Summary record of the 3171st meeting

Topic:
Organization of the work of the session

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Organization of the work of the session (continued)

[Agenda item 1]

46. Mr. FORTEAU (Rapporteur), speaking on behalf of the Chairperson of the Drafting Committee, read out the list of members of the Drafting Committee on immunity of State officials from foreign criminal jurisdiction.

The meeting rose at 11.20 a.m.

3171st MEETING

Tuesday, 28 May 2013, at 10 a.m.

Chairperson: Mr. Bernd H. NIEHAUS

Present: Mr. Caflisch, Mr. Candiotti, Mr. Comissário Afonso, Mr. Forteau, Mr. Gevorgian, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kittichaisaree, Mr. Laraba, Mr. Murase, Mr. Murphy, Mr. Nolte, Mr. Park, Mr. Peter, Mr. Petrič, Mr. Saboia, Mr. Singh, Mr. Šturma, Mr. Valencia-Ospina, Mr. Vázquez-Bermúdez, Mr. Wako, Mr. Wisnumurti, Sir Michael Wood.

Organization of the work of the session (continued)

[Agenda item 1]

1. The CHAIRPERSON said that, after consultations concerning the possibility of including a new topic on the Commission’s programme of work and the appointment of a new special rapporteur for that topic, he had noted that there was a consensus in favour of the topic “Protection of the environment in relation to armed conflicts”. He therefore suggested that the topic should be included in the Commission’s programme of work and that Ms. Jacobsson should be appointed Special Rapporteur. The topic would also be placed on the agenda.

It was so decided.

2. Ms. JACOBSSON thanked the members of the Commission for the trust which they had shown in appointing her Special Rapporteur and said that the following week she would present an informal document prior to drafting a preliminary report on the topic.

3. Mr. CANDIOTTI drew attention to the fact that a decision had still to be taken on whether to include the topic “Protection of the atmosphere” in the programme of work, as had been proposed at the sixty-fourth session.

4. The CHAIRPERSON said that he would hold consultations on that matter and inform the Commission of their outcome.

The meeting rose at 10.10 a.m.

3172nd MEETING

Friday, 31 May 2013, at 10 a.m.

Chairperson: Mr. Bernd H. NIEHAUS

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

Subsequent agreements and subsequent practice in relation to the interpretation of treaties (concluded)

(A/CN.4/660, A/CN.4/L.813)

[Agenda item 6]

Report of the Drafting Committee

1. Mr. TLADI (Chairperson of the Drafting Committee) said that the Drafting Committee had devoted nine meetings to its consideration of the draft conclusions relating to the topic under consideration and had provisionally adopted five draft conclusions, contained in document A/CN.4/L.813, which read as follows:

Draft conclusion 1. General rule and means of treaty interpretation

1. Articles 31 and 32 of the Vienna Convention on the Law of Treaties set forth, respectively, the general rule of interpretation and the rule on supplementary means of interpretation. These rules also apply as customary international law.

2. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its object and purpose.

3. Article 31, paragraph 3, provides, inter alia, that there shall be taken into account, together with the context, (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions; and (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation.

4. Recourse may be had to other subsequent practice in the application of the treaty as a supplementary means of interpretation under article 32.

Draft conclusion 2. Subsequent agreements and subsequent practice as authentic means of interpretation

Subsequent agreements and subsequent practice under article 31 (3) (a) and (b), being objective evidence of the understanding of the parties as to the meaning of the treaty, are authentic means of interpretation, in the application of the general rule of treaty interpretation reflected in article 31.

* Resumed from the 3163rd meeting.