

Provisional

**For participants only**

8 October 2025

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**International Law Commission**  
**Seventy-sixth session****Provisional summary record of the 3728th meeting**

Held at the Palais des Nations, Geneva, on Friday, 30 May 2025, at 3 p.m.

*Chair:* Mr. Paparinskis  
*later:* Mr. Asada  
*later:* Mr. Paparinskis

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Chair's concluding remarks

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***Present:***

*Chair:* Mr. Paparinskis  
*Members:* Mr. Akande  
Mr. Argüello Gómez  
Mr. Asada  
Mr. Cissé  
Mr. Fathalla  
Mr. Forteau  
Ms. Galvão Teles  
Mr. Grossman Guiloff  
Mr. Jalloh  
Mr. Lee  
Ms. Mangklatanakul  
Mr. Mavroyiannis  
Mr. Mingashang  
Mr. Nesi  
Mr. Nguyen  
Ms. Okowa  
Ms. Oral  
Ms. Orosan  
Mr. Patel  
Mr. Ruda Santolaria  
Mr. Sall  
Mr. Savadogo  
Mr. Vázquez-Bermúdez

***Secretariat:***

Mr. Pronto Secretary to the Commission

*The meeting was called to order at 3 p.m.*

**Draft report of the Commission on the work of its seventy-sixth session** *(continued)*

*Chapter VII. Subsidiary means for the determination of rules of international law*  
*(continued)* (A/CN.4/L.1010)

**The Chair** invited the Commission to resume its consideration of chapter VII of its draft report (A/CN.4/L.1010), beginning with paragraphs 8, 28 and 31, which had been left in abeyance at the previous meeting. A revised version of the outstanding paragraphs of the chapter had been circulated informally by the Special Rapporteur.

*Paragraph 8 (continued)*

**Mr. Jalloh** (Special Rapporteur) said that, in addition to the changes he had previously introduced in paragraph 8, the statement in the first sentence that the Commission had “provisionally adopted draft conclusions 9, 10, 11, 12 and 13” should be amended to state that the Commission had taken note of those draft conclusions.

*Paragraph 8, as amended, was adopted, subject to its completion by the secretariat.*

*Paragraph 28 (continued)*

**Mr. Jalloh** (Special Rapporteur) said that, following informal consultations with interested members, he wished to propose a new sentence to be added at the end of paragraph 28, which would read: “Other members expressed concern that departing from the technical meaning of ‘context’, as codified in article 31 of the Vienna Convention on the Law of Treaties, would have serious implications for norms such as the prohibition of discrimination, the threat or use of force and terrorism, to mention just a few.”

*Paragraph 28, as amended, was adopted.*

*Paragraph 31 (continued)*

**Mr. Jalloh** (Special Rapporteur) said that, in line with the proposals made at the preceding meeting, the formulation “it would be more appropriate” in the second sentence should be replaced with “caution should be exercised”.

**Ms. Mangklatanakul**, supported by **Mr. Forteau**, said that the paragraph remained unbalanced. Her proposal at the preceding meeting had been to recast the second sentence to read: “Some members cautioned against expanding Article 38, paragraph 1 (d), into a catch-all provision which would include new forms of subsidiary means, as it risked introducing conceptual ambiguity and practical confusion.”

**Mr. Jalloh** (Special Rapporteur) said that the formulation “conceptual ambiguity and practical confusion” should be shortened to simply “ambiguity”, to avoid repetition of the word “conceptual”.

*Paragraph 31, as amended, was adopted.*

*Paragraph 41*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the word “teachings” should be replaced with “expert groups”. The end of the last sentence, starting from the words “and the need to consider”, should be recast to read “and methodological transparency was emphasized for assessing the weight of their outputs”. In addition, in the informal consultations, Ms. Okowa had proposed that, in the third sentence, the phrase “resulted from the exercise of State functions or authorization” should be replaced with “incorporated elements of dialogue with States”.

**Mr. Forteau**, noting that the same notion was expressed in paragraph 46, proposed that the third sentence should be deleted.

*Paragraph 41, as amended, was adopted with minor drafting changes.*

*Paragraph 42*

**Mr. Jalloh** (Special Rapporteur) said that, in the second sentence, the word “current” should be replaced with “proposed”.

*Paragraph 42, as amended, was adopted.*

*Paragraph 43*

*Paragraph 43 was adopted with minor drafting changes.*

*Paragraph 44*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the word “concerns” should be replaced with “views”. The second sentence should be deleted.

**Mr. Lee** said that, to avoid repetition, in the third sentence, the word “added” should be replaced with “considered” and the word “relevant” should be replaced with “pertinent”.

*Paragraph 44, as amended, was adopted with minor drafting changes.*

*Paragraph 45*

**Mr. Jalloh** (Special Rapporteur) said that the first sentence of paragraph 45, concerning draft conclusion 9, should be moved to the section of the report entitled “Concluding remarks of the Special Rapporteur”.

*Paragraph 45, as amended, was adopted.*

*(c) Draft conclusion 10 (Pronouncements of public expert bodies)**Paragraphs 46 and 47*

*Paragraphs 46 and 47 were adopted with minor drafting changes.*

*Paragraph 48*

**Mr. Jalloh** (Special Rapporteur) said that, in the third sentence, the phrase “in projects concerning draft articles” should be inserted after the word “conventions”. The words “texts and” should be inserted before the word “commentaries” in the sixth sentence. The fifth sentence should be deleted to avoid suggesting, in the specific context of one draft conclusion, a much broader point about the entirety of the Commission’s work on the topic.

**Mr. Forteau** said that the fifth sentence reflected a point that had been made during the debate and should be retained.

**Mr. Jalloh** (Special Rapporteur) proposed that, in the fifth sentence, the formulation “It was emphasized that works” should be replaced with “The view was expressed that possible elements”.

*Paragraph 48, as amended, was adopted.*

*Paragraph 49*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the word “should” should be replaced with “could” and the formulation “delving into questions of” should be replaced with “moving to”. The second sentence should be moved to the beginning of the paragraph. In the fourth sentence, the formulation “draft conclusion did not explain” should be replaced with “further clarification was needed for”, and the word “nor” should be replaced with “as well as”. The last sentence, which had no conceptual link with the pronouncements of expert bodies addressed in the rest of the paragraph, should be deleted.

**Mr. Forteau** said that the last sentence should be retained. It could perhaps be moved to another paragraph.

**The Chair** suggested that the sentence could be placed at the end of paragraph 48, which addressed the extent to which pronouncements of expert bodies resembled teachings, whereas paragraph 49 addressed the ways in which they did not.

**Mr. Jalloh** (Special Rapporteur) said that, if the sentence was moved to the end of paragraph 48, the word “The” at the beginning of the sentence should be replaced with “Another”.

*Paragraph 49, as amended, was adopted on that understanding.*

*Paragraph 50*

**Mr. Akande** proposed that the first sentence should be amended to read: “Members referred to the status of the International Committee of the Red Cross and were divided as to whether its outputs should be regarded as teachings or as the work of an expert body.”

*Paragraph 50, as amended, was adopted.*

*(d) Draft conclusion 11 (Resolutions of international organizations and intergovernmental conferences)*

*Paragraph 51*

**Mr. Jalloh** (Special Rapporteur) said that the first sentence should be divided into two sentences and amended to read: “Several members considered that some non-binding resolutions could serve as subsidiary means for the determination of rules of international law. Other members considered that the role of resolutions adopted by international organizations or at intergovernmental conferences pertained to the formation of law and not to the category of subsidiary means and therefore that draft conclusion 11 should not be retained.” What had originally been the third sentence, starting with “The view was expressed”, should be deleted. The last sentence should be amended to read: “It was also mentioned that it should be acknowledged that, depending on the instruments creating treaty bodies or organs of international organizations, there might be a specific legal value attributed to resolutions.”

**Mr. Forteau** proposed that, at the beginning of the first sentence, the formulation “Several members” should be replaced with “Some members” to better reflect the positions that had been expressed in the debate.

*Paragraph 51, as amended, was adopted.*

*Paragraph 52*

**Mr. Jalloh** (Special Rapporteur) said that, in the second sentence, the formulation “The example found in” should be replaced with “Some members considered the example in”.

**Mr. Akande** said that, at the end of the second sentence, the phrase “not as a subsidiary means” should be expanded to read “in assessing its contribution to the formation of customary international law and not as a subsidiary means for determining rules of international law”.

**Mr. Grossman Guiloff** said that language should be added to paragraph 52 to reflect the fact that certain members thought subsidiary means could play multiple roles in the areas under discussion.

**The Chair** noted that that point was reflected in paragraphs 51 and 53.

*Paragraph 52, as amended, was adopted with minor drafting changes.*

*Paragraph 53*

*Paragraph 53 was adopted with minor drafting changes.*

*Paragraph 54*

**Mr. Jalloh** (Special Rapporteur) said that the language at the end of the second sentence should be amended to read “emphasize United Nations resolutions, specifically those of the General Assembly”. The third sentence should be deleted.

*Paragraph 54, as amended, was adopted with minor drafting changes.*

*Paragraph 55*

**Mr. Nguyen** said that, in the first sentence, the words “or intergovernmental conferences” should be inserted after the words “international organizations”, to reflect the title of draft conclusion 11.

*Paragraph 55, as amended, was adopted with a minor drafting change.*

*(e) Draft conclusion 12 (Coherence in decisions of courts and tribunals)**Paragraph 56*

**Mr. Jalloh** (Special Rapporteur) said that, at the beginning of the paragraph, two new sentences should be added, to read: “Some members supported a conclusion calling for the avoidance of conflicting decisions on the same issues by different courts and tribunals, noting support for addressing the issue among some States in the Sixth Committee. In this view, the Special Rapporteur’s proposed text could be streamlined to note that coherence of international law should be respected and applied.” At the beginning of the original first sentence, the word “Several” should be replaced with “Other”. The original third sentence should be reformulated to read: “It was also suggested that revisiting an issue previously addressed in the Commission’s earlier work might risk duplicating efforts and could benefit from careful consideration to ensure consistency with the Commission’s previous work.” In the last sentence, the wording “the value of precedent and the weight” should be amended to read “the absence of precedent in the international system as well as the weight”.

**Mr. Forteau** said that the reference to support in the Sixth Committee should not be included, to align with other paragraphs in the report.

**Mr. Akande**, supported by **Ms. Okowa**, said that, in the last sentence, the formulation “addressed with the consideration to the absence of precedent in the international system as well as” should be replaced with “addressed in the commentaries to the draft conclusions dealing with the absence of precedent and”. The portion of the sentence after the word “decisions” should be deleted.

*Paragraph 56, as amended, was adopted.*

*Paragraph 57*

**Mr. Jalloh** (Special Rapporteur) said that the first and second sentences should be deleted. In the third sentence, the word “inhibit” should be replaced with “prevent”.

**The Chair** noted that Mr. Galindo had submitted a proposal to add a new sentence at the end of the paragraph, to read: “Another view was expressed that coherence should not be a priority for international law.”

*Paragraph 57, as amended, was adopted with minor drafting changes.*

*Paragraph 58*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the words “Members noted” should be replaced with “Some members suggested”.

**Mr. Nguyen** said that the word “considered” would be more accurate than “suggested”.

**Mr. Lee** proposed that, in the second sentence, the word “genuine” should be inserted before the word “conflict” and the word “matter” should be amended to the plural form “matters”.

*Paragraph 58, as amended, was adopted with minor drafting changes.*

*Paragraph 59*

**Mr. Jalloh** (Special Rapporteur) proposed that the paragraph should be deleted.

**Mr. Forteau** said that the paragraph should be retained.

**Mr. Jalloh** (Special Rapporteur) proposed that the phrase “It was noted that” should be replaced with “The view was expressed that”.

*Paragraph 59, as amended, was adopted.*

*Paragraph 60*

**Mr. Jalloh** (Special Rapporteur) proposed that, in the last sentence, the words “A concern” should be replaced with “An observation” and the words “difficulty and” should be deleted.

*Paragraph 60, as amended, was adopted with minor drafting changes.*

*Paragraph 61*

**Mr. Jalloh** (Special Rapporteur) proposed that the last two sentences should be moved to the beginning of the paragraph.

*Paragraph 61, as amended, was adopted.*

(f) *Draft conclusion 13 (Relationship between subsidiary means and supplementary means of interpretation)*

*Paragraph 62*

**Mr. Jalloh** (Special Rapporteur) said that a new sentence should be added at the beginning of the paragraph, to read: “Several members supported the Special Rapporteur’s proposed draft conclusion 13, noting that he had taken up the question in a responsive manner to the views expressed by some members of the Commission and States on the question.” In the original first sentence, the words “Several members opposed” should be replaced with “Others did not support”.

**Mr. Akande**, supported by **Mr. Forteau**, said that he opposed the addition of a new first sentence, which might make readers question why the Commission had ultimately decided not to adopt draft conclusion 13.

**Mr. Jalloh** (Special Rapporteur) said that, as a compromise, the new first sentence could simply read: “Several members supported the Special Rapporteur’s proposed draft conclusion 13.”

**Mr. Akande** said that it was important to make clear why the Commission had not adopted draft conclusion 13. For that reason, it would be preferable to say “Some members supported” rather than “Several members supported”.

*Paragraph 62, as amended, was adopted with minor drafting changes.*

*Paragraph 63*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the word “contradiction” should be replaced with “overlap” and the wording “in relation to interpretation of treaties” should be deleted.

*Paragraph 63, as amended, was adopted with minor drafting changes.*

*Paragraphs 64 and 65*

*Paragraphs 64 and 65 were adopted.*

*Paragraph 66*

*Paragraph 66 was adopted with minor drafting changes.*

3. *Concluding remarks of the Special Rapporteur*

*Paragraph 67*

**Mr. Jalloh** (Special Rapporteur) said that paragraph 67 should be reformulated to read:

The Special Rapporteur thanked the many members of the Commission who had participated in the rich debate on his third report. He observed that he had taken into careful account all members' views, and in relation to drafting proposals, would take those into account for revisions to draft conclusions that he would present to the Drafting Committee. He noted the general agreement in the Commission on structuring the draft conclusions into five parts, including his recommendation to move draft conclusion 6 earlier so as to follow draft conclusion 2.

*Paragraph 67, as amended, was adopted.*

*Paragraph 68*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the word "outputs" should be replaced with "teachings" and the word "pronouncements" should be replaced with "works".

*Paragraph 68, as amended, was adopted with minor drafting changes.*

*Paragraph 69*

**Mr. Jalloh** (Special Rapporteur) said that the second sentence should be amended to read: "He recommended maintaining draft conclusion 10 as well as a separate provision addressing the works of private expert bodies, and using the commentary to elaborate on the differences, including nuanced situations like that of the International Committee of the Red Cross."

*Paragraph 69, as amended, was adopted with minor drafting changes.*

*Paragraph 70*

**Mr. Jalloh** (Special Rapporteur) said that, in the third sentence, the formulation "in its works in identification of customary international law and peremptory norms of general international law (*jus cogens*)" should be inserted after the word "Commission". A new sentence should be inserted between the third and fourth sentences, to read: "Binding resolutions, for example those of the Security Council, did not – as he had pointed out in his report – fall within the scope of the topic of subsidiary means since they carried different legal implications for Member States under the Charter of the United Nations and constituted hard obligations for States." In the original fourth sentence, the formulation "and noted that whether they could be used for that purpose" should be deleted, and the formulation "since users of such works do not expressly state that they are citing them as subsidiary means" should be inserted after the word "circumstances". In the last sentence, the word "openness" should be replaced with "flexibility".

*Paragraph 70, as amended, was adopted with minor drafting changes.*

*Paragraph 71*

**Mr. Jalloh** (Special Rapporteur) said that the first sentence should be split into two sentences. The language after the first comma should be reformulated to read "the Special Rapporteur recalled that he had examined the matter after seeking the guidance of the Commission and Member States on it", followed by a full stop. The words "Members of the Commission seemed" should then be inserted before the word "divided" to begin a new sentence. Another new sentence should be inserted before the original second sentence, to read: "He noted that the Commission's prior work in the fragmentation study had expressly

set aside the specific issue of conflicting decisions.” The original third sentence should be deleted. In the original fourth sentence, the word “possibility” should be replaced with “risks”. A new fifth sentence should be added, to read: “He would remain flexible and take the guidance of the Commission in that regard.”

*Paragraph 71, as amended, was adopted.*

*Paragraph 72*

**Mr. Jalloh** (Special Rapporteur) said that, in the first sentence, the formulation “which he had studied in response to the requests of members of the Commission and States” should be inserted after the comma. The second to fifth sentences should be reformulated to read: “He also noted that the relationship between subsidiary means and supplementary means was not obvious. Other members had asserted that the topic was unnecessary as the matter was sufficiently covered by draft conclusion 6, paragraph 2, and that the issue was outside the scope of the draft conclusions. He expressed his preference for addressing the issue in a draft conclusion, if consensus could be found, and alternatively, noted that the matter could be explained in the commentary to draft conclusion 6, paragraph 2.”

*Paragraph 72, as amended, was adopted.*

*New paragraph 73*

**Mr. Jalloh** (Special Rapporteur) proposed that a new paragraph 73 should be added, to read: “The Special Rapporteur noted that there was wide support for the referral of all the draft conclusions proposed in his third report to the Drafting Committee, taking into account the debate in the plenary. While regretting the disruption to the workplan for the topic, which had implications for the work in the remainder of the quinquennium, he looked forward to a successful completion of the first reading on the topic at the present or following session.”

*New paragraph 73 was adopted.*

*Chapter VII of the draft report as a whole, as amended, was adopted.*

*Chapter XII. Other decisions and conclusions of the Commission (A/CN.4/L.1016)*

**The Chair** invited the Commission to begin its consideration of chapter XII of its draft report (A/CN.4/L.1016)

A. *Memorial for former members*

*Paragraph 1*

**The Chair** noted that, in paragraph 1, a reference would be added to the moment of silence that had been observed at the Commission’s 3727th meeting in memory of former Commission member Nabil Elaraby.

*Paragraph 1, as amended, was adopted.*

B. *Inclusion of new topics in the programme of work*

*Paragraph 2*

**The Chair** said that the Commission would revert to paragraph 2 after subsequent relevant paragraphs had been adopted.

C. *Programme, procedures and working methods of the Commission and its documentation*

*Paragraph 3*

**Mr. Asada** asked for his first name to be correctly rendered as “Masahiko” in paragraph 3.

*Paragraph 3, as amended, was adopted.*

*Paragraph 4*

*Paragraph 4 was adopted.*

1. *Impact of the reduction of the seventy-sixth session of the Commission*

*Paragraphs 5–9*

*Paragraphs 5–9 were adopted.*

2. *Working Group on the long-term programme of work*

*Paragraph 10*

*Paragraph 10 was adopted.*

*Paragraph 11*

**The Chair** said that, on the recommendation of the Planning Group, the Working Group on the long-term programme of work had recommended the inclusion of three new topics, namely “The principle of non-intervention in international law”, “Identification and legal consequences of obligations *erga omnes* in international law” and “Legal aspects of accountability for crimes against United Nations personnel serving in peacekeeping operations”, in the long-term programme of work. He took it that the Commission wished to accept that recommendation and to annex the syllabuses for the three new topics to its annual report.

*It was so decided.*

*Paragraph 11 was adopted.*

*Paragraphs 12 and 13*

*Paragraphs 12 and 13 were adopted.*

*Paragraph 14*

**Mr. Forteau** proposed that paragraph 14 should be left in abeyance pending the adoption of paragraph 2.

*Paragraph 14 was left in abeyance.*

3. *Working Group on methods of work and procedures*

*Paragraph 15*

*Paragraph 15 was adopted.*

4. *Consideration of General Assembly resolution 79/126 of 4 December 2024 on the rule of law at the national and international levels*

*Paragraphs 16–20*

*Paragraphs 16–20 were adopted.*

*Paragraph 21*

**Mr. Jalloh** said that the purpose of paragraph 21 was to welcome the General Assembly’s decision to elaborate legally binding instruments on prevention and punishment of crimes against humanity and on the protection of persons in the event of disasters. The final sentence of the paragraph, in which the Commission urged the General Assembly to negotiate those instruments in a spirit of dialogue, was inappropriate and should be deleted.

**Mr. Forteau** said that he supported Mr. Jalloh’s proposed amendment. The final sentence gave the mistaken impression that the Commission was expressing concern about a lack of dialogue and cooperation within the General Assembly.

*Paragraph 21, as amended, was adopted with minor editorial changes.*

*Paragraphs 22–24*

*Paragraphs 22–24 were adopted.*

*Paragraph 25*

**The Chair**, responding to concerns raised by **Mr. Savadogo**, said that the French and English versions of the final sentence of the paragraph would be reviewed in order to identify and correct any possible discrepancies in meaning between the two.

*Paragraph 25 was adopted on that understanding.*

*Paragraph 26*

*Paragraph 26 was adopted.*

*Paragraph 27*

*Paragraph 27 was adopted with minor editorial changes.*

*Paragraph 28*

*Paragraph 28 was adopted.*

5. *Honoraria*

*Paragraph 29*

*Paragraph 29 was adopted.*

6. *Documentation and publications*

*Paragraphs 30 and 31*

*Paragraphs 30 and 31 were adopted.*

*Paragraph 32*

**The Chair** said that Mr. Forteau had proposed deleting the qualifier “subject to the availability of the resources to do so”, which appeared at the end of the paragraph and referred to the timely editing and translation of Special Rapporteur reports.

**Mr. Jalloh** said that he was in favour of the deletion proposed by Mr. Forteau.

*Paragraph 32, as amended, was adopted.*

*Paragraph 33*

*Paragraph 33 was adopted.*

*New paragraph 34*

**The Chair** drew attention to a new paragraph proposed by Mr. Patel for inclusion after paragraph 33. The proposed new paragraph read:

The Commission recalled that Rashtriya Raksha University ([www.rru.ac.in](http://www.rru.ac.in)), India, in collaboration with the Asian-African Legal Consultative Organization (AALCO) and with the support of the Ministry of External Affairs of India, organized a commemorative event on 75 years’ journey of the International Law Commission in the service of peace, security and humanity, in March 2024, and with the University of Johannesburg, South Africa, in November 2024, followed by the publication of the commemorative book and its circulation.

**Mr. Forteau** said that, while he was grateful to Mr. Patel for his role in organizing those events, the Commission could not insert in its draft report references to all events that had taken place in connection with its work.

**Mr. Patel** said that a number of Commission members, including Mr. Forteau, had participated in the events in question, which had been held to commemorate the Commission's seventy-fifth anniversary, and all members had received a copy of the commemorative book. Reference to those particular events was thus essential.

**The Chair** said that, since the paragraph referred to cooperation with AALCO, it might be best placed in section D of the chapter, which concerned cooperation with other bodies. He suggested that the Commission should take up the question when it discussed that section.

*It was so decided.*

*Paragraphs 34–40*

*Paragraphs 34–40 were adopted.*

7. *Yearbook of the International Law Commission*

*Paragraphs 41 and 42*

*Paragraphs 41 and 42 were adopted.*

8. *Trust fund on assistance to Special Rapporteurs of the International Law Commission and matters ancillary thereto, established by General Assembly resolution 77/103*

*Paragraphs 43 and 44*

*Paragraphs 43 and 44 were adopted.*

9. *Assistance of the Codification Division*

*Paragraphs 45–47*

*Paragraphs 45–47 were adopted.*

10. *Websites*

*Paragraph 48*

*Paragraph 48 was adopted.*

11. *Webcast*

*Paragraph 49*

*Paragraph 49 was adopted.*

12. *United Nations Audiovisual Library of International Law*

*Paragraph 50*

*Paragraph 50 was adopted.*

13. *Resolutions of the General Assembly on the United Nations Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity and the Protection of Persons in the Event of Disasters*

*Paragraph 51*

*Paragraph 51 was adopted.*

14. *Dates and places of the seventy-seventh session of the Commission*

*Paragraphs 52–54*

**The Chair** said that the Commission would revert to paragraphs 52 to 54 after the remaining paragraphs of the chapter had been adopted.

*D. Cooperation with other bodies*

*Paragraphs 55–57*

*Paragraphs 55–57 were adopted.*

*New paragraph 58*

**The Chair** suggested that the new paragraph proposed by Mr. Patel, on the commemorative event organized in collaboration with AALCO, should be inserted as a new paragraph 58.

*New paragraph 58 was adopted.*

**The Chair** said that the subsequent paragraphs of the chapter would be renumbered accordingly at a later stage.

*E. Representation at the eightieth session of the General Assembly*

*Paragraph 58*

*Paragraph 58 was adopted.*

*F. International Law Seminar*

*Paragraphs 59–70*

*Paragraphs 59–70 were adopted, subject to their completion by the secretariat.*

*Mr. Asada, First Vice-Chair, took the Chair.*

*Paragraphs 2, 14 and 52–54 (continued)*

**The Chair** said that the proposed duration, dates and location of the Commission's seventy-seventh session, as well as the related matter of the addition of topics to its programme of work, had been extensively discussed within the Bureau, following consultations with the regional groups. The proposed programme of work for 2026 and an accompanying memorandum detailing and explaining the Bureau's recommendation had been circulated to the members.

The Bureau recommended that the Commission's seventy-seventh session should be held over a period of 11 weeks, from 20 April to 29 May and from 29 June to 30 July 2026. The first part would take place in New York and the second in Geneva. However, if financial constraints made it impossible for the Commission to meet in New York, the first part should instead be held in Geneva, beginning one week later.

The Bureau also recommended the immediate addition of one topic, namely "Compensation for the damage caused by internationally wrongful acts", to the Commission's programme of work, and the appointment of Mr. Paporinskis as Special Rapporteur for the topic, on the understanding that two further topics would be added in 2026, namely "Due diligence in international law", for which Ms. Ridings would be appointed as Special Rapporteur, and another topic for which a member from a State belonging to the Group of Asia-Pacific States would serve as Special Rapporteur.

Lastly, the Bureau recommended that, in considering future additions to the programme of work, the Commission should have due regard to regional representation, in particular for groups such as the Group of Latin American and Caribbean States, which was expected to have few or no special rapporteurs in the near future.

**Mr. Forteau** asked whether the Commission was being requested to decide on the whole of the Bureau's recommendation.

**Mr. Akande** asked whether the decision to be taken included the criteria to be used in the future for deciding on the addition of new topics to the programme of work.

**Mr. Jalloh** said that he was comfortable with the recommendation to convene an 11-week session in 2026. He also supported the immediate addition of one topic to the programme of work, but wished to emphasize that only an understanding, not a formal decision, should be reached on the addition of further topics in 2026. Given that the Commission had been limited to five weeks of meeting time in 2025, it should not commit itself to undertake further new topics until the extent of the resources available for the seventy-seventh session became clear.

**Ms. Orosan** said that she would be grateful for an explanation of the reasoning behind the Bureau's recommendations.

**Mr. Pronto** (Secretary to the Commission) said that the Bureau had discussed the matter and consulted with the regional groups over several weeks. The recommendation to convene an 11-week session was a compromise between those who favoured a 10-week session and those who favoured a 12-week session. It had been influenced by the fact that the secretariat normally accounted for an 11-week session in its budgetary planning.

**Ms. Galvão Teles** said that it was crucial for the Commission, in deciding on the inclusion of topics in its programme of work, to continue to be guided by the usual criteria of the quality of the topic, whether it met the needs of States and the views expressed by States thereon in the Sixth Committee. It should not take decisions in the abstract, without knowing States' views on a proposed topic, as the Bureau appeared to be recommending.

**Ms. Oral** said that, while she understood that the Commission was in a difficult situation and a selection had been made based on specific considerations and conditions, the Bureau's recommendations did not reflect the Commission's usual practice. It was certainly not usual practice to predetermine the inclusion of specific topics on the basis of regional considerations. While the current meeting was not the appropriate time to discuss the criteria for the inclusion of topics in the programme of work, there were many other criteria, such as gender, that should be taken into account in addition to regional considerations. She hoped that meeting time would be set aside to discuss the matter at the Commission's seventy-seventh session.

**Ms. Mangklatanakul** said that she supported the recommendation to convene an 11-week session. She understood that the recommendation was a compromise and an attempt to suggest a realistic duration for the General Assembly to consider. However, in her view, the addition of one new topic to the programme of work would be sufficient. The long-term programme of work consisted of topics that the Commission thought would be useful to States, but the active programme of work must consist of topics that States wanted the Commission to begin considering. Before agreeing to include any topic in the programme of work, she would like to see supporting evidence that it was a topic from which Member States would benefit the most at the current stage.

**Mr. Akande** said that, at the current juncture, the Commission should decide on two things: the length of the seventy-seventh session and the immediate inclusion of one topic in the programme of work. While he was satisfied with the choice of that topic, the broader issue of the criteria and procedures for selecting topics should be discussed in 2026.

**Ms. Mangklatanakul** said that she wished to emphasize the need for clear evidence that the topic being placed on the programme of work reflected the preference of Member States.

**The Chair** said that the Bureau's recommendation had taken into consideration several elements, including geographical distribution, gender and the views of Member States as reflected in the topical summary of the discussions held in the Sixth Committee of the General Assembly during its seventy-ninth session ([A/CN.4/778](#)).

**Mr. Jalloh** said that determining the criteria for moving items from the long-term programme of work to the programme of work had been a long-standing issue within the Commission. It related to working methods and involved considerations such as how well proposals were justified and how well they were received by States, in addition to gender balance and regional representation. Those criteria should be discussed in 2026, possibly by the Working Group on methods of work. However, that discussion should not delay a decision on the length of the seventy-seventh session and on the inclusion of the topic of compensation for the damage caused by internationally wrongful acts in the programme of work. That topic had received broad support in the Sixth Committee, and there was currently no Special Rapporteur from a State belonging to the Group of Eastern European States.

**Mr. Akande** suggested that the Commission should suspend the meeting and continue the current discussion in private.

*The meeting was suspended at 5 p.m. and resumed at 5.55 p.m.*

**The Chair** said he took it that the Commission wished to recommend that the seventy-seventh session should be of 12 weeks' duration; to add the topics "Compensation for the damage caused by internationally wrongful acts" and "Due diligence in international law" to its programme of work; and to appoint Mr. Paparinskis and Ms. Ridings, respectively, as Special Rapporteurs for those topics.

*It was so decided.*

*Mr. Paparinskis resumed the Chair.*

**The Chair** said that paragraph 2 would be completed by the secretariat to reflect the decision just taken by the Commission on the inclusion of new topics in the programme of work.

*Paragraph 2 was adopted on that understanding.*

**The Chair** said that the list of topics on the long-term programme of work contained in paragraph 14 would be updated to reflect the decision just taken by the Commission.

*Paragraph 14 was adopted on that understanding.*

**The Chair** said that paragraphs 52 and 54 would be completed by the secretariat to reflect the Commission's decision to recommend a 12-week session in 2026.

*Paragraphs 52–54 were adopted on that understanding.*

*Chapter XII of the draft report as a whole, as amended, was adopted.*

*Chapter II. Summary of the work of the Commission at its seventy-sixth session*  
([A/CN.4/L.1006](#))

**The Chair** invited the Commission to begin its consideration of chapter II of its draft report ([A/CN.4/L.1006](#)).

*New paragraphs 1 and 2*

**Mr. Forteau**, supported by **Ms. Galvão Teles**, said that the current wording of chapter II gave the erroneous impression that the Commission had been remarkably efficient in its work, which was perhaps not the message that should be conveyed, given that only five weeks of meeting time had been made available to it. He accordingly proposed that paragraphs 8 and 9 of chapter XII, which indicated what the Commission had originally expected to achieve at the current session, should be reproduced at the beginning of chapter II.

*New paragraphs 1 and 2 were adopted.*

**The Chair** said that the subsequent paragraphs of chapter II would be renumbered accordingly at a later stage.

*Paragraph 1*

*Paragraph 1 was adopted.*

*Paragraphs 2–4*

**Mr. Forteau** said that, in the final sentences of paragraphs 2, 3 and 4, reference should be made to the unavailability of time not only for the preparation and consideration of the draft commentaries concerned, but also for their translation.

**Mr. Vázquez-Bermúdez** said that, in paragraph 3, on the topic “General principles of law”, for which he served as Special Rapporteur, a reference should be inserted to the bibliography he had submitted, which would be published as an addendum to his fourth report on the topic. In the second sentence of that paragraph, he proposed inserting, after the words “as adopted on first reading”, the phrase “as well as comments made by States in the Sixth Committee”. A full stop would be placed after that phrase, and the following sentence would read: “The fourth report proposed modifications to the draft conclusions where necessary.”

*Paragraphs 2–4, as amended, were adopted with minor drafting changes.*

*Paragraphs 5–8*

*Paragraphs 5–8 were adopted with minor drafting changes.*

*Paragraph 9*

**The Chair** said that, in paragraph 9, the secretariat would insert language on the Commission’s decision to include the topics “Compensation for the damage caused by internationally wrongful acts” and “Due diligence in international law” in its programme of work.

*Paragraph 9 was adopted on that understanding.*

*Paragraphs 10 and 11*

*Paragraphs 10 and 11 were adopted, subject to their completion by the secretariat.*

*Chapter II of the draft report as a whole, as amended, was adopted.*

*The draft report of the International Law Commission as a whole, as amended, was adopted.*

**Chair’s concluding remarks**

**The Chair** said that the Commission had held its seventy-sixth session under challenging circumstances and unprecedented constraints. He hoped that it would not have to work under such constraints in the future. Nonetheless, the session had been productive and the Commission had made progress on several topics. It had concluded its work on sea-level rise in relation to international law, which promised to be a seminal contribution to the formation of international law in that area. The Commission looked forward to the General Assembly’s consideration of its work on the topic and trusted that the final report of the Study Group would be taken into account in the Assembly’s preparation of the declaration to be subsequently adopted. Progress had also been made on the topics “Immunity of State officials from foreign criminal jurisdiction”, “General principles of law” and “Subsidiary means for the determination of rules of international law”.

While the Drafting Committee had concluded its second reading of the draft conclusions on general principles of law and its first reading of the draft conclusions on subsidiary means for the determination of rules of international law, time constraints had prevented the Commission from concluding its second readings of the draft articles on immunity of State officials from foreign criminal jurisdiction and the draft conclusions on general principles of law, as well as its first reading of the draft conclusions on subsidiary means for the determination of rules of international law. In addition, it had been possible to complete only a limited amount of work on the topics “Settlement of disputes to which international organizations are parties”, “Prevention and repression of piracy and armed robbery at sea”, “Non-legally binding international agreements” and “Succession of States in respect of State responsibility”.

The Commission had decided to include the topics “Due diligence in international law” and “Compensation for the damage caused by internationally wrongful acts” in its programme of work and to include the topics “The principle of non-intervention in international law”, “Identification and legal consequences of obligations *erga omnes* in international law” and “Legal aspects of accountability for crimes against United Nations personnel serving in peacekeeping operations” in its long-term programme of work.

The Commission could be proud of its productivity, its creativity and the continued collegial spirit in which it worked and overcame any differences of opinion. He was grateful to his colleagues on the Bureau for their advice and guidance and wished to thank the members of the Commission for their cooperation. He thanked the members of the secretariat from the Codification Division for their competent assistance and continuous support and the Legal Affairs Section in Geneva for its efficient assistance. He also thanked the précis-writers, interpreters, editors, conference officers, translators and other members of the conference services who extended their assistance to the Commission on a daily basis.

#### **Closure of the session**

After the customary exchange of courtesies, **the Chair** declared the seventy-sixth session closed.

*The meeting rose at 6.25 p.m.*