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Summary record of the 895th meeting

Topic:
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INTERNATIONAL LAW COMMISSION

SUMMARY RECORDS OF THE NINETEENTH SESSION

Held at Geneva from 8 May to 14 July 1967

895th MEETING

Monday, 8 May 1967, at 3.15 p.m.

Chairman: Mr. Mustafa Kamil YASSEEN
later: Sir Humphrey WALDOCK

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor.

Opening of the Session

Tribute to the memory of the late Mr. Radhabinod Pal

1. The CHAIRMAN, after declaring open the nineteenth session of the International Law Commission, said that, since its last session, the Commission had lost an outstanding member, Mr. Radhabinod Pal. Members would long remember the humanist, the scholar and the judge, and he had already sent a message of condolence to Mr. Pal's family on the Commission's behalf.

The members of the Commission observed a minute's silence in tribute to the memory of Mr. Pal.

2. The CHAIRMAN said that he must also remind the Commission of what it owed to its former members who had not stood for re-election. Mr. Verdross had sent the Chairman an affecting letter in which he expressed his best wishes for the Commission's future work; the text of the letter had been circulated to members.

3. He welcomed those who had already been members of the Commission and the new members; he was sure that they would carry on the task in the spirit of co-operation and mutual understanding which had enabled the Commission to do such useful work.

4. He had represented the Commission at the twenty-first session of the General Assembly, during which he had observed how highly the Commission's work was appreciated. The General Assembly had expressed particular approval of the draft on the law of treaties and had decided to convene a plenipotentiary conference to embody that draft in the corpus of positive international law.

5. When representing the Commission as an observer at the recent sessions of the Asian-African Legal Consultative Committee and the European Committee on Legal Co-operation, his conviction had been strengthened that the Commission must devise still closer links with the international bodies concerned with matters within its competence.

6. Members of the Commission would regret the departure of the former Director of the Codification Division and Secretary to the Commission, Mr. Baguinian; he would like to welcome his successor, Mr. Movchan.

7. Mr. WATTLES (Deputy Secretary to the Commission) said that messages of regret had been received from Mr. Amado, who, to his great grief, would be unable to attend the session; from Mr. Nagendra Singh, who would be arriving on 22 May, from Mr. Ruda, who would be attending as soon as the special session of the General Assembly was over, and from Mr. Rosenne, who hoped to be able to attend on 17 May.

Election of Officers

8. The CHAIRMAN called for nominations for the office of Chairman.

9. Mr. AGO proposed Sir Humphrey Waldock, without whose devoted labour in the preparation of the draft on the law of treaties the Commission would certainly not have been able to submit a draft of such scope. Sir Humphrey's intellectual honesty and unselfish devotion would be even more valuable in the Chair at the always delicate stage of a first session of the Commission when part of its membership was newly-elected.

10. Mr. BARTOŠ, seconding the proposal, said that Sir Humphrey had firm opinions of his own, but had always been ready to revise those opinions in the interests of conciliation and the progress and development of international law.

11. Mr. CASTRÉN said that he also warmly supported the proposal.

Sir Humphrey Waldock was unanimously elected Chairman.

12. Mr. YASSEEN said that he wished to associate himself with those tributes to Sir Humphrey Waldock to whom he was honoured to yield the Chair.

Sir Humphrey Waldock took the Chair.

13. The CHAIRMAN, after thanking the Commission for his election and for the generous words of his proposers, said he wished first to pay a tribute to the outgoing Chairman, to whose distinguished leadership during the eighteenth session the successful completion of the Commission's five years of work on the law of treaties was largely due.

14. The past five years, during which the Commission had discussed the difficult subject of the law of treaties, had been a great experience for him. The Commission was a place where one learned much; ideas once taken for granted in the academic field no longer looked as safe and sound when exposed to criticism in the Commission and to its unfailingly friendly discussions. It would be his aim as Chairman to continue the Commission's tradition of friendly co-operation.

15. Mr. PALTHEY (Deputy Director-General of the United Nations Office at Geneva), welcoming the Commission on behalf of the Secretary-General and the Director-General of the United Nations Office at Geneva, said he congratulated the Chairman on his election and wished to associate himself with the commendations expressed by members of the Commission. The outgoing Chairman, too, merited a tribute for the important part he had played in the work of the eighteenth session.

16. The International Law Commission had since its establishment worked unobtrusively, in a climate of friendly co-operation and with a true international spirit; its work might seem to the impatient world of today to be slow, but it was nonetheless creative, since it was building the foundations for good international relations. A large conference would deal next year with the draft on the law of treaties and would mark a new stage on that course.

17. One of the new items the Commission had on its agenda was relations between States and inter-governmental organizations, an item that was of special interest to the United Nations.

18. The United Nations Office at Geneva would be organizing another seminar on international law during the Commission's session and he hoped it would be as successful as the previous ones; he was sure that he could count on the collaboration of all members of the Commission to that end. It was a matter of importance that the Commission's work should be widely known; such seminars were one means of making it known.

19. The CHAIRMAN thanked the Deputy Director-General of the United Nations Office at Geneva for his kind words of welcome. The Office's attention to the Commission's needs was very important to the success of its work and he was sure the Commission could count on the Deputy Director-General's co-operation, just as the Deputy Director-General could be assured of the co-operation of members of the Commission for the Seminar on International Law.

20. Since the present session of the Commission would be the first which Mr. Amado would be unable to attend, he suggested that a message be sent to him on behalf of all the members of the Commission expressing their

regret at his absence and conveying to him their warmest wishes for a speedy recovery of perfect health.

It was so agreed.

21. The CHAIRMAN called for nominations for the office of First Vice-Chairman.

22. Mr. CASTAÑEDA proposed Mr. Ruda.

23. Mr. EL-ERIAN seconded the proposal.

24. Mr. YASSEEN supported the proposal.

Mr. Ruda was unanimously elected First Vice-Chairman.

25. The CHAIRMAN called for nominations for the office of Second Vice-Chairman.

26. Mr. BARTOŠ proposed Mr. Ustor.

27. Mr. REUTER seconded the proposal.

28. Mr. TSURUOKA and Mr. EUSTATHIADES supported the proposal.

Mr. Ustor was unanimously elected Second Vice-Chairman.

29. Mr. USTOR thanked the members for his election to a high office in the Commission. It was a very great honour for any international lawyer to belong to the Commission and particularly for a new member to be elected to such an office.

30. The CHAIRMAN called for nominations for the office of Rapporteur.

31. Mr. TSURUOKA proposed Mr. El-Erian.

32. Mr. AGO seconded the proposal.

33. Mr. BARTOŠ, Mr. YASSEEN and Mr. USTOR supported the proposal.

Mr. El-Erian was unanimously elected Rapporteur.

34. Mr. EL-ERIAN expressed his thanks to the Commission for his election.

Organization of Work

35. The CHAIRMAN invited Mr. Movchan to address the Commission concerning the organization of its future work.

36. Mr. MOVCHAN (Secretary to the Commission), after expressing his appreciation of the honour of having been appointed Secretary, said that the Commission's decisions concerning the organization of its future work would enable the Secretariat to plan and prepare the work of each session more efficiently. The Secretariat had produced a short working paper (A/CN.4/L.119) to facilitate the Commission's consideration of that problem.

37. The Commission would recall that it had originally been planned to hold the first session of the Conference on the Law of Treaties at the beginning of 1968; that, however, had proved not to be feasible either for Austria, the host Government, or for the United Nations, and the dates now under discussion were 26 March to 24 May 1968. If those dates were adopted, the opening of the

Commission's 1968 session would have to be postponed to, say, 27 May and the session would last until about 2 August.

38. Mr. BARTOŠ, speaking as the Special Rapporteur on Special Missions, said that he was in a rather difficult position. Governments had been invited to send their comments on the draft to the Secretariat by 1 March. He had prepared his fourth report (A/CN.4/194 and Addenda) on the basis of the comments received by that date. More comments had, however, arrived after that date than before it, with the consequence that he had had to prepare further addenda to his report which were now being reproduced and translated.

39. The CHAIRMAN said he hoped the Commission would be able to complete its work on the topic of special missions at the present session and that it would adopt a programme of work which would enable it to begin its consideration of that item as soon as possible.

The meeting rose at 4.35 p.m.

896th MEETING

Tuesday, 9 May 1967, at 10.15 a.m.

Chairman: Sir Humphrey WALDOCK

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Mr. Yassen.

Adoption of the Agenda

(A/CN.4/192)

1. The CHAIRMAN said that, before inviting the Commission to adopt the provisional agenda (A/CN.4/192), he wished to welcome Mr. Caicedo Castilla, the observer for the Inter-American Juridical Committee, and Mr. Golsong, the observer for the European Committee on Legal Co-operation. A communication had been received from Mr. Rizvi, the observer designated by the Asian-African Legal Consultative Committee, to the effect that he proposed to attend the Commission's proceedings from 26 June until the end of the session, unless the Commission preferred him to come earlier.

2. A cable had been received from Mr. Lachs, a former member of the Commission and now a Judge of the International Court of Justice, expressing his good wishes for a successful session.

3. He suggested that, in accordance with its usual practice, the Commission adopt the provisional agenda (A/CN.4/192) without prejudice to the order in which it might deal with the various items.

It was so agreed.

Organization of work

(resumed from the previous meeting)

4. The CHAIRMAN said that the Commission would no doubt endeavour to complete at the present session its work on item 1 of the agenda (Special Missions) and to make a start with item 2 (Relations between States and inter-governmental organizations). On item 3 (State responsibility), he understood that the Special Rapporteur intended to submit a preliminary report in order to obtain confirmation of the Commission's general directives as to how the topic should be handled. Some preliminary work had been done on item 4 (Succession of States and Governments), but as the Special Rapporteur for that topic, Mr. Lachs, was no longer a member of the Commission, a new Special Rapporteur would have to be appointed. The Commission would deal with item 5 (Co-operation with other bodies) in the course of the session when convenient to the observers sent by the various bodies with which the Commission co-operated. The Commission would no doubt wish to leave item 6 (Organization of future work) till the second half of the session, in order to allow members time for reflection and informal discussion. The working paper prepared by the Secretariat (A/CN.4/L.119) and the Sixth Committee's report to the General Assembly at its twenty-first session,¹ which set forth the views expressed in the Sixth Committee on the past work of the Commission and the organization of its future work, were both valuable documents.

5. With regard to special missions, the Special Rapporteur had prepared two further addenda (A/CN.4/194/Add. 3 and 4) to his fourth report; those new documents contained the Special Rapporteur's observations and proposals following the additional comments received from governments after he had completed the preparation of the main part of his report (A/CN.4/194 and Add. 1 and 2). The first of those two additional documents related to the Special Rapporteur's first sixteen draft articles and would be distributed shortly in the original French, so if members of the Commission were prepared to work on the basis of the French text only, the Commission could start work on item 1 at its next meeting.

6. Mr. BARTOŠ, speaking as Special Rapporteur for the topic of special missions, said that he would be prepared to introduce his report at the next meeting on that understanding.

7. The CHAIRMAN said he noted that there appeared to be no objection to the Commission starting at its next meeting to consider item 1.

The meeting rose at 10.50 a.m.

¹ *Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 84, document A/6516.*