

Document:-
A/CN.4/3136

Summary record of the 3136th meeting

Topic:
Treaties over time

Extract from the Yearbook of the International Law Commission:-
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not seem to have any objections to that, but he failed to see why the Commission needed to take urgent action. A proposal to amend the title of the topic had been made, without any explanation as to when the change would be made or in what context. He endorsed the comments by Mr. Hmoud and the Chairperson and said he would be uncomfortable with appointing a special rapporteur when the topic had not yet been defined.

88. The CHAIRPERSON said that, regrettably, the Commission was not able to take a decision now on the matters at hand, but it was out of the question that it should do so the following Friday. It would accordingly need to take up those matters during the second part of the session.

89. Mr. NIEHAUS said that he did not understand where the problem lay: as far as the title was concerned, it would suffice to follow the Study Group's recommendation. In his view, the Commission should accept the title proposed by Mr. Nolte, on the understanding that it could amend it subsequently, and it should appoint a special rapporteur.

90. The CHAIRPERSON said that the only solution was to schedule another plenary meeting so that the Commission could settle the matter.

91. Sir Michael WOOD proposed that a plenary meeting should be held on Thursday, 31 May 2012.

92. The CHAIRPERSON urged the members of the Commission to come to an agreement so that a decision could be taken on Thursday, 31 May 2012.

The meeting rose at 6 p.m.

3136th MEETING

Thursday, 31 May 2012, at 10.10 a.m.

Chairperson: Mr. Lucius CAFLISCH

Present: Mr. Comissário Afonso, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Gevorgian, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kamto, Mr. Kittichaisaree, Mr. Laraba, Mr. McRae, Mr. Murase, Mr. Murphy, Mr. Niehaus, Mr. Nolte, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Šturma, Mr. Tladi, Mr. Valencia-Ospina, Mr. Wisnumurti, Sir Michael Wood.

Treaties over time (*continued*) (A/CN.4/650 and Add.1, sect. E)

[Agenda item 8]

1. The CHAIRPERSON recalled that at the 3135th meeting, the Chairperson of the Study Group on treaties over time had presented an oral report on the work of the Study Group during the first part of the current session. In particular, he had reported that the

Study Group had adopted a recommendation that the Commission should change the format of its work on the topic and appoint a special rapporteur. According to the Study Group, it would be understood that the main focus of the topic would be on the legal significance of subsequent agreements and subsequent practice for the interpretation of treaties (1969 Vienna Convention on the law of treaties, art. 31) and related matters, as had been explained in the original proposal for the topic.¹³¹

2. During the debate in the Commission, the recommendation of the Study Group had received general support, and it had been proposed that Mr. Nolte should be appointed Special Rapporteur. At the same meeting, there had also been a debate as to whether it would be appropriate, should the recommendation of the Study Group be followed, to decide at the same time on the title under which consideration of the topic would continue.

3. He had been informed that, following informal consultations conducted by the Chairperson with members of the Study Group, general agreement had been reached that the title of the topic should be "Subsequent agreements and subsequent practice in relation to the interpretation of treaties".

4. Accordingly, if he heard no objection, he would take it that the Commission wished (a) to change, with effect as from the sixty-fifth session, the format of the work on that topic as suggested by the Study Group; and (b) to appoint Mr. Nolte as Special Rapporteur for the topic "Subsequent agreements and subsequent practice in relation to the interpretation of treaties".

It was so decided.

The meeting rose at 10.20 a.m.

3137th MEETING

Friday, 1 June 2012, at 10.10 a.m.

Chairperson: Mr. Lucius CAFLISCH

Present: Mr. Comissário Afonso, Ms. Escobar Hernández, Mr. Forteau, Mr. Gevorgian, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kamto, Mr. Kittichaisaree, Mr. Laraba, Mr. McRae, Mr. Murase, Mr. Niehaus, Mr. Park, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Šturma, Mr. Tladi, Mr. Valencia-Ospina, Mr. Wako, Mr. Wisnumurti, Sir Michael Wood.

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

[Agenda item 1]

1. The CHAIRPERSON recalled that the provisional programme of work for the second part of the session,

¹³¹ *Yearbook ... 2008*, vol. II (Part Two), annex I, para. 11.

* Resumed from the 3133rd meeting.