members to hold consultations on the election of officers.

The meeting was suspended at 3.50 p.m. and resumed at 4.35 p.m.

Election of officers

Mr. Mahiou was elected Chairman by acclamation.

Mr. Mahiou took the Chair.

11. The CHAIRMAN expressed his thanks to the members of the Commission for their trust and for the honour they had conferred upon him. He looked forward to their cooperation, in the hope that the final year of the quinquennium would be as productive as possible and that the Commission could achieve the objectives the General Assembly had set for it.

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

Mr. Kusuma-Atmadja was elected Second Vice-Chairman by acclamation.

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

Mr. Lukashuk was elected Rapporteur by acclamation.

Adoption of the agenda (A/CN.4/473)

12. The CHAIRMAN suggested that the provisional agenda (A/CN.4/473) should be adopted on the understanding that it would in no way prejudice the order in which the various items were taken up.

It was so agreed.

The agenda was adopted.

Organization of work of the session

[Agenda item 1]

13. The CHAIRMAN suggested that, in accordance with established practice, the Enlarged Bureau should

meet to consider the organization of work of the session. He drew attention to General Assembly resolution 50/45, to which the Acting Chairman had referred, and pointed out that, at its forty-seventh session, the Commission had decided to allow for at least three weeks' intensive work in the Drafting Committee at the beginning of its forty-eighth session. He invited the Chairman of the Drafting Committee to hold the necessary consultations on the appointment of members to the Drafting Committee as soon as possible, so that it could start its work without delay. He addressed the same request to the First Vice-Chairman in his capacity as Chairman of the Planning Group.

The meeting rose at 5.15 p.m.

2427th MEETING

Tuesday, 7 May 1996, at 10.10 a.m.

Chairman: Mr. Ahmed MAHIOU

Present: Mr. Arangio-Ruiz, Mr. Bowett, Mr. Calero Rodrigues, Mr. Crawford, Mr. de Saram, Mr. Fomba, Mr. Güney, Mr. He, Mr. Idris, Mr. Kusuma-Atmadja, Mr. Lukashuk, Mr. Mikulka, Mr. Pellet, Mr. Sreenivasa Rao, Mr. Rosenstock, Mr. Thiam, Mr. Tomuschat, Mr. Villagrán Kramer, Mr. Yamada.

Organization of work of the session (continued)

[Agenda item 1]

1. The CHAIRMAN said that the Enlarged Bureau had recommended that the Drafting Committee should in principle devote the first three weeks of the session to the topic of the draft Code of Crimes against the Peace and Security of Mankind. The Planning Group would also be able to meet during the first three weeks, but without interpretation if its meetings clashed with those of the Drafting Committee. The Commission would also meet in plenary from time to time during the first three weeks to hear brief progress reports by the Chairmen of the Drafting Committee and the Planning Group.

2. In view of the availability of Mr. Tomuschat, Chairman of the working group on the issue of wilful and severe damage to the environment (art. 26) under the topic of the draft Code,¹ who had submitted a document on

¹ See *Yearbook . . . 1995*, vol. II (Part Two), para. 141.