

49/51. Report of the International Law Commission on the work of its forty-sixth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-sixth session,¹³

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations¹⁴ and to give increased importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recognizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Considering that experience has demonstrated the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report, and that this process is facilitated when the Commission indicates specific issues on which expressions of views by Governments are of particular interest for the continuation of its work,

1. *Takes note* of the report of the International Law Commission on the work of its forty-sixth session;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at that session, in particular for the completion of a draft statute for an international criminal court¹⁵ and the adoption of final draft articles on the law of the non-navigational uses of international watercourses;¹⁶

3. *Recommends* that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

4. *Notes* the intentions of the International Law Commission for the programme of work for the remainder of the current term of office of its members,¹⁷ and urges the Commission to resume, at its forty-seventh session, the work on the draft Code of Crimes

against the Peace and Security of Mankind and on State responsibility in such a manner that the second reading of the draft articles of the Code and the first reading of the draft articles on State responsibility may be completed before the end of the present term of office of the members of the Commission;

5. *Requests* the Secretary-General to update the survey of State practice relevant to international liability for injurious consequences arising out of acts not prohibited by international law, prepared by the Secretariat in 1984,¹⁸ as a useful contribution to the ongoing work of the Commission on the topic;

6. *Endorses* the intention of the International Law Commission to undertake work on the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on nationality of natural and legal persons", on the understanding that the final form to be given to the work on these topics shall be decided after a preliminary study is presented to the General Assembly, and, in connection with the latter topic, requests the Secretary-General to invite Governments to submit, by 1 March 1995, relevant materials including national legislation, decisions of national tribunals and diplomatic and official correspondence relevant to the topic;

7. *Expresses its appreciation* for the efforts of the International Law Commission to improve its procedures and methods of work;

8. *Requests* the International Law Commission:

(a) To consider thoroughly:

(i) The planning of its activities and programme for the term of office of its members, bearing in mind the desirability of achieving as much progress as possible in the preparation of draft articles on specific topics;

(ii) Its methods of work in all their aspects, bearing in mind that the staggering of the consideration of some topics might contribute, *inter alia*, to a more effective consideration of its report in the Sixth Committee;

(b) To continue to pay special attention to indicating in its annual report, for each topic, those specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest for the continuation of its work;

9. *Takes note* of the comments of the International Law Commission on the question of the duration of its session, as presented in its report,¹⁹ and expresses the view that the requirements of the work for the progressive development of international law and its codification and the magnitude and complexity of the subjects on the agenda of the Commission make it desirable that the usual duration of its sessions be maintained;

10. *Reaffirms* its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

11. *Once again expresses the wish* that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the

¹³ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10).

¹⁴ Resolution 2625 (XXV), annex.

¹⁵ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), para. 91.

¹⁶ Ibid., para 222.

¹⁷ Ibid., para 390.

¹⁸ Yearbook of the International Law Commission, 1985, vol. II, part I (addendum).

¹⁹ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), para. 402.

seminars, from within existing resources, with adequate services, including interpretation, as required;

12. *Requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the forty-ninth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate;

13. *Recommends* the continuation of efforts to improve the ways in which the report of the International Law Commission is considered in the Sixth Committee, with a view to providing effective guidance for the Commission in its work;

14. *Also recommends* that the debate on the report of the International Law Commission at the fiftieth session of the General Assembly commence on 23 October 1995.

*84th plenary meeting
9 December 1994*

49/52. Draft articles on the law of the non-navigational uses of international watercourses

The General Assembly,

Having considered chapter III of the report of the International Law Commission on the work of its forty-sixth session, which contains final draft articles of and commentaries on the law of the non-navigational uses of international watercourses,¹⁶

Noting that the International Law Commission decided to recommend the draft articles to the General Assembly and recommended the elaboration of a convention by the Assembly or by an international conference of plenipotentiaries on the basis of the draft articles,

Mindful of Article 13, paragraph 1 (a), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Believing that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter,

Taking into account the existence of bilateral or multilateral agreements governing the non-navigational uses of international watercourses, which should not be affected by the adoption of a new international instrument unless the parties to those agreements have otherwise decided,

Also taking into account the fact that, despite the existence of a number of bilateral treaties and regional agreements, the use of international watercourses is still based in part on general principles and rules of customary law,

1. *Expresses its appreciation* to the International Law Commission for its valuable work on the law of the non-navigational uses of international watercourses, and to the successive special rapporteurs for their contribution to that work;

2. *Invites* States to submit, not later than 1 July 1996, written comments and observations on the draft articles adopted by the International Law Commission;

3. *Decides* that, at the beginning of the fifty-first session of the General Assembly, the Sixth Committee shall convene as a working group of the whole, open to States Members of the United

Nations or members of specialized agencies, for three weeks from 7 to 25 October 1996, to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments and observations of States and views expressed in the debate at the forty-ninth session;

4. *Also decides* that the Working Group of the Whole shall, without prejudice to the rules of procedure of the General Assembly, follow the methods of work and procedures outlined in the annex to the present resolution, subject to any modifications which it may deem appropriate;

5. *Requests* the Secretary-General to arrange for the presence of the Special Rapporteur on the law of the non-navigational uses of international watercourses as an expert during the debates on the topic at its fifty-first session and to submit at that session all relevant documentation;

6. *Further decides* to include in the provisional agenda of its fifty-first session an item entitled "Convention on the law of the non-navigational uses of international watercourses".

*84th plenary meeting
9 December 1994*

ANNEX

Methods of work and procedures

The draft articles prepared by the International Law Commission shall be the basic proposal before the Working Group of the Whole.

The Working Group of the Whole shall start at once with a discussion of the draft articles on an article-by-article basis, without prejudice to the possibility of simultaneously considering closely connected articles, the decisions on article 2 entitled "Use of terms" being reserved for the concluding stages of the work.

The Working Group of the Whole shall establish a drafting committee.

Once considered by the Working Group of the Whole, each article or group of articles shall be referred to the drafting committee for examination in the light of the discussion.

The drafting committee shall make recommendations to the Working Group of the Whole in relation to each article or group of articles. It shall also prepare and present to the Working Group of the Whole, for its approval, a draft preamble and a set of final clauses.

The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly.

49/53. Establishment of an international criminal court

The General Assembly,

Recalling its resolution 47/33 of 25 November 1992, in which it requested the International Law Commission to undertake the elaboration of a draft statute for an international criminal court,

Recalling also its resolution 48/31 of 9 December 1993, in which it requested the International Law Commission to continue its work on the question of the draft statute for an international criminal court, with a view to elaborating a draft statute for such a court, if possible at the Commission's forty-sixth session in 1994,

Noting that the International Law Commission adopted a draft statute for an international criminal court¹⁵ at its forty-sixth session and decided to recommend that an international conference of plenipotentiaries be convened to study the draft statute and to