

Document:-  
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**Summary record of the 3149th meeting**

Topic:  
**<multiple topics>**

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case concerning *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, the parties had referred to the recent judgment handed down by ITLOS and the Court was studying that decision.

114. The CHAIRPERSON thanked Mr. Tomka, on behalf of the Commission, for his interesting statement and the wealth of information provided, including in response to the questions raised.

*The meeting rose at 1.10 p.m.*

## 3149th MEETING

*Wednesday, 25 July 2012, at 10 a.m.*

*Chairperson:* Mr. Lucius CAFLISCH

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

### Cooperation with other bodies (*continued*)

[Agenda item 12]

#### STATEMENT BY THE REPRESENTATIVE OF THE INTER-AMERICAN JURIDICAL COMMITTEE

1. The CHAIRPERSON welcomed Mr. Stewart, of the Inter-American Juridical Committee, and invited him to address the Commission.

2. Mr. STEWART (Inter-American Juridical Committee) said that he was pleased to report on the recent activities of the Inter-American Juridical Committee. Given that Commission members had been provided with a very detailed annual report of the Committee's activities for 2011,<sup>319</sup> he would limit his remarks to a few of the most important issues addressed by the Committee that year.

3. As set forth in the 1948 Charter of the Organization of American States (OAS), the Inter-American Juridical Committee was the principal advisory body of OAS. Composed of 11 members who were elected by the OAS General Assembly as independent experts, it provided advice or opinions on specific issues of regional or global concern, worked on the harmonization of laws among the OAS member States, prepared draft conventions or other instruments, conducted studies of legal problems related to regional integration, proposed conferences and meetings on international legal matters and cooperated with other

entities engaged in the development or codification of international law.

4. The Committee had prepared many notable instruments, including the 1969 American Convention on Human Rights: "Pact of San José, Costa Rica", the Convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance (1971) and the Inter-American Convention on extradition (1981). More recently, it had helped to prepare the Inter-American Convention on the Law Applicable to International Contracts (1994), the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999), the Inter-American Convention against Corruption (1996) and the Inter-American Democratic Charter (2001), all of which reflected a shared commitment to democracy, which was of great importance in the region. Since 1974, the Committee had been organizing a highly regarded annual course for young lawyers from OAS member States that made a substantial contribution to the promotion and development of international law throughout the region. The theme of the 2011 course had been "International law and democracy".

5. In contrast with the Commission, the Committee had always emphasized issues of private international law in its work, as had its predecessor, the Permanent Commission of Jurisconsults. In keeping with that aspect of its work, the Committee organized Inter-American Specialized Conferences on Private Law, known as "CIDIP conferences", which dealt with such varied topics as the choice of law in contractual matters, the enforcement of arbitral awards, proof of foreign law, international recovery of child support, extracontractual civil liability, electronic registries for the implementation of the Model Inter-American Law on Secured Transactions and international consumer protection. Through the years, the CIDIP conferences had resulted in the adoption of 26 instruments, which had helped to create an effective legal framework for judicial cooperation and added legal certainty to regional cross-border transactions in civil, family, commercial and procedural matters.

6. The recent work undertaken by the Committee covered a wide range of topics, six of which were particularly important and might be of interest to the Commission. First, the Committee had prepared a study of ways to strengthen the regional human rights system, which was a critical area in which it had long played an active role by providing advice for the preparation of a regional instrument on new forms of discrimination. The Committee's report contained a number of recommendations regarding the powers and responsibilities of the system's principal organs, namely the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. In it, the Committee had also formulated a number of comments and suggestions relating to the friendly settlement of cases and the issuance of precautionary measures. It had also identified new measures that the Court and Commission might usefully take in promoting human rights and had proposed mechanisms for the effective follow-up and enforcement of judgments. Lastly, the Committee concluded in that study that it was vital for more States to

<sup>319</sup> Document OEA/Ser.G-CP/doc.4695/12; available from [www.oas.org/en/sla/iajc/docs/INFOANUAL.CJI.2011.ENG.pdf](http://www.oas.org/en/sla/iajc/docs/INFOANUAL.CJI.2011.ENG.pdf).

ratify the inter-American human rights instruments, and it included various proposals for financing the Court and the Commission.

7. Second, the Committee had prepared a study on the freedom of thought and expression. More specifically, it had been asked by the OAS General Assembly to study the importance of guaranteeing the freedom of thought and expression, in accordance with applicable principles of international law, in view of the fact that the free and independent media carried out their activities guided by ethical standards that could in no circumstances be imposed by the State. A particular focus of the concerns underlying the General Assembly's request was the growing utilization of the Internet to convey information and the threat of restrictions on the free flow of information. After extensive discussions, the Committee had adopted a report that provided an analysis of article 13 of the American Convention on Human Rights, its relationship to the strengthening of democracy, the limitations on the freedom of thought and expression and the penalties to be applied for denial of that freedom. The report stressed that the freedom of thought and expression was an essential element of democracy and that freedom of the press offered one of the best ways to know and to judge the ideas, attitudes and accomplishments of political leaders. It emphasized, however, as was reflected in the decisions of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, that the freedom of expression was not absolute and had to be balanced by other recognized rights, such as the right to honour. It also stressed that States must never engage in prior censorship and suggested some guiding criteria for respecting the freedom of expression, stressing that good journalism always reflected a commitment to the truth, independence before all public, political and economic powers, and the capacity to acknowledge one's mistakes. According to the report, the best way to guarantee the freedom of expression was the ethical practice of good journalism. Such freedom applied to the Internet in the same way as to all other media.

8. Third, the Committee had prepared a report on citizen participation in a democratic system, in which it described 13 mechanisms of direct citizen participation that had been established in various countries in the region. While recognizing the importance of those mechanisms, the report drew attention to some of their limitations and offered suggestions for ensuring respect for the constitutional order and citizens' rights. The report emphasized that the distinction between "representative democracy" and "participatory democracy" could be misleading. Representative democracy did not imply the rejection of citizen participation, but on the contrary invited citizens to take an active part in the democratic decision-making process. The mechanisms of direct participation were not substitutes for the institutions of representative democracy but rather strengthened and invigorated them.

9. Fourth, the Committee had undertaken a comparative analysis of the principal legal instruments of the inter-American system related to peace, security and cooperation. Although the region had enjoyed more than 50 years of relative stability, the maintenance of regional peace and security remained one of the principal goals of

the Organization, which gave special importance to the principle of non-intervention and the peaceful resolution of disputes. In its report, the Committee had taken stock of the security situation from a multidimensional perspective and had addressed new threats, such as terrorism; transnational organized crime; trafficking in migrants, drugs and small arms; climate change; and cybercrime. It had concluded by emphasizing the need to adopt new tools and innovative mechanisms that took into account the new realities in the region.

10. Fifth, over the past several years, the Committee had focused particular attention on issues related to the rights to access public information, to privacy and to the protection of personal data. Those rights were necessary for a healthy democratic system and for ensuring respect for human rights in the digital age. The Committee had helped to draft a model law on access to public information and its accompanying implementation guide, both of which had been adopted in 2010. In 2012, it had adopted a proposed statement of principles for privacy and personal data protection in the Americas. Globalization and the digital revolution posed unique challenges to traditional concepts of privacy. Addressing those challenges involved striking the proper balance between contending interests and principles. Hence, the right to privacy, the freedoms of speech, opinion and expression, and the free flow of information across borders must be balanced with the need for security of every State. Taking into account the work of other international organizations and the initiatives of OAS member States, the Committee had crafted a statement of 12 principles for privacy and personal data protection that could guide further work in that area by member States. The principles included transparency, consent, confidentiality and, most importantly, accountability. Parameters had been established for access to and correction of information, handling of sensitive information, responsibility of persons or entities in charge of managing the information, cross-border use of information and publicizing exceptions. Those principles provided a sound basis on which member States could frame their domestic approaches and adopt legislation.

11. Sixth, the Committee had taken up a topic that fell clearly within the sphere of private international law; it concerned a matter of considerable importance to economic development in the Americas, where the cost and length of time needed to complete the formalities of incorporation posed serious obstacles to the creation of new businesses. The past decade had seen the emergence in various countries around the world of new forms of hybrid corporate organizations, which facilitated the creation of microenterprises, as well as small and medium-sized enterprises. Taking note of an initiative by the Government of Colombia to encourage the use of that new form of business and of the work of Mr. Francisco Reyes Villamizar, the Committee had endorsed a proposed model law on simplified stock companies. Its aim was to provide shareholders with limited liability, except when they used the corporate veil in order to perpetrate acts of fraud or abuse. The proposed model also provided protection for third parties, along with effective and inexpensive oversight by external auditors and fairly simple rules for liquidation and dissolution.

12. Over the past year, the Committee had also adopted a guide to principles of access to justice in the Americas, which set out innovative ways to ensure the independence of the judiciary and respect for the rights of all citizens, in view of the increased demand for justice and the inadequate resources to handle it. The guide contained proposals on the training and selection of judges, modernization and independence of the judicial system, ensuring the effectiveness of judicial remedies, guaranteeing equal access to justice in all spheres, alternative judicial mechanisms, attention to vulnerable groups and recognition of multiculturalism.

13. In 2011, the Committee had also adopted a guide of principles regarding cultural diversity in the development of international law, the aim of which was to facilitate the incorporation of cultural diversity into domestic legal systems and to ensure its constitutional and legal recognition. The guide invited OAS member States to preserve the linguistic heritage of the region, restore areas destroyed by natural disasters, create institutions and mechanisms intended to protect cultural heritage and take cultural diversity into account in regional integration processes. The guide also defined the role of civil society, non-governmental organizations and the private sector in the promotion of diversity. Lastly, the Committee had also adopted a resolution on the relationship between asylum and refugee status, which urged States to ensure that the conditions for acquiring refugee status in domestic law were properly accessible and consistent with the relevant principles of international law.

14. Five new items had been included in the agenda of the eighty-first session of the Committee. The first concerned the preparation of a guide for regulating the use of force and the protection of people in situations of internal violence that did not qualify as armed conflict. In several countries of the region, safety and security were seriously threatened by criminal organizations and politically motivated mass demonstrations. The aim of that effort was to elaborate a practical legal framework for responding to domestic violence in situations that did not qualify as conflicts and for enabling law enforcement authorities to maintain public order and protect themselves, while at the same time respecting human rights. At its forthcoming session, the Committee would also prepare a study on human rights, sexual orientation and gender identity. The Committee's approach to the study would likely be from the standpoint of non-discrimination in order to identify the relevant legal principles. The Committee would also consider the preparation of model legislation on the protection of cultural property in the event of armed conflict. At the direction of the OAS General Assembly, the Committee had been working for several years on ways to promote respect for international humanitarian law in the hemisphere. The model legislation would help States parties to the relevant international instruments—notably, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols—to comply with their obligations and would assist States that had not ratified those instruments to adopt appropriate protective legislation. At that same session, the Committee would begin drafting general guidelines for border integration, with a view to facilitating cross-border cooperation

in various situations in the hemisphere. Lastly, the Committee would begin considering possibilities for new initiatives in the field of private international law, which could include, for example, international commercial and investment arbitration, immunities, and the application of international law by domestic courts.

15. The brief overview of the Committee's work he had just given illustrated the wide range of topics that were considered, even though these obviously focused on the main problems faced by OAS member States. As stated previously, the Committee's work was not confined to traditional topics of public international law. Given that it was called on to examine new challenges that arose daily in the context of transborder cooperation, the Committee was clearly inclined to concentrate on practical topics, such as consumer protection, access to public information, the right to asylum and the struggle against contemporary forms of discrimination.

16. It was well known that international law no longer governed only relations between States or international organizations and that the concept of public order at the international level must be appreciated in a much broader context. It must be concerned with a wide range of international activities, including those undertaken by non-State actors—whether individuals or groups of individuals—ranging from trade, cultural and family matters, and even criminal activity, to consumer and environmental protection and the settlement of private civil and commercial disputes. In fact, it was difficult to think of an economic, social or cultural activity that did not have an international dimension and that did not, in one way or another, give rise to an international legal issue. The rapid advances in technology, communication and commerce posed unique challenges for the international legal system. Threats to international peace and security no longer came only from nation States but had an increasingly multidimensional character that transcended national boundaries and demanded extraordinary collective efforts. The process of development and efforts to eradicate poverty involved closely interrelated aspects of economic, social and cultural rights that must be carefully considered. Lastly, the protection and promotion of internationally recognized human rights were essential elements for building a democratic order.

17. In all of those areas, the traditional distinction between international and domestic law, and between public and private law, had been eroding. As a result, in carrying out its mandate, the Committee had taken a broad view, addressing the problems and issues of greatest relevance to the Organization and in respect of which it could make the most significant and positive contributions. That said, at times, the pace of the Committee's work and the breadth of its agenda seemed quite daunting, and it would be gratifying for the Committee to have more time and resources to consider issues in greater depth and detail. As a former practitioner and government lawyer turned scholar, he had come to value the opportunity for thoughtful reflection on complicated problems. For the Committee, the continual challenge was to strike the proper balance between study and analysis of the issues, on the one hand, and providing practical guidance on quickly evolving problems, on the other.

18. In conclusion, he wished to thank the Commission for having afforded him the opportunity to present the work of the Inter-American Juridical Committee. The Committee attached considerable importance to strengthening the dialogue between itself and the International Law Commission and would be delighted to receive a representative of the Commission at the forthcoming regular session of the Committee to be held in Rio de Janeiro, Brazil, as well as at the annual course on international law to be held concurrently with it. Perhaps the two bodies might also discover other ways in which they could work together.

19. The CHAIRPERSON invited the members of the Commission to put questions to Mr. Stewart.

20. Mr. VALENCIA-OSPINA said that he had been invited several times to lecture at the annual course on international law, which was held in Rio de Janeiro under the auspices of the OAS Department of International Law. He could attest to the importance attached in the Americas to the lectures, which were generally published in a separate volume each year. Relations between the Committee and the Commission had been strengthened through personal ties, as evidenced by the fact that several former members of the Commission, such as Mr. Baena Soares and Mr. Herdocia Sacasa, had been members of the Committee. The Committee, in its earlier form, had preceded the Commission, inasmuch as the activities of the codification and progressive development of international law had been included among the objectives of OAS since the 1930s, even though the Organization as such had not yet been constituted, its Charter not having been signed until 1948. In any case, many of the topics that the Committee had considered and the methods that it had adopted had subsequently been taken up by the Commission.

21. The inter-American contribution to the development of public and private international law was no longer to be proved, but, without reiterating the themes that were already familiar to members, he wished to recognize the ongoing pioneering work of the Committee. Mr. Stewart had successfully summed up the essence of the Committee's efforts to codify and progressively develop international law: although the Committee's work focused on areas of interest to the region, it was nevertheless universal in scope, and the Commission could usefully follow the Committee's example. As Mr. Stewart had indicated, the Committee no longer confined itself to traditional topics of international law, its aim being to understand the current realities of society and find legal solutions to the interdependent problems to which they gave rise. It therefore dealt with topics that transcended borders and could be of universal interest, despite being framed in regional terms. Although the International Law Commission had a universal calling, it appeared, on the contrary, still to be very attached to the idea that the process of the codification and progressive development of international law must deal chiefly, if not exclusively, with traditional subjects of international law. To some extent, the Commission gave the impression that it had become a body that continued to seek all possible angles for codifying and developing what the 1969 Vienna Convention had already completed and one that approached topics that were somewhat innovative with a degree of apprehension. Perhaps in its future work, the

Commission could find inspiration in some of the topics on the Committee's agenda.

22. As to the promotion of democracy, a subject that was dear to the hearts of all Latin Americans, Mr. Stewart had said that there was no link between citizens' participation in democracy and the regrettably frequent tendency in Latin America of some leaders to remain in power through constitutional reforms adopted by parliament or by referendum. He would appreciate clarification of the Committee's views on that matter.

23. Mr. HASSOUNA, referring to the relationship between the Inter-American Juridical Committee and the International Law Commission, said Mr. Stewart had noted that the Committee's mandate and interests differed from those of the Commission in that the Committee dealt primarily with topics of interest in the Americas. He had also noted that the Committee would be open to furthering its relations with the Commission, as evidenced by its invitation for a representative of the Commission to attend the Committee's forthcoming regular session. He wished to know whether that meant that the Committee might take a look at the topics on the Commission's agenda and make observations that could enrich the Commission's debates on them. He also wished to know whether the Committee, which, to a certain extent represented the inter-American legal system, had relations or cooperated with other regional legal bodies, such as the European legal institutions, AALCO or AUCIL, from which the Commission had recently welcomed a delegation. If that was the case, he asked whether it had any plans to enhance that cooperation for the mutual benefit of the organizations, since such an exchange of experiences and knowledge would undoubtedly be useful to them all.

24. Mr. STEWART (Inter-American Juridical Committee) said he welcomed the fact that the Commission was contemplating the possibility of holding future consultations with the Committee, and he would inform his colleagues of that development. The two bodies obviously had several features in common: both had a mandate to promote the progressive development of international law, even if they had differing approaches and priorities, inasmuch as the Committee's work was of a more practical and immediate nature. Given that cooperation between the two bodies could be mutually beneficial, it would be worthwhile exploring what forms such cooperation might take in practice.

25. The Committee had not yet begun to cooperate with other regional legal bodies, even though it kept up with new developments on the African continent and in Europe, for example. Nonetheless, Mr. Hassouna's suggestion was very interesting and would be given due consideration. With regard to Mr. Valencia-Ospina's question concerning the relationship between participative democracy and the tendency of certain regimes to maintain power by questionable means, the Committee had been called upon to examine that problem by the OAS General Assembly. It had taken care not to give its opinion on the situation in relation to a particular country and to refrain from declaring one form of democracy to be preferable or better than another. That said, it would be a mistake to claim that participative democracy was an adequate substitute

for representative democracy when it meant that citizens did not have a chance to express their position with regard to those in power but only to participate through other forms of involvement in government. Regimes that attempted to perpetuate their role in power while claiming to be democratic were not actually democracies, since, irrespective of the particular form it took, democracy presupposed that citizens exercised their sovereignty. Lastly, the Committee did not have the opportunity to address issues of public international law very often, but it followed the Commission's work closely and would be happy to contribute to it in one way or another.

26. Mr. NIEHAUS thanked Mr. Stewart for his exhaustive and very thought-provoking report. He asked for clarification of the role played by the Inter-American Institute of Human Rights in the inter-American system for the protection of human rights and how the Institute coordinated its work with that of other organs, such as the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights. He also wished to know whether the Institute had already addressed—or was planning to address—the jurisdictional issue that had arisen in the hemisphere, namely that certain regional bodies, such as the Central American Court of Justice, were exceeding their authority and attempting to impose their decisions on countries that were not members of the Central American system.

27. Mr. GÓMEZ ROBLEDÓ said that the Inter-American Juridical Committee played an important role because it provided legal services not only to the Organization but also to individual member States. In 2013, a special session of the OAS General Assembly would be devoted to strengthening the inter-American human rights system. In conjunction with the intergovernmental preparatory work under way at OAS headquarters, the Committee had drafted a report that had been very favourably received by OAS member States and that would no doubt help them to take complex decisions in that area. He recalled that the Committee issued advisory opinions, which could allow for the friendly settlement of disputes, as had occurred in the famous case in the 1990s involving Mexico and the United States of America.<sup>320</sup> He also recalled the important role of the model legislation prepared by the Committee in various fields of private and public international law, especially given the fact that most legal systems in the Americas were dualist in nature. Lastly, he noted that the Committee sometimes met in locations other than at headquarters and suggested that the Commission could perhaps follow its example.

28. Mr. HMOUD, noting that the Inter-American Juridical Committee was one of the most active legal organizations in the region, asked whether there was a risk that human rights protection would be lowered in the context of efforts to combat illegal armed groups involved in criminal activities. He also asked whether the guide that the Committee planned to prepare would serve to strengthen human rights protection, given that such situations of violence did not qualify as armed conflicts under international case law.

29. Mr. STEWART (Inter-American Juridical Committee) said that he wished to respond to the questions posed by Mr. Niehaus concerning the role of the Inter-American Institute of Human Rights in the inter-American system for the protection of human rights, including in relation to the Inter-American Court of Human Rights, and whether the Institute coordinated its work with that of other bodies. Speaking in his personal capacity, he would venture to say that the Institute acted on its own initiative. The Committee had often been confronted with difficult situations as a result of the fact that certain bodies fiercely protected their independence. The other question posed by Mr. Niehaus with regard to the Central American Court of Justice and other regional or subregional bodies that exceeded their authority had not been examined directly by the Committee but it did plan to take up issues of border integration, which had to do with regional or subregional initiatives. As things currently stood, it was impossible to say whether the emergence of new institutions would promote respect for the rule of law or challenge it.

30. Responding to Mr. Gómez Robledo, who had referred to the future special session and the Committee's advisory opinions, he confirmed the importance of the Committee's role in strengthening human rights and the influence of the opinions it issued. As to the Committee's practice, also mentioned by Mr. Gómez Robledo, of holding meetings in locations other than at its headquarters, it afforded the Committee the opportunity—apart from generally being very well received—to hear the views of law professors, judges and lawyers that it might not otherwise hear.

31. In response to Mr. Hmoud, he explained that it was precisely to avoid any lowering of human rights protection that the Committee planned to draft a guide for regulating the use of force in situations of internal violence. Those situations were giving rise to more and more substantive and complex issues of international law, given that the groups involved were increasingly heavily armed and that what had once consisted of nothing more than street violence at times resembled genuine armed conflict. Many institutions were studying those issues, including UNODC, and States had begun to respond to them in various ways. The Committee would take those factors into account. In his own view, the principal aim of such efforts should be to ensure the protection of human rights (including those of the members of the armed groups), even if the police must also be able to perform their job. It was a question of striking the right balance.

32. Mr. ŠTURMA asked what the legal status was of the Inter-American Democratic Charter and whether institutional mechanisms had been put in place to supervise its implementation.

33. Mr. SABOIA said that he had planned to ask the same question as Mr. Hmoud and was satisfied with the answer given. In order to illustrate the overlap between the Committee's work and that of the Commission, he recalled that the Commission had just completed its first reading of the draft articles on the topic of expulsion of aliens, certain provisions of which dealt with the status of refugees and asylum seekers. He requested information—even though Ms. Escobar Hernández would probably raise the same issue—on the work being carried out by the Inter-American

<sup>320</sup> Legal opinion on the decision of the Supreme Court of the United States of America (CJI/RES.II-15/92).

Juridical Committee in the area of the incorporation of international immunities in domestic law.

34. Mr. WAKO, noting that the work of the Inter-American Juridical Committee was very similar to that of the Commission inasmuch as it was also concerned with the progressive development of international law, requested information on the report mentioned in the 2011 annual report<sup>321</sup> on the role of cultural diversity in the development of international law. His impression was that the Inter-American Juridical Committee was concerned above all with monitoring cooperation between OAS member States and the International Criminal Court but he wondered whether the Committee might go a step further and identify areas in which the Rome Statute of the International Criminal Court possibly warranted a review. Lastly, given that the question of internal conflicts had been included on the agenda of the Inter-American Juridical Committee, he would like to know the Committee's opinion regarding limitations on the freedom of expression. On the African continent, in any case, internal armed conflicts often had an ethnic dimension and were frequently motivated by hate speech. It would be interesting to know what the Committee would recommend in terms of reconciling the freedom of expression with the need to prohibit incitement to hatred.

35. Ms. ESCOBAR HERNÁNDEZ said that, like Mr. Saboia, she wished to know to what extent international immunities had been incorporated into domestic legislations. She also wished to know whether, in the course of its report on strengthening the inter-American human rights system, the Committee had provided for a mechanism of cooperation and exchange of views with the organs of the inter-American system charged with the protection of human rights, in particular the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights and the permanent secretariats that served them.

36. Mr. STEWART (Inter-American Juridical Committee) said that he would try to provide a brief answer to Mr. Šturma's question on the Inter-American Democratic Charter. The Charter was not a treaty but rather a declaration with significant normative force. The mechanisms that oversaw its implementation were essentially political in nature. One State could not initiate proceedings against another State for violating the Charter. In his view, proper compliance with the most important obligations was possible even when efforts to monitor such compliance were not enforced by law.

37. In response to Mr. Saboia's question concerning the overlap between the work of the Committee and that of the Commission in certain areas, he cited the example of an applicant whose request for asylum and refugee status had been denied because the applicant had not followed established procedures. The Committee had declared that denial to be unjustified on the grounds that it was inconsistent with the obligations of States and that the procedures could not be invoked as grounds for denying an individual access to the process to which he or she was entitled under international law.

38. The issue of immunities under international law was a topic of obvious interest within the inter-American legal system, whether it addressed immunities of the State or those of individuals. However, the Committee had not yet decided to include the topic on its agenda, and he did not know what form the topic might take if it did.

39. With regard to the question posed by Mr. Wako concerning cultural diversity, he drew attention to the Committee's report on the subject, which emphasized the rights of indigenous peoples in order to ensure that attention was given to preserving the rights of all peoples that made up multicultural societies, indigenous and otherwise.

40. The Committee had not proposed any amendments to the Rome Statute of the International Criminal Court; rather, it had focused on the ratification of the Statute and the incorporation of its provisions into domestic law.

41. Lastly, the Committee had not yet taken up the issue of freedom of expression and internal armed conflicts. With regard to the question posed by Ms. Escobar Hernández about strengthening the human rights system, the Committee cooperated and exchanged views with the other bodies concerned, but on an informal basis, and such cooperation was sometimes difficult.

### **Organization of the work of the session (concluded)\***

[Agenda item 1]

42. The CHAIRPERSON thanked the representative of the Inter-American Juridical Committee for his report and informed the members of the Commission that informal consultations had been held with a view to considering the advisability of including the topic "Protection of the atmosphere", which had been included in the Commission's long-term programme of work, in its current programme of work. Those consultations would no doubt continue at the next session. In addition, the Bureau was planning to hold informal consultations on another subject included in the long-term programme of work, "Protection of the environment in relation to armed conflicts", also with a view to its inclusion in the Commission's long-term programme of work. Lastly, the Chairperson informed the members that, owing to his new responsibilities, Mr. Vasciannie had resigned from the Commission with immediate effect.

*The meeting rose at 11.40 a.m.*

## **3150th MEETING**

*Thursday, 26 July 2012, at 10 a.m.*

*Chairperson: Mr. Lucius CAFLISCH*

*Present: Mr. Candioti, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Gevorgian, Mr. Gómez Robledo, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kamto, Mr. Kittichaisaree, Mr. Laraba,*

<sup>321</sup> See footnote 319 above.

\* Resumed from the 3141st meeting.