

## Chapter XI

### Other decisions and conclusions of the Commission

#### A. Provisional application of treaties

274. At its 3495th meeting of the Commission, on 31 July 2019, the Special Rapporteur on the topic “Provisional application of treaties”, Mr. Juan Manuel Gómez Robledo, presented an oral report on the informal consultations held on 10 and 18 July 2019 to consider the draft model clauses on provisional application of treaties.

275. The Special Rapporteur recalled that at the time of the adoption on first reading of the draft Guide to Provisional Application of Treaties, at the seventieth session, in 2018, the Commission also took note of the recommendation of the Drafting Committee that a reference be made in the commentaries to the possibility of including, during the second reading, a set of draft model clauses, based on a revised proposal that the Special Rapporteur would make at an appropriate time, taking into account the comments and suggestions made during both the plenary debate and in the Drafting Committee.<sup>1487</sup> Such reference was subsequently included in paragraph (7) of the general commentary,<sup>1488</sup> in which it was explained that, in preparing a set of draft model clauses, to be annexed to the Guide, the Commission would seek to reflect the best practice with regard to the provisional application of both bilateral and multilateral treaties. It was also clarified that in no way would they be intended to limit the flexible and voluntary nature of provisional application of treaties. Nor would they attempt to address the whole range of situations that may arise.

276. The Special Rapporteur further recalled that the Commission, in its report on the seventieth session, had indicated its intention to resume the consideration of the draft model clauses at the present session, in order “to allow States and international organizations to assess the annex containing such draft model clauses before the second reading of the draft guidelines takes place during the seventy-second session”.<sup>1489</sup>

277. The Special Rapporteur drew the Commission’s attention to the fact that 41 delegations, including the European Union which spoke on behalf of its 28 member States and other States, had expressed views in the debate on the topic in the Sixth Committee, during the seventy-third session of the General Assembly, in 2018. During that debate, many delegations had acknowledged with appreciation the proposal of the Special Rapporteur of including draft model clauses as an annex to the Guide, with several delegations observing that the inclusion of draft model clauses would provide practical assistance and guidance to States when drafting provisions of treaties. At the same time, some delegations had regretted that the Commission had not been able to complete its consideration of the draft model clauses during the first reading and expressed their hope that they could be in a position to consider the draft model clauses before the second reading commenced.

278. It was with the 2018 decision of the Commission and the views of Governments in mind that the Special Rapporteur circulated an informal paper containing a revised set of draft model clauses, which then served as a basis for discussion in the informal consultations held at the present session. He pointed to the following understandings that underpinned his revised proposal for the draft model clauses, namely that:

- (a) the draft model clauses should be aimed at addressing the most common issues faced by States and international organizations who are willing to resort to provisional application;
- (b) the draft model clauses should not pretend to address the whole range of situations that may arise;

<sup>1487</sup> *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, para. 85.

<sup>1488</sup> *Ibid.*, para. 90.

<sup>1489</sup> *Ibid.*, para. 85, footnote 1008.

(c) special care should be taken so as to avoid the draft model clauses overlapping with the guidelines contained in the Guide to Provisional Application of Treaties; and

(d) the draft model clauses should be accompanied, for reference purposes, with examples of clauses contained in existing treaties.

279. In addition, in his view, the draft model clauses should at least provide for the following situations:

(a) the provisional application of a treaty or a part of a treaty in the treaty itself or in a separate agreement;

(b) the most common situations of termination of the provisional application of a treaty or a part of a treaty;

(c) the possibility of opting for the provisional application of a treaty or a part of a treaty, or for opting not to have the treaty or a part of a treaty being provisionally applied for that State or international organization, particularly whenever the decision to resort to provisional application is made by:

(i) a resolution adopted by an international organization or at an intergovernmental conference in which the State or international organization concerned is not in agreement with such resolution; or,

(ii) a declaration by a State or international organization that is not a negotiating party to the treaty; and

(d) limitations deriving from internal law of States or rules of international organizations.

280. Furthermore, as had been explained in his fifth report,<sup>1490</sup> submitted in 2018, the draft model clauses were intended only to draw attention to some of the most common legal issues that arose in the event of an agreement to apply a treaty provisionally. Accordingly, they contained elements that reflected the most clearly established practice of States and international organizations, while avoiding other elements that were not reflected in practice or were unclear or legally imprecise. While none of the proposed wording was taken verbatim from any existing treaty, the draft model clauses included footnotes giving examples of provisional application clauses found in treaties that referred generally to the same issue covered in the draft model clause in question, although such examples were by no means exhaustive.

281. During the informal consultations, members were generally supportive of the proposal to include a set of draft model clauses, as an annex to the Guide to Provisional Application of Treaties, to be adopted on second reading next year. A number of suggestions were made concerning the approach to be taken to the model clauses, as well as on the drafting of the draft model clauses. For example, it was stated that the Commission should carefully explain their nature as not necessarily being definitive, but rather that they were intended to merely provide a basis for States to negotiate such clauses in their treaties. It was also suggested that a clearer distinction be drawn, in the text of the draft model clauses, between bilateral and multilateral treaties. Support was also expressed for the inclusion of draft model clauses 4 and 5, dealing with the question of opting out of provisional application arising from a resolution of an international organization, and limitations deriving from internal law of States or rules of international organizations, respectively. Indeed, the accompanying commentary would need to provide clear explanations.

282. The concern was also expressed, during the informal consultations, that the inclusion of a set of draft model clauses could be interpreted as the Commission encouraging States to resort to provisional application. In the view of the Special Rapporteur, such concern had existed from the very beginning of the work on the topic. The very fact of clarifying the applicable rules could be understood as facilitating the

<sup>1490</sup> [A/CN.4/718](#), paras. 75–77, and [Add.1](#).

provisional application of treaties. However, this was not necessarily the only possible interpretation. It was recalled that there already existed a significant body of practice of States resorting to provisional application from even before the 1969 Vienna Convention on the Law of Treaties,<sup>1491</sup> and especially so since the adoption of article 25 of that Convention. The Commission had decided to undertake the topic in order to provide a service to the Member States by seeking to clarify the legal framework for provisional application as well some of the legal consequences arising therefrom. At all times, the optional and voluntary nature of provisional application had been emphasized. The draft model clauses would simply be provided to facilitate drafting in those situations where negotiating parties decided to resort to the mechanism of provisional application.

283. The Special Rapporteur proposed that the Commission annex his revised version of the draft model clauses to its annual report to the General Assembly, with the request that the Governments also consider them in preparing their comments and observations on the first reading of the Guide to Provisional Application of Treaties. It would be on the basis of the views of members of the Commission, expressed during the informal consultations, together with the comments received from Governments, that he would include a further revised version of the draft model clauses in his final report to be considered at the seventy-second session of the Commission.

284. At the same 3495th meeting, the Commission took note of the oral report, and decided to annex the proposed draft model clauses to the Commission's report to the General Assembly, with a view to seeking comments from Governments in advance of the commencement of the second reading of the draft Guide to Provisional Application of Treaties at the next session of the Commission. The proposed draft model clauses appear in annex A to the present report.

## **B. Sea-level rise in relation to international law**

285. At its 3467th meeting, on 21 May 2019, the Commission decided to include the topic "Sea-level rise in relation to international law" in its programme of work and decided to establish an open-ended Study Group on the topic co-chaired, on a rotating basis, by: Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Patricia Galvão Teles, Ms. Nilüfer Oral and Mr. Juan José Ruda Santolaria.

## **C. Request by the Commission for the Secretariat to prepare studies on topics in the Commission's agenda**

286. At its 3507th meeting, on 9 August 2019, the Commission requested the Secretariat to prepare a memorandum surveying the case law of inter-State arbitral tribunals and international criminal courts and tribunals of a universal character, as well as treaties, which would be particularly relevant for its future work on the topic "General principles of law".

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

287. At its 3470th meeting, on 24 May 2019, the Commission established a Planning Group for the present session.

288. The Planning Group held two meetings on 24 May and 23 July 2019. It had before it section E, entitled "Other decisions and conclusions of the Commission", of the topical summary of the discussion held in the Sixth Committee of the General Assembly during its seventy-third session (A/CN.4/724); General Assembly resolution 73/265 of 22 December 2018 on the report of the International Law Commission on the work of its seventieth

<sup>1491</sup> Vienna Convention on the Law of Treaties (Vienna, 23 May 1969), United Nations, *Treaty Series*, vol. 1155, No. 18232, p. 331.

session; and General Assembly resolution 73/207 of 20 December 2018 on the rule of law at the national and international levels.

### 1. Working Group on the long-term programme of work

289. At its 1st meeting, on 24 May 2019, the Planning Group decided to reconvene the Working Group on the long-term programme of work, with Mr. Mahmoud D. Hmoud as Chair. The Chair of the Working Group presented an oral report on the work of the Working Group at the current session to the Planning Group, at its 2nd meeting, on 23 July 2019. The Planning Group took note of the oral report.

290. At the present session, the Commission, on the recommendation of the Working Group, decided to recommend the inclusion of the following topics in the long-term programme of work of the Commission:

(a) Reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law; and

(b) Prevention and repression of piracy and armed robbery at sea.

291. In the selection of the topics, the Commission was guided by its recommendation at its fiftieth session (1998) regarding the criteria for the selection of the topics, namely: (a) the topic should reflect the needs of States in respect of the progressive development and codification of international law; (b) the topic should be at a sufficiently advanced stage in terms of State practice to permit progressive development and codification; and (c) the topic should be concrete and feasible for progressive development and codification. The Commission further agreed that it should not restrict itself to traditional topics, but could also consider those that reflect new developments in international law and pressing concerns of the international community as a whole. The Commission considered that work on the two topics would constitute useful contributions to the progressive development of international law and its codification. The syllabuses of the topics selected appear as annexes B and C to the present report.

### 2. Working Group on methods of work of the Commission

292. At its 1st meeting, on 24 May 2019, the Planning Group decided to re-establish the Working Group on methods of work of the Commission, with Mr. Hussein A. Hassouna as Chair. The Chair of the Working Group presented an oral report on the work of the Working Group at the current session to the Planning Group, at its 2nd meeting, on 23 July 2019. The Planning Group took note of the oral report.

### 3. Consideration of General Assembly resolution 73/207 of 20 December 2018 on the rule of law at the national and international levels

293. The General Assembly, in resolution 73/207 of 20 December 2018 on the rule of law at the national and international levels, *inter alia*, reiterated its invitation to the Commission to comment, in its report to the General Assembly, on its current role in promoting the rule of law. Since its sixtieth session (2008), the Commission has commented annually on its role in promoting the rule of law. The Commission notes that the comments contained in paragraphs 341 to 346 of its 2008 report<sup>1492</sup> remain relevant and reiterates the comments made at its previous sessions.<sup>1493</sup>

<sup>1492</sup> *Official Records of the General Assembly, Sixty-third Session, Supplement No. 10 (A/63/10).*

<sup>1493</sup> *Ibid.*, Sixty-fourth Session, Supplement No. 10 (A/64/10), para. 231; *ibid.*, Sixty-fifth Session, Supplement No. 10 (A/65/10), paras. 390–393; *ibid.*, Sixty-sixth Session, Supplement No. 10 (A/66/10), paras. 392–398; *ibid.*, Sixty-seventh Session, Supplement No. 10 (A/67/10), paras. 274–279; *ibid.*, Sixty-eighth Session, Supplement No. 10 (A/68/10), paras. 171–179; *ibid.*, Sixty-ninth Session, Supplement No. 10 (A/69/10), paras. 273–280; *ibid.*, Seventieth Session, Supplement No. 10 (A/70/10), paras. 288–295; *ibid.*, Seventy-first Session, Supplement No. 10 (A/71/10), paras. 314–322; *ibid.*, Seventy-second Session, Supplement No. 10 (A/72/10), paras. 269–278; *ibid.*, Seventy-third Session, Supplement No. 10 (A/73/10), paras. 372–380.

294. The Commission recalls that the rule of law is of the essence of its work. The Commission's purpose, as set out in article 1 of its statute, is to promote the progressive development of international law and its codification.

295. Having in mind the principle of the rule of law in all its work, the Commission is fully conscious of the importance of the implementation of international law at the national level, and aims at promoting respect for the rule of law at the international level.

296. In fulfilling its mandate concerning the progressive development of international law and its codification, the Commission will continue to take into account, where appropriate, the rule of law as a principle of governance and the human rights that are fundamental to the rule of law, as reflected in the preamble and in Article 13 of the Charter of the United Nations and in the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels.<sup>1494</sup>

297. In its current work, the Commission is aware of "the interrelationship between the rule of law and the three pillars of the United Nations (peace and security, development, and human rights)",<sup>1495</sup> without emphasizing one at the expense of the other. In this context, the Commission is cognizant that the 2030 Agenda for Sustainable Development recognizes the need for an effective rule of law and good governance at all levels.<sup>1496</sup> In fulfilling its mandate concerning the progressive development and codification of international law, the Commission is conscious of current challenges for the rule of law.

298. Recalling that the General Assembly has stressed the importance of promoting the sharing of national best practices on the rule of law,<sup>1497</sup> the Commission wishes to recall that much of its work consists of collecting and analysing national practices related to the rule of law with a view to assessing their possible contribution to the progressive development and codification of international law. In this spirit, the Commission particularly welcomes the decision of the General Assembly inviting Member States to focus their comments during the upcoming Sixth Committee debate at the seventy-fourth session of the General Assembly regarding the rule of law on the subtopic "Sharing best practices and ideas to promote the respect of States for international law".<sup>1498</sup>

299. Bearing in mind the role of multilateral treaty processes in advancing the rule of law,<sup>1499</sup> the Commission recalls that the work of the Commission on different topics has led to several multilateral treaty processes and to the adoption of a number of multilateral treaties.<sup>1500</sup>

300. In the course of the present session, the Commission has continued to make its contribution to the rule of law, including by working on the topics, "Crimes against humanity" (adopted on second reading at the current session), "Peremptory norms of general international law (*jus cogens*)" (adopted on first reading at the current session), "Protection of the environment in relation to armed conflicts" (adopted on first reading at the current session), "Succession of States in respect of State responsibility", "Immunity of State officials from foreign criminal jurisdiction", "General principles of law" and "Provisional application of treaties". The Commission also decided to include a new topic, "Sea-level rise in relation to international law" in its programme of work.

301. The Commission reiterates its commitment to the rule of law in all of its activities.

<sup>1494</sup> General Assembly resolution 67/1 of 30 November 2012 on the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, para. 41.

<sup>1495</sup> Report of the Secretary-General on measuring the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations, [S/2013/341](#), 11 June 2013, para. 70.

<sup>1496</sup> General Assembly resolution 70/1 of 21 October 2015, para. 35.

<sup>1497</sup> General Assembly resolution 73/207 of 20 December 2018, paras. 2 and 23.

<sup>1498</sup> *Ibid.*, para. 23.

<sup>1499</sup> *Ibid.*, para. 9.

<sup>1500</sup> See more specifically *Official Records of the General Assembly, Seventieth Session, Supplement No. 10 (A/70/10)*, para. 294.

#### 4. Honoraria

302. The Commission reiterates its views concerning the question of honoraria, resulting from the adoption by the General Assembly of its resolution 56/272 of 27 March 2002, which have been expressed in the previous reports of the Commission.<sup>1501</sup> The Commission emphasizes that resolution 56/272 especially affects Special Rapporteurs, as it compromises support for their research work.

#### 5. Documentation and publications

303. The Commission underscored once more the unique nature of its functioning in the progressive development of international law and its codification, in that it attaches particular relevance to State practice and the decisions of national and international courts in its treatment of questions of international law. The Commission reiterated the importance of providing and making available all evidence of State practice and other sources of international law relevant to the performance of the function of the Commission. The reports of its Special Rapporteurs require an adequate presentation of precedents and other relevant data, including treaties, judicial decisions and doctrine, and a thorough analysis of the questions under consideration. The Commission stresses that it and its Special Rapporteurs are fully conscious of the need to achieve economies whenever possible in the overall volume of documentation and will continue to bear such considerations in mind. While the Commission is aware of the advantages of being as concise as possible, it reiterates its strong belief that an *a priori* limitation cannot be placed on the length of the documentation and research projects relating to the work of the Commission. It follows that Special Rapporteurs cannot be asked to reduce the length of their report following submission to the Secretariat, irrespective of any estimates of their length made in advance of submission by the Secretariat. Word limits are not applicable to Commission documentation, as has been consistently reiterated by the General Assembly.<sup>1502</sup> The Commission stresses also the importance of the timely preparation of reports by Special Rapporteurs and their submission to the Secretariat for processing and submission to the Commission sufficiently in advance so that the reports are issued in all official languages ideally four weeks before the start of the relevant part of the session of the Commission. In this respect, the Commission reiterated its request that: (a) Special Rapporteurs submit their reports within the time limits specified by the Secretariat; and (b) the Secretariat continue to ensure that official documents of the Commission are published in due time in the six official languages of the United Nations.

304. The Commission reiterated its firm view that the summary records of the Commission, constituting crucial *travaux préparatoires* in the progressive development and codification of international law, cannot be subject to arbitrary length restrictions. The Commission once more noted with satisfaction that the measures introduced at its sixty-fifth session (2013) to streamline the processing of its summary records had resulted in the more expeditious transmission to members of the Commission of the English and French versions for timely correction and prompt release. The Commission called on the

<sup>1501</sup> See *ibid.*, Fifty-seventh Session, Supplement No. 10 (A/57/10), paras. 525–531; *ibid.*, Fifty-eighth Session, Supplement No. 10 (A/58/10), para. 447; *ibid.*, Fifty-ninth Session, Supplement No. 10 (A/59/10), para. 369; *ibid.*, Sixtieth Session, Supplement No. 10 (A/60/10), para. 501; *ibid.*, Sixty-first Session, Supplement No. 10 (A/61/10), para. 269; *ibid.*, Sixty-second Session, Supplement No. 10 (A/62/10), para. 379; *ibid.*, Sixty-third Session, Supplement No. 10 (A/63/10), para. 358; *ibid.*, Sixty-fourth Session, Supplement No. 10 (A/64/10), para. 240; *ibid.*, Sixty-fifth Session, Supplement No. 10 (A/65/10), para. 396; *ibid.*, Sixty-sixth Session, Supplement No. 10 (A/66/10), para. 399; *ibid.*, Sixty-seventh Session, Supplement No. 10 (A/67/10), para. 280; *ibid.*, Sixty-eighth Session, Supplement No. 10 (A/68/10), para. 181; *ibid.*, Sixty-ninth Session, Supplement No. 10 (A/69/10), para. 281; and *ibid.*, Seventieth Session, Supplement No. 10 (A/70/10), para. 299; *ibid.*, Seventy-first Session, Supplement No. 10 (A/71/10), para. 333; *ibid.*, Seventy-second Session, Supplement No. 10 (A/72/10), para. 282; *ibid.*, Seventy-third Session, Supplement No. 10 (A/73/10), para. 382.

<sup>1502</sup> For considerations relating to page limits on the reports of Special Rapporteurs, see, for example, *Yearbook ... 1977*, vol. II (Part Two), p. 132, and *Yearbook ... 1982*, vol. II (Part Two), pp. 123–124. See also General Assembly resolution 32/151 of 9 December 1977, para. 10, and General Assembly resolution 37/111 of 16 December 1982, para. 5, as well as subsequent resolutions on the annual reports of the Commission to the General Assembly.

Secretariat to resume the practice of preparing summary records in English and French, and to continue its efforts to sustain the measures in question, in order to ensure the expeditious transmission of the provisional records to members of the Commission. The Commission also welcomed the fact that these working methods had led to the more rational use of resources and called on the Secretariat to continue its efforts to facilitate the preparation of the definitive records in all official languages, without compromising their integrity.

305. The Commission expressed its gratitude to all Services involved in the processing of documents, both in Geneva and in New York, for their efforts in seeking to ensure timely and efficient processing of the Commission's documents, often under narrow time constraints. It emphasized that timely and efficient processing of documentation was essential for the smooth conduct of the Commission's work.

306. The Commission reaffirmed its commitment to multilingualism and recalls the paramount importance to be given in its work to the equality of the six official languages of the United Nations, which had been emphasized in General Assembly resolution 69/324 of 11 September 2015.

307. The Commission once again expressed its warm appreciation to the United Nations Office at Geneva Library, which continues to assist members of the Commission very efficiently and competently.

## **6. *Yearbook of the International Law Commission***

308. The Commission reiterated that the *Yearbook of the International Law Commission* was critical to the understanding of the Commission's work in the progressive development of international law and its codification, as well as in the strengthening of the rule of law in international relations. The Commission took note that the General Assembly, in its resolution 73/265, expressed its appreciation to Governments that had made voluntary contributions to the trust fund on the backlog relating to the *Yearbook*, and encouraged further contributions to the trust fund.

309. The Commission recommends that the General Assembly, as in its resolution 73/265, express its satisfaction with the remarkable progress achieved in the past few years in catching up with the backlog of the *Yearbook* in all six languages, and welcome the efforts made by the Division of Conference Management, especially the Editing Section of the United Nations Office at Geneva, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog; and encourage the Division of Conference Management to continue providing all necessary support to the Editing Section in advancing work on the *Yearbook*.

## **7. Assistance of the Codification Division**

310. The Commission expressed its appreciation for the invaluable assistance of the Codification Division of the Secretariat in its substantive servicing of the Commission and the ongoing assistance provided to Special Rapporteurs and the preparation of in-depth research studies pertaining to aspects of topics presently under consideration, as requested by the Commission. In particular, the Commission expressed its appreciation to the Secretariat for its preparation of a memorandum on information on treaties which may be of relevance to the future work of the Commission on the topic "Succession of States in respect of State responsibility" (A/CN.4/730).

## **8. Websites**

311. The Commission expressed its deep appreciation to the Secretariat for the website on the work of the Commission, and welcomed its continuous updating and improvement.<sup>1503</sup> The Commission reiterated that the website and other websites maintained by the Codification Division<sup>1504</sup> constitute an invaluable resource for the Commission and for researchers of the work of the Commission in the wider community, thereby

<sup>1503</sup> <http://legal.un.org/ilc>.

<sup>1504</sup> In general, available from: <http://legal.un.org/cod/>.

contributing to the overall strengthening of the teaching, study, dissemination and wider appreciation of international law. The Commission welcomed the fact that the website on the work of the Commission included information on the current status of the topics on the agenda of the Commission, as well as links to the advance edited versions of the summary records of the Commission and the audio recording of the plenary meetings of the Commission.

#### **9. United Nations Audiovisual Library of International Law**

312. The Commission once more noted with appreciation the extraordinary value of the United Nations Audiovisual Library of International Law<sup>1505</sup> in promoting a better knowledge of international law and the work of the United Nations in the field, including the work of the Commission.

### **E. Date and place of the seventy-second session of the Commission**

313. The Commission decided that its seventy-second session would be held in Geneva from 27 April to 5 June and from 6 July to 7 August 2020.

### **F. Cooperation with other bodies**

314. At the 3478th meeting, on 11 July 2019, Judge Abdulqawi Ahmed Yusuf, President of the International Court of Justice, addressed the Commission and briefed it on the recent judicial activities of the Court.<sup>1506</sup> An exchange of views followed.

315. The Committee of Legal Advisers on Public International Law of the Council of Europe was represented at the present session of the Commission by the Chair of the Committee, Mr. Petr Válek, and the Head of the Public International Law and Treaty Office Division of the Directorate of Legal Advice and Public International Law and Secretary of the Committee, Ms. Marta Requena, both of whom addressed the Commission at its 3472nd meeting, on 31 May 2019.<sup>1507</sup> They focused on the current activities of the Committee in the field of public international law, as well of the Council of Europe. An exchange of views followed.

316. The Inter-American Juridical Committee was represented at the present session of the Commission by its President, Ms. Ruth Correa Palacio, who addressed the Commission at the 3477th meeting, on 10 July 2019.<sup>1508</sup> She gave an overview of the activities of the Committee on various legal issues, focusing in particular on activities in 2018. An exchange of views followed.

317. The Asian-African Legal Consultative Organization was represented at the present session of the Commission by its Secretary-General, Mr. Kennedy Gastorn, who addressed the Commission at its 3485th meeting, on 18 July 2019.<sup>1509</sup> He briefed the Commission on the organization and provided an overview of its deliberations at its fifty-seventh annual session held in Japan from 8 to 12 October 2018, including on its discussions on topics on the programme of work of the Commission. An exchange of views followed.

318. The African Union Commission on International Law was represented at the present session of the Commission by Ms. Kathleen Quartey Ayensu and Mr. Sindiso H. Sichone, members of the African Union Commission, who addressed the Commission at its 3486th meeting, on 19 July 2019.<sup>1510</sup> They gave an overview of the activities of the African Union Commission on the various legal issues that it had been engaged in since its establishment, including activities to commemorate its tenth anniversary. An exchange of views followed.

<sup>1505</sup> [http://legal.un.org/avl/intro/welcome\\_avl.html](http://legal.un.org/avl/intro/welcome_avl.html).

<sup>1506</sup> The statement is recorded in the summary record of that meeting.

<sup>1507</sup> The statements are recorded in the summary record of that meeting.

<sup>1508</sup> The statement is recorded in the summary record of that meeting.

<sup>1509</sup> The statement is recorded in the summary record of that meeting.

<sup>1510</sup> The statements are recorded in the summary record of that meeting.



319. On 17 July 2019, an informal exchange of views was held between members of the Commission and the International Committee of the Red Cross (ICRC) on topics of mutual interest. Welcoming remarks were made by Mr. Gilles Carbonnier, Vice President, ICRC, and opening remarks by Ms. Cordula Droege, Chief Legal Officer and Head of the Legal Division, ICRC, and Mr. Pavel Šturma, Chair of the Commission. Presentations were made on the topics, “The role of States in clarifying or developing international law” by Ms. Cordula Droege and by Mr. Pavel Šturma, as well as on “Peremptory norms of general international law (*jus cogens*)” by Mr. Dire Tladi, Special Rapporteur on the topic, “and on “International humanitarian law update on autonomous weapons systems” by Ms. Netta Goussac, Legal Adviser, ICRC. Each set of presentations was followed by discussion moderated by Ms. Helen Durham, Director, International Law and Policy Department, ICRC. Concluding remarks were made by Ms. Durham.

## G. Representation at the seventy-fourth session of the General Assembly

320. The Commission decided that it should be represented at the seventy-fourth session of the General Assembly by its Chair, Mr. Pavel Šturma.

## H. International Law Seminar

321. Pursuant to General Assembly resolution 73/265 of 22 December 2018, the fifty-fifth session of the International Law Seminar was held at the Palais des Nations from 8 to 26 July 2019, during the present session of the Commission. The Seminar is intended for young jurists specializing in international law, and young professors or government officials pursuing an academic or diplomatic career in posts in the civil service of their countries.

322. Twenty-five participants of different nationalities, from all regional groups, took part in the session.<sup>1511</sup> The participants attended plenary meetings of the Commission and specially arranged lectures, and participated in working groups on specific topics.

323. Mr. Pavel Šturma, Chair of the Commission, opened the Seminar. Mr. Markus Schmidt, Senior Legal Adviser to the United Nations Office at Geneva, was responsible for the administration, organization and conduct of the Seminar and served as its Director. Mr. Vittorio Mainetti, international law expert and consultant, acted as Coordinator, assisted by Mr. Pietro Gerundino, legal assistant from the University of Geneva.

324. The following lectures were given by members of the Commission: “The work of the International Law Commission” by Mr. Georg Nolte; “The International Law Commission viewed from outside” by Ms. Patrícia Galvão Teles; “Evidence before international courts and tribunals” by Mr. Aniruddha Rajput; “Protection of the atmosphere” by Mr. Shinya Murase; “Immunity of State officials from foreign criminal jurisdiction” by Ms. Concepción Escobar Hernández; “Peremptory norms of general international law (*jus cogens*)” by Mr. Dire D. Tladi; “Reparations to individuals for gross violations of international human rights law, and serious violations of international humanitarian law” by Mr. Claudio Grossman Guiloff; “Crimes against humanity” by Mr. Sean D. Murphy;

<sup>1511</sup> The following persons participated in the Seminar: Mr. Mohamed Abdelmeguid Rabie (Egypt), Mr. Hafez Abou Alchamat (Syrian Arab Republic), Mr. Alexander Antialon Conde (Peru), Ms. Giulia Bernabei (Italy), Ms. Ozge Bilge (Turkey), Ms. Elisabetta Bucci (San Marino), Ms. Arianna del Carmen Carral Castelo (Cuba), Mr. Delva Dimanche (Haiti), Ms. Victoria Ernst (United States of America), Ms. Benjaporn Fattier (Thailand), Mr. René Figueredo Corrales (Paraguay), Mr. Javier Fernando García Botero (Colombia), Mr. Gueorgui Gueorguiev (Bulgaria), Ms. Fatima Hajoui (Morocco), Ms. Ha'a Haurae (Solomon Islands), Mr. Martin Mändveer (Estonia), Mr. Chany Pavel Ngatheyo Akony (Congo), Ms. Marie Claire Ngo Nyeheg (Cameroon), Ms. Pia Niederdorfer (Austria), Ms. Marieanne Oludhe (Kenya), Ms. Naureen Rahim (Bangladesh), Mr. Shokirjon Rakhmatov (Uzbekistan), Mr. Simon-Peter St. Emmanuel (Nigeria), Ms. Aichatou Tamba (Senegal), Mr. Kiran Mohan Vazhapully (India). The Selection Committee, chaired by Mr. Makane Moïse Mbengue, Professor of International Law at the University of Geneva, met on 30 April 2019 and selected 25 candidates from 304 applications.

“General principles of law” by Mr. Marcelo Vázquez Bermúdez; and “Provisional application of treaties” by Mr. Juan Manuel Gómez Robledo.

325. Participants attended a lecture at the Graduate Institute of International and Development Studies in Geneva on “The expansion of powers of international organizations: theory and practice”, delivered by Mr. Fouad Zarbiev, Associate Professor of international law, and Mr. Gian Luca Burci, Adjunct Professor of international law, Graduate Institute of International and Development Studies. They also attended a conference organized by the University of Geneva on the topic “Protection of the environment and water installation during and after armed conflicts”, with the participation of Ms. Marja Lehto, member of the Commission and Special Rapporteur on the topic “Protection of the environment in relation to armed conflicts”. The following speakers spoke at the conference: Ms. Laurence Boisson de Chazournes, Professor of International Law, University of Geneva; Mr. Marco Sassòli, Professor of International Law, University of Geneva, and Director of the Geneva Academy of International Humanitarian Law and Human Rights Law; Ms. Mara Tignino, Reader, University of Geneva, and Coordinator of the Platform for International Water Law at the Geneva Water Hub; Ms. Helen Obregón Gieseken, Legal Advisor, Legal Division, ICRC; and Ms. Danae Azaria, Professor of International Law, University College London.

326. Participants visited the International Labour Organization (ILO), and attended two presentations given by Mr. Dražen Petrović, Registrar of the ILO Administrative Tribunal, on “International administrative justice”, and Mr. Georges Politakis, ILO Legal Adviser, on “ILO standard-setting”.

327. Two working groups, on identifying new topics for the Commission and on evidence before international courts and tribunals, were organized and participants were assigned to one of them. Two members of the Commission, Ms. Patrícia Galvão Teles and Mr. Aniruddha Rajput, respectively, supervised and provided guidance to the working groups. Each group prepared a report and presented its findings during the last working session of the Seminar. The reports were compiled and distributed to all participants, as well as to the members of the Commission.

328. Participants also attended the first Conference of the International Law Seminar Alumni Network. Ms. Verity Robson (alumna 2017), President of the Network and legal counsellor at the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland in Geneva, and Mr. Vittorio Mainetti, Secretary-General of the Network and Coordinator of the International Law Seminar, welcomed participants and alumni. Some 90 persons attended the event. Two panels were organized on the international law and the environment and procedural issues in international dispute settlement. Mr. Christian Tomuschat (alumnus 1966), Professor Emeritus, Humboldt University of Berlin, former member of the Commission, delivered a keynote speech. The following speakers spoke at the conference: Ms. Marja Lehto (alumna 1993), member of the Commission; Ms. Jasmine Moussa (alumna 2009), First Secretary at the Permanent Mission of Egypt in Geneva; Mr. Shinya Murase (alumnus 1975), member of Commission; Mr. Gentian Zyberi (alumnus 2008), Head of Department at the Norwegian Centre for Human Rights, member of Human Rights Committee; Mr. Marcelo Kohen (alumnus 1989), Professor of International Law at Graduate Institute of International and Development Studies in Geneva and Secretary General of the Institute of International Law, spoke in the first panel; Mr. Antonios Abou Kasm (alumnus 2009), Professor of International Law at Lebanese University; Ms. Mónica Feria-Tinta (alumna 2000), Barrister, 20 Essex Street Chambers; Mr. Philippe Gautier (alumnus 1988), Registrar of the International Tribunal for the Law of the Sea; Mr. Raul Pangalangan (alumnus 1988), Judge of the International Criminal Court; Mr. Brian McGarry (alumnus 2013), Lecturer and Senior Researcher at Geneva Centre for International Dispute Settlement, spoke in the second panel. Finally, Ms. Mary-Elisabeth Chong (alumna 2017), Vice-President of the Network and State Counsel at Attorney General’s Chambers of Singapore, made concluding remarks.

329. The Chair of the Commission, the Director of the International Law Seminar and Mr. René Figueredo Corrales, on behalf of participants attending the Seminar, addressed the Commission during the closing ceremony of the Seminar. Each participant was presented with a diploma.

330. The Commission noted with preoccupation that in 2019 only five Governments had made voluntary contributions to the United Nations Trust Fund for the International Law Seminar: Austria, India, Ireland, Switzerland and the United Kingdom. The financial crisis of recent years seriously affected the finances of the Seminar. Therefore, the Fund was only able to grant a limited number fellowships to deserving candidates from developing countries. In 2019, 12 fellowships were granted (8 for living expenses only, and 4 for travel and living expenses).

331. Since its inception in 1965, 1,258 participants, representing 177 nationalities, have taken part in the Seminar. Some 760 participants have received a fellowship.

332. The Commission stresses the importance it attaches to the Seminar, which enables young lawyers, especially those from developing countries, to familiarize themselves with the work of the Commission and the activities of the many international organizations based in Geneva. The Commission recommends that the General Assembly should again appeal to States to make voluntary contributions in order to secure the organization of the Seminar in 2020 with as broad participation as possible, and an adequate geographical distribution.