

Document:-
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Summary record of the 2684th meeting

Topic:
Other topics

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*Downloaded from the web site of the International Law Commission
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61. Secondly, a problem had arisen with regard to article 59. He raised the question of how a General Assembly resolution could possibly cause any prejudice to the Charter of the United Nations. Some other kind of wording needed to be found, something to the effect that “these articles shall be applied in accordance with the purposes and principles of the Charter”.

62. Mr. KAMTO said that he endorsed Mr. Pellet’s remarks. It might, indeed, be useful to envisage a saving clause regarding the case of State succession. He was not certain that article 56 *bis* covered that situation, but if it did, then his comment was superfluous. He strongly supported the wording of article 59. The Commission must not convey the impression that the law of State responsibility was in any way subject to Charter law. They were two different matters.

63. Despite his reservations about article 53, the draft was a major piece of work by the Commission and he was particularly pleased to have made his own modest contribution to its completion. When adopting the draft articles, he asked whether the Commission might adopt a motion of congratulations for the Special Rapporteur and the secretariat.

64. The CHAIRMAN said that the Commission would have the opportunity to pay formal tribute to Mr. Crawford, as well as to Mr. Sreenivasa Rao and the previous special rapporteurs, when, all being well, the Commission completed their topics at the time of the adoption of the report.

65. Mr. TOMKA (Chairman of the Drafting Committee), replying to a question by Mr. Pellet, said that members who had corrections to make to any of the other language versions should submit a note to that effect in writing to the secretariat.

66. Mr. KATEKA said that, before the draft articles were adopted, he wished to express his strong reservations about Part Two, chapter III and about Part Three, chapter II. He would not stand in the way of the Commission by calling for a vote, but wanted to have it placed on record that he did not support the draft articles in their current form.

67. The CHAIRMAN said he took it that the Commission wished to adopt the titles and texts of the draft articles on responsibility of States for internationally wrongful acts proposed by the Drafting Committee, subject to statements made by Mr. Kateka and others.

It was so agreed.

68. Mr. CRAWFORD (Special Rapporteur) thanked the past and current chairmen of the Drafting Committee, the secretariat and the members of the Commission and paid tribute to the previous Special Rapporteurs, Mr. Ago, Mr. Riphagen and Mr. Arangio-Ruiz.

69. There should be no misunderstanding about the difficulty of the task, because the draft articles on State responsibility covered the whole field of international obligations, both bilateral and multilateral, and the whole

area, in general terms, of the qualification of conduct as unlawful by reference to the primary obligations of States and the consequences that flowed therefrom. Time would show the relatively comprehensive nature of the task undertaken, as well as the way in which the door had been left open to further development. He accepted the vision of those members who would like to see the draft articles associated with a system of dispute settlement, more especially in the context of countermeasures, as well as those who would like to see it as a convention. He hoped that the international community of States would some day be able to adopt a convention along those lines by general agreement and to attach to it a system of dispute settlement. That would be a real revolution. It would, however, be a pity if a codification conference were held and it tore the text apart.

The meeting rose at 11.40 a.m.

2684th MEETING

Friday, 1 June 2001, at 10.05 a.m.

Chairman: Mr. Peter KABATSI

Present: Mr. Addo, Mr. Brownlie, Mr. Crawford, Mr. Dugard, Mr. Economides, Mr. Gaja, Mr. Galicki, Mr. Hafner, Mr. He, Mr. Kamto, Mr. Lukashuk, Mr. Momtaz, Mr. Pellet, Mr. Rodríguez Cedeño, Mr. Rosenstock, Mr. Tomka, Mr. Yamada.

Organization of work of the session (*continued*)*

[Agenda item 1]

1. The CHAIRMAN welcomed the successful outcome of the work of the Commission during the first part of the session: the Drafting Committee had completed its work on the draft articles on the prevention of transboundary harm from hazardous activities and on the responsibility of States for internationally wrongful acts. The Commission had adopted the draft articles on those topics on second reading. Progress had also been made on the topic of reservations to treaties. The Commission would later consider new reports on reservations to treaties, diplomatic protection and unilateral acts of States.

* Resumed from the 2680th meeting.

2. In accordance with the cost-saving measures provided for in paragraph 11 of General Assembly resolution 54/111 of 9 December 1999 and reiterated in paragraph 13 of its resolution 55/152 of 12 December 2000, the first week of the second part of the session would be devoted to meetings of the Working Group on the commentaries to the draft articles on State responsibility, and the first plenary meeting would be held on 9 July.

3. In conclusion, he thanked all the members of the Commission for their cooperation and the secretariat staff for their assistance.

The meeting rose at 10.10 a.m.
