Document:-
A/CN.4/3189

Summary record of the 3189th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
2013, vol. I

The purpose had been to initiate an informal dialogue on a number of issues that could be of relevance to the consideration of the topic during the present quinquennium. The two informal papers were to be read together with the syllabus containing the initial proposal for the topic, as reproduced in the report of the Commission to the General Assembly on the work of its sixty-third session.[163] The issues discussed during the consultations included the scope, general direction of work and timetable. On the basis of the consultations, she had circulated an outline for future work on the topic, including the proposed focus of her first report.

33. She had proposed that the topic should be addressed from a temporal perspective, rather than from the perspective of various areas of international law. The temporal phases related to legal measures taken to protect the environment before, during and after an armed conflict (phases I, II and III). Such an approach would allow the Commission to identify concrete legal issues that arose in the different phases and would facilitate the development of concrete conclusions or guidelines.

34. She had further proposed that the focus of the topic be on phase I, obligations of relevance to a potential armed conflict, and phase III, post-conflict measures. Phase II, the phase during which the law of war applied, would be given less emphasis, as it should not be the Commission's task to modify the existing legal regimes. The work on phase II should also focus on non-international armed conflicts.

35. The original time frame envisaged in the syllabus had been five years, based on an approach to the topic that was different from the one she had just described. With respect to the final outcome, her preliminary view was that the topic was much better suited to the development of non-binding draft guidelines than to a draft convention.

36. During the informal consultations, the approach of addressing the topic in temporal phases had generally been welcomed. Several members of the Commission had emphasized that phase II, rules applicable during an armed conflict, was the most important, although others considered that either phase I or phase III, or both, were paramount. Her view was that although the work was divided into temporal phases, there could not be a strict dividing line between them, since that would be artificial, and it would not correspond to the way in which the legal rules relevant for the topic operated.

37. Several members had cautioned against taking up the question of weapons, whereas a few members thought that it should be addressed. In her opinion, it should not be the focus of the topic.

38. Some members considered it premature to decide on the final form of the work or to ask Member States to report on their practice. Consultations with other United Nations organs or international organizations involved in the protection of the environment were encouraged. She had also been encouraged to consult regional bodies, such as the African Union, the European Union, the League of Arab States and the Organization of American States.

39. She intended to present her first report to the Commission at its sixty-sixth session. She envisaged a three-year timetable for the Commission's work on the topic, with one report each year. The focus of the first report would be on phase I, obligations of relevance to a potential armed conflict. It would not address post-conflict measures *per se*, even if preparation for post-conflict measures might need to be implemented before an armed conflict had broken out. She also planned to identify the issues previously considered by the Commission that might be of relevance to the present topic. It would be valuable if the Commission could ask States to provide examples of instances in which international environmental law, including regional and bilateral treaties, had continued to apply in times of international or non-international armed conflict.

40. The second report would be on the law of armed conflict, including non-international armed conflict, and would contain an analysis of existing rules. The third report would focus on post-conflict measures, including reparation of damage, reconstruction, liability and compensation. Particular attention would be given to case law. All three reports would contain conclusions or draft guidelines for discussion by the Commission, and possible referral to the Drafting Committee. At the current stage, it was hard to predict whether it would be possible to conclude the topic within the current quinquennium.

41. She wished to draw attention to a discrepancy in the translation of the title of the topic into certain official languages. The title was "Protection of the environment in relation to armed conflicts", with the phrase "in relation to" reflecting the fact that the subject was not limited to the armed conflict phase and included two other temporal phases.

42. The CHAIRPERSON said he took it that the Commission wished to take note of the report presented orally by the Special Rapporteur on the topic of protection of the environment in relation to armed conflicts.

It was so decided.

The meeting rose at 12.30 p.m.

3189th MEETING

Wednesday, 31 July 2013, at 10 a.m.

Chairperson: Mr. Bernd H. NIEHAUS

Present: Mr. Caflisch, Mr. Candioti, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Gevorgian, Mr. Gómez Robledo, Mr. Hassouna, Mr. Hmoud, Mr. Huang, 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. Wisnumurti, Sir Michael Wood.

---

[163] *Yearbook … 2011*, vol. II (Part Two), annex V.

Cooperation with other bodies (*concluded*)*

[Agenda item 13]

Statement by the President of the African Union Commission on International Law

1. The CHAIRPERSON welcomed Mr. Kilangi, President of the African Union Commission on International Law (AUCIL), and invited him to present the institution's work in areas where its interests coincided with those of the Commission.

2. Mr. KILANGI (African Union Commission on International Law) said that AUCIL had decided to call on the Commission every year in order to exchange views and assess the progress made by the two institutions, which performed similar work, albeit in different settings. AUCIL, which had the same arrangement with the IAJC, hoped that representatives of the Commission would visit it in Addis Ababa during one of its sessions. Such meetings were considered very important for three main reasons. First, there had been concerns, when AUCIL was established, that its work would aggravate the fragmentation of international law and lead to competition with the Commission. Exchanging views seemed, therefore, to be the best way forward, not only in dispelling those concerns, but also in achieving economies of scale and better results. Second, AUCIL, which had only begun its work in 2010, was still defining its methodology and approach, and wished to draw inspiration from the Commission's extensive experience. Lastly, in Africa, like in other parts of the world, politics sometimes intervened in many areas, including legal matters. The best way for AUCIL to remain professional and independent would be to hold discussions with other legal experts working on similar issues. Without wishing to narrow the discussion, he therefore requested members of the Commission to share their thoughts on how the two institutions could work together, enrich each other, benefit from each other's work, inform and consult each other, without compromising their respective mandates and functions. AUCIL had prepared a draft memorandum of understanding, which it would present to members of the Commission with a view to deepening cooperation between the two institutions.

3. AUCIL had been established to serve as the chief advisory body of the African Union on matters of international law. It worked to codify and develop international law in Africa, carry out studies on legal matters of interest to the African Union and its member States and promote the teaching, study, publication and dissemination of literature on international law in Africa. It conducted research and studies; produced reports; prepared draft framework agreements, instruments, model laws and regulations; organized seminars, conferences and forums; prepared legal advisory opinions; issued publications; and collaborated with various institutions, including universities. More specifically, a dozen studies were being conducted on topics such as the harmonization of procedures for ratification of treaties in the African continent, the immunity of State officials under the Rome Statute of the International Criminal Court, the principle of universal jurisdiction and the ways of promoting the teaching, study and dissemination of international law and African Union law on the African continent. Since 2012, AUCIL organized an annual forum of experts in international law, most of whom were African. It was currently preparing a legal advisory opinion on the establishment of an international constitutional court as proposed by Tunisia. It published a *Journal of International Law* and a *Yearbook*. It planned to cooperate with the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, and it contributed to the website of the United Nations Audiovisual Library of International Law. Lastly, it cooperated with the Commission and the IAJC, and would launch its programme of cooperation with universities in 2014. Nevertheless, its work was hindered by a lack of human, financial and material resources.

4. The CHAIRPERSON thanked Mr. Kilangi for his presentation and invited members to comment or ask questions.

5. Mr. TLADI wished to know the extent to which the opinions of African Union member States were solicited and taken into consideration in studies such as the ones on the harmonization of procedures for ratification of treaties on the African continent and the immunity of State officials under the Rome Statute of the International Criminal Court, and what procedure was followed in that regard.

6. Mr. NOLTE asked whether Mr. Kilangi saw a distinction between international law and African Union law and, if so, what that might be. He also wished to know whether recent events in Egypt had influenced the discussions that the African Union was holding on unconstitutional changes of government.

7. Mr. PETRIČ asked whether AUCIL intended to deal with constitutional law.

8. Mr. KILANGI (African Union Commission on International Law) said that when AUCIL incorporated a topic in its programme of work, it appointed a special rapporteur to conduct a study, present it at the plenary meeting, seek the views of other members and, if necessary, consult international law experts and institutions from the African continent and other regions of the world. AUCIL was then obliged to consult all African Union member States, which informed it of their views. The procedure could prove problematic, because the views of member States sometimes ran counter to the principles of international law, which AUCIL had a duty to respect. The issue of the distinction between international law and African Union law was part of ongoing debates within the African Union, which also had yet to decide how best to deal with "popular uprisings", since the term did not have a clear and indisputable definition. In Egypt, a military coup had been staged with the support of some sectors of the population, but other sectors had subsequently rallied behind the former President. It was a complex situation, and member States had not yet reached consensus on it. Lastly, a system that might be characterized as international constitutional law had never yet been developed, but there was a perceived trend towards the

* Resumed from the 3182nd meeting.

internationalization of constitutional law, and that might result in arrangements for elections and governance.

9. Mr. HASSOUNA asked whether AUCIL kept abreast of, and discussed, the Commission's work, and whether it consulted other organizations, in particular AALCO, of which several African Union member States were also members. It would be very useful to explore the possibilities for cooperation between the Commission and AUCIL and the practical arrangements for such cooperation, for example through a website, since many of the issues studied by AUCIL were also of interest to the Commission. In Egypt, there had not been a typical military coup, but rather a popular uprising that had been backed by the army. An African Union delegation had recently travelled to Cairo to examine the new Government's road map. He hoped that Egypt, which was a founding member of the African Union, would go back to being a full member very soon.

10. Mr. PETER, underlining the importance of Mr. Kilangi's visit, said that, contrary to some common preconceptions, Africa had made a significant contribution to the development of international law. He congratulated AUCIL on the work that it had undertaken since its establishment, particularly the publication of its *Yearbook* and *Journal of International Law*: in such publications, it could pay tribute to great African jurists. AUCIL would gain greater visibility by having its own website, as information on it was somewhat lost in all the other information on the African Union site. Lastly, he congratulated AUCIL for adopting a scientific approach to its work and developing a strategic plan for 2011–2013,[164] which would perhaps benefit from being extended to five years, but which could, above all, serve as an excellent basis for collaboration with institutions such as the Commission, with which it shared numerous topics of study.

11. Mr. KILANGI (African Union Commission on International Law) said that, in 2014, AUCIL would have a consolidated budget that should enable it to keep abreast of the Commission's work. With regard to interregional cooperation, AUCIL had links to AALCO through Ghana and the United Republic of Tanzania, but it planned to apply for observer status in 2014. Once its work had been completed, AUCIL published and uploaded it to the African Union website, but a summary could also be found in the *Yearbook*. Africa's contribution to the development of international law should be more clearly recognized, as it remained unsung in spite of its great importance, particularly in respect of refugees and displaced persons, the concept of peoples as groups and the idea of an exclusive economic zone.

12. The AUCIL strategic plan did indeed include several topics of interest to the Commission and would serve as an excellent basis for collaboration and exchange. Objective 4 of the plan, which was to promote international law in Africa,[165] was particularly important because that was one of the founding principles of AUCIL, which had a key role to play in that regard.

13. Ms. ESCOBAR HERNÁNDEZ, welcoming the fact that AUCIL was devoting a study to the immunity of State officials, with particular reference to the Rome Statute of the International Criminal Court, asked whether it would be possible to obtain further information on the progress and content of work on that topic. The Commission had itself been dealing with a related topic since 2007—the immunity of State officials from foreign criminal jurisdiction—to which the United Nations General Assembly attached particular importance. It would be very helpful if AUCIL could inform African Union member States of the Commission's needs in that area and encourage them to provide comments and information on their practice. Lastly, she hoped that genuine mechanisms for cooperation between the two Commissions would be established, so that dialogue could be pursued over and above the annual visit.

14. Mr. CAFLISCH said that many jurists were interested in African international law, but that information was very hard to come by. He asked whether AUCIL was in favour of broadening the jurisdiction of the African Court of Justice and Human Rights, and why the process was so problematic.

15. Mr. KITTICHAISAREE enquired about the slightly illogical reasoning behind the African Union's resolutions and declarations regarding cooperation with the International Criminal Court. The main reason given to justify the refusal of African countries to cooperate was the need to maintain national and regional stability, with the presence of Heads of State deemed essential to national peace processes. Yet when those leaders were no longer in power, the atrocities committed under their regimes could be viewed as acts of the State that threatened to undermine national stability and reconciliation. He also wished to know why African States had not adopted the recommendations of the African Union–European Union Technical Ad hoc Expert Group to examine the issue of the improper invocation of the principle of universal jurisdiction.

16. Mr. GÓMEZ ROBLEDO said that, in the context of discussions on unconstitutional changes of government, it would be useful for Mr. Kilangi and members of the IAJC to exchange views on the impact of the Inter-American Democratic Charter in Latin America. That instrument, which provided for a series of measures culminating in the suspension of member States that had breached constitutional order, was no longer always sufficient to respond to the numerous threats to democracy. In the recent case involving Honduras, the mechanism had led too readily to a decision to suspend the member State and had left no room for dialogue. Conversely, the decision not to suspend Paraguay appeared to have allowed the country to move towards a return to democracy in the space of six months. To conclude, he underlined the invaluable contribution of African countries to international law, in particular their fundamental support for the adoption of the Rome Statute of the International Criminal Court, irrespective of the problems that might currently arise from that instrument's implementation.

17. Mr. TLADI pointed out that the African Union's resolutions against cooperation with the International

[164] See *AUCIL Yearbook 2013*, pp. 87 *et seq.*

[165] *Ibid.*, p. 100.

Criminal Court were based not only on concerns over peace and stability, but also on legal arguments, particularly in relation to article 98 of the Rome Statute of the International Criminal Court.

18. Mr. KILANGI (African Union Commission on International Law) said that AUCIL contributed to broadening the jurisdiction of the African Court of Justice and Human Rights, but only in a consultative capacity on certain technical aspects, with no political considerations. It was, of course, working on a definition of the crime of "unconstitutional change of government", but also of piracy and illegal exploitation of natural resources, over which the Court would also have jurisdiction. Moreover, AUCIL was endeavouring to disseminate information on the evolution of the law in Africa, although this duty could only be fulfilled within available means.

19. With regard to failure to cooperate with the International Criminal Court, it was important to recall that, although AUCIL worked independently, it nevertheless had to take into account the opinions of African countries. The issue was linked to that of the immunities of Heads of State, and African jurists, in their interpretation of the Rome Statute of the International Criminal Court, believed that article 27 recognized those immunities. Another issue was related to the interpretation of the principle of complementarity, and in particular the limits placed on its implementation. Lastly, European countries often overlooked an element that was important in the African context, namely the need to make justice compatible with peace and reconciliation. In the light of situations such as the ones experienced in South Africa and Rwanda, one might question the effect of retributive justice on society. As for the work on universal jurisdiction, it related not so much to the improper invocation of the principle as to how its scope should be interpreted, given that it derived from custom. The Inter-American Democratic Charter was similar to the African Charter on Democracy, Elections and Governance, and it would indeed be useful to share opinions and experiences with the aim of reviewing the two instruments, neither of which appeared to have had the desired effect, which was why there had been a proposal for the establishment of an international constitutional court.

20. Mr. HMOUD supported the questions that had been asked previously. He also asked which were the areas in which AUCIL intended to collaborate with the Commission, and which were the legal matters specific to Africa in which it felt it could make a contribution. He also wished to know how AUCIL perceived the balance between respect for sovereignty and protection of human rights.

21. Ms. JACOBSSON said that an additional aspect of the huge contribution that African countries had made, and continued to make, to international law, was that many of them referred cases to the International Court of Justice. She joined other members in expressing regret at how difficult it was to obtain information on the legal work undertaken in African countries, and noted in particular that the African Union website was not very user-friendly.

22. Sir Michael WOOD supported the comments made by Ms. Jacobsson. He also agreed with Mr. Tladi on the subject of cooperation with the International Criminal Court. The African Union's opinion that customary international law could take precedence over the Rome Statute of the International Criminal Court in matters pertaining to immunities of Heads of State was interesting and well argued. He asked whether AUCIL planned to cooperate with CAHDI. As other members had pointed out, African Union member States should be encouraged to contribute to the Commission's work by providing information, particularly in relation to the formation and evidence of customary international law, especially as the AUCIL statute appeared to attach great importance to treaty law.

23. Mr. SABOIA thanked Mr. Kilangi for his very informative presentation and paid tribute to the significant work undertaken by AUCIL since its establishment in 2009 and, more generally, the contribution of African jurists to international law. Sharing the concerns expressed by Sir Michael with regard to cooperation between the African Union and the International Criminal Court, he said that it would be a shame if African countries—which had, after all, actively participated in the *travaux préparatoires* of the Rome Statute of the International Criminal Court—should come to harbour negative feelings about the Court.

24. In respect of refugees and displaced persons, an issue that was of direct relevance to the Commission's work on the expulsion of aliens, he welcomed the enhanced protection afforded to refugees by the Organization of African Unity (OAU) Convention governing the specific aspects of refugee problems in Africa, as well as the adoption of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). He had learned with great interest that AUCIL representatives were to participate in the eighty-third regular session of the IAJC with the particular aim of examining the issue of unconstitutional changes of government.

25. Mr. KILANGI (African Union Commission on International Law) said that there was no reason to worry about procedural problems linked to the deepening of cooperation between AUCIL and the Commission, as they would gradually be resolved. With regard to sovereignty and human rights, a highly theoretical issue about which a great deal could be said, he proposed, given the late hour, to go back to it in an informal setting.

26. It was true that few documents were uploaded to the AUCIL website, mainly for budgetary reasons, but due regard would be paid to the question of how to improve the document dissemination system during the development of the next strategic five-year plan.

27. He acknowledged that it would be useful to initiate cooperation with CAHDI, and said that the matter would be carefully considered. Through its work, AUCIL would undoubtedly contribute to improvements in the reporting of information on the practice of African States. Moreover, it would give due consideration to customary law, given that, under its mandate, it was responsible for codifying the law.

The most-favoured-nation clause (A/CN.4/657,[166] sect. H, A/CN.4/L.828[167])

[Agenda item 10]

Report of the Study Group

28. Mr. FORTEAU (Acting Chairperson of the Study Group on the most-favoured-nation clause) said that, in the absence of Mr. McRae, he had served as Chairperson of the Study Group, which had been reconstituted at the current session. The Study Group had held four meetings, on 23 May and on 10, 15 and 30 July 2013.

29. He wished to begin by reading out amendments to the report of the Study Group (A/CN.4/L.828) which, in its current version, did not reflect the discussion held on 30 July 2013 on the working paper entitled "Survey of [most-favoured-nation] language and *Maffezini*-related jurisprudence".

30. The first sentence of paragraph 8 would read as follows: "The Study Group had before it a working paper entitled 'A [bilateral investment treaty] on mixed tribunals: legal character of investment dispute settlements', drafted by Mr. Murase, and a working paper entitled 'Survey of [most-favoured-nation] language and *Maffezini*-related jurisprudence', drafted by Mr. Hmoud."

31. A paragraph 9 *bis* would be added, to read: "The working paper by Mr. Hmoud provided a compilation of treaty provisions which were the subject of examination in awards, and which addressed the *Maffezini*-related issue of whether a most-favoured-nation clause extended to dispute settlement clauses, together with the relevant excerpts of the awards."

32. Lastly, the following sentence would be inserted between the second and third sentences of paragraph 12: "It was considered that the study commenced by Mr. Hmoud would be helpful when the Study Group eventually addressed the question of guidelines and model clauses in relation to issues raised in the *Maffezini* award."

33. The first part of the report essentially recalled the overall objective of the Study Group, the work that it had undertaken since its establishment in 2009[168] and the elements likely to guide its future work. The end goal of the Study Group was to put together an overall report that would systematically analyse the various issues identified as relevant. The report would provide a general background to the work within the broader framework of general international law, in the light of subsequent developments, including the 1978 draft articles.[169] Accordingly, the Study Group would also seek to address contemporary issues concerning most-favoured-nation clauses in its report. It might address broadly the question of the interpretation of most-favoured-nation provisions in investment agreements.

34. The second part of the report contained an overview of the discussions held by the Study Group during the current session. The Group had focused its attention on the analysis of two awards, *Daimler Financial Services AG v. Argentine Republic* and *Kılıç İnşaat İthalat İhracat Sanayi ve Ticaret Anonim Şirketi v. Turkmenistan*, which shed further light on the various factors taken into account by tribunals in interpreting most-favoured-nation clauses.

35. The Study Group had also held an exchange of views on the outline of its future report. In that connection, it had noted that, while the focus of its work was in the area of investment, the issues under discussion should be located within a broader framework, that of general international law and the Commission's prior work. The possibility of developing guidelines and model clauses remained an objective, on the understanding that an overly prescriptive outcome was to be avoided.

36. The CHAIRPERSON said he took it that the Commission wished to take note of the report of the Study Group on the most-favoured-nation clause.

It was so decided.

The obligation to extradite or prosecute (*aut dedere aut judicare*) (A/CN.4/657,[170] sect. F, A/CN.4/L.829[171])

[Agenda item 3]

Report of the Working Group

37. Mr. KITTICHAISAREE (Chairperson of the Working Group on the obligation to extradite or prosecute (*aut dedere aut judicare*)) said that the Working Group had held seven meetings, on 8, 14, 16 and 28 May, 5 June and 18 and 24 July 2013, and that it had had before it four working papers prepared by the Chairperson.

38. The introduction of the Working Group's report (A/CN.4/L.829), provided background on the topic and highlighted its importance in the Commission's work. Numerous conventions gave effect to the obligation to cooperate in the fight against impunity, which included the obligation to extradite or prosecute, and the crucial role played by that obligation was widely recognized by States. The topic, which could be viewed as having been encompassed in the Commission's work since 1949,[172] had become particularly important because of the need for an effective system of criminalization and prosecution of the most serious crimes.

39. Paragraphs 6 to 10 of the report provided an overview of the Commission's work on the topic up to its sixty-third session. It recalled, *inter alia*, that from its fifty-eighth to its sixty-third sessions (2006–2011), the Commission had considered four reports and four draft

[166] Mimeographed; available from the Commission's website.

[167] *Idem*.

[168] *Yearbook … 2009*, vol. II (Part Two), p. 146, para. 209.

[169] *Yearbook … 1978*, vol. II (Part Two), para. 74.

[170] Mimeographed; available from the Commission's website.

[171] Reproduced in *Yearbook … 2013*, vol. II (Part Two), annex I.

[172] The topic "Jurisdiction with regard to crimes committed outside national territory" was part of a provisional list of 14 topics selected by the Commission at its first session in 1949 (*Yearbook ... 1949*, p. 281, paras. 16–17); see also *The Work of the International Law Commission*, 7th ed., vol. I (United Nations publication, Sales No. E.07.V.9), pp. 44–45.

articles,[173] and that a Working Group established in 2009 under the chairpersonship of Mr. Alain Pellet had been responsible for drawing up a general framework for consideration of the topic.[174]

40. Paragraphs 11 to 20 of the report, which dealt with the work undertaken in 2012 and 2013, underlined that it would be futile to seek to harmonize the various treaty clauses on the obligation to extradite or prosecute. There were significant gaps in the present conventional regime that might need to be closed, and there were no international conventions with that obligation in relation to most crimes against humanity, war crimes other than grave breaches and war crimes in non-international armed conflict. With respect to genocide, the international cooperation regime could be strengthened beyond the rudimentary regime under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

41. Paragraphs 21 to 36 of the report concerned the implementation of the obligation to extradite or prosecute. It contained, *inter alia*, an analysis of the judgment by the International Court of Justice in *Questions relating to the Obligation to Prosecute or Extradite*. It also addressed the temporal scope of the obligation to extradite or prosecute and certain consequences of non-compliance, as well as the relationship between that obligation and the "third alternative": with the establishment of the International Criminal Court and various *ad hoc* international criminal tribunals, there was now the possibility that a State faced with an obligation to extradite or prosecute an accused person might have recourse to a third alternative, that of surrendering the suspect to a competent international criminal tribunal.

42. The CHAIRPERSON said he took it that the Commission wished to take note of the report of the Working Group on the obligation to extradite or prosecute (*aut dedere aut judicare*).

It was so decided.

The meeting rose at 1.05 p.m.

3190th MEETING

Friday, 2 August 2013, at 10 a.m.

Chairperson: Mr. Bernd H. NIEHAUS

Present: Mr. Caflisch, Mr. Candioti, Mr. El-Murtadi Suleiman Gouider, Ms. Escobar Hernández, Mr. Forteau, Mr. Gevorgian, Mr. Gómez Robledo, Mr. Hassouna, Mr. Hmoud, Mr. Huang, 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. Wisnumurti, Sir Michael Wood.

Draft report of the International Law Commission on the work of its sixty-fifth session

Chapter I. ***Organization of the session*** **(A/CN.4/L.816)**

1. The CHAIRPERSON invited the Commission to begin its consideration, paragraph by paragraph, of chapter I of the draft report as contained in document A/CN.4/L.816.

Introduction

Paragraph 1

Paragraph 1 was adopted.

A. Membership

Paragraph 2

Paragraph 2 was adopted.

B. Casual vacancy

Paragraph 3

Paragraph 3 was adopted.

C. Officers and the Enlarged Bureau

Paragraphs 4 to 6

Paragraphs 4 to 6 were adopted.

D. Drafting Committee

Paragraphs 7 and 8

Paragraphs 7 and 8 were adopted.

E. Working groups and study groups

Paragraphs 9 and 10

Paragraphs 9 and 10 were adopted.

F. Secretariat

Paragraph 11

Paragraph 11 was adopted.

G. Agenda

Paragraph 12

2. Ms. JACOBSSON, referring to agenda item 9, stressed that all language versions should refer to protection of the environment "in relation to armed conflicts" and not "during armed conflicts".

---

[173] The Special Rapporteur, Mr. Zdzislaw Galicki, presented his preliminary report (*Yearbook … 2006*, vol. II (Part One), document A/CN.4/571) in 2006; his second report (*Yearbook … 2007*, vol. II (Part One), document A/CN.4/585) in 2007; his third report (*Yearbook … 2008*, vol. II (Part One), document A/CN.4/603) in 2008; and his fourth report (*Yearbook … 2011*, vol. II (Part One), document A/CN.4/648) in 2011. The Special Rapporteur proposed the draft articles in his second (A/CN.4/585, para. 76) and third reports (A/CN.4/603, paras. 110–129) and, three years later, in his fourth report (A/CN.4/648, paras. 40, 70–71 and 95).

[174] *Yearbook … 2009*, vol. II (Part Two), pp. 143–144, para. 204.