



# General Assembly

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## International Law Commission

### Sixty-eighth session

Geneva, 2 May-10 June and 4 July-12 August 2016

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

*Rapporteur:* Mr. Ki Gab **Park**

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## Chapter I

### Introduction

1. The International Law Commission held the first part of its sixty-eighth session from 2 May to 10 June 2016 and the second part from 4 July to 12 August 2016 at its seat at the United Nations Office at Geneva. The session was opened by Mr. Narinder Singh, Chairperson of the sixty-seventh session of the Commission.

### A. Membership

2. The Commission consists of the following members:
  - Mr. Mohammed Bello Adoke (Nigeria)
  - Mr. Ali Mohsen Fetais Al-Marri (Qatar)
  - Mr. Lucius Caflisch (Switzerland)
  - Mr. Enrique J.A. Candioti (Argentina)
  - Mr. Pedro Comissário Afonso (Mozambique)
  - Mr. Abdelrazeg El-Murtadi Suleiman Gouider (Libya)
  - Ms. Concepción Escobar Hernández (Spain)
  - Mr. Mathias Forteau (France)
  - Mr. Juan Manuel Gómez-Robledo (Mexico)
  - Mr. Hussein A. Hassouna (Egypt)
  - Mr. Mahmoud D. Hmoud (Jordan)
  - Mr. Huikang Huang (People's Republic of China)
  - Ms. Marie G. Jacobsson (Sweden)
  - Mr. Maurice Kamto (Cameroon)
  - Mr. Kriangsak Kittichaisaree (Thailand)
  - Mr. Roman A. Kolodkin (Russian Federation)
  - Mr. Ahmed Laraba (Algeria)
  - Mr. Donald M. McRae (Canada)
  - Mr. Shinya Murase (Japan)
  - Mr. Sean D. Murphy (United States of America)
  - Mr. Bernd H. Niehaus (Costa Rica)
  - Mr. Georg Nolte (Germany)
  - Mr. Ki Gab Park (Republic of Korea)
  - Mr. Chris Maina Peter (United Republic of Tanzania)
  - Mr. Ernest Petrič (Slovenia)
  - Mr. Gilberto Vergne Saboia (Brazil)

Mr. Narinder Singh (India)  
 Mr. Pavel Šturma (Czech Republic)  
 Mr. Dire D. Tladi (South Africa)  
 Mr. Eduardo Valencia-Ospina (Colombia)  
 Mr. Marcelo Vázquez-Bermúdez (Ecuador)  
 Mr. Amos S. Wako (Kenya)  
 Mr. Nugroho Wisnumurti (Indonesia)  
 Sir Michael Wood (United Kingdom of Great Britain and Northern Ireland)

## B. Officers and the Enlarged Bureau

3. At its 3291st meeting, on 2 May 2016, the Commission elected the following officers:

|                                        |                                             |
|----------------------------------------|---------------------------------------------|
| Chairperson:                           | Mr. Pedro Comissário Afonso<br>(Mozambique) |
| First Vice-Chairperson:                | Mr. Georg Nolte (Germany)                   |
| Second Vice-Chairperson:               | Mr. Gilberto Vergne Saboia (Brazil)         |
| Chairperson of the Drafting Committee: | Mr. Pavel Šturma (Czech Republic)           |
| Rapporteur:                            | Mr. Ki Gab Park (Republic of Korea)         |

4. The Enlarged Bureau of the Commission was composed of the officers of the present session, the previous Chairpersons of the Commission <sup>1</sup> and the Special Rapporteurs.<sup>2</sup>

5. The Commission set up a Planning Group composed of the following members: Mr. Georg Nolte (Chairperson), Mr. Lucius Caflisch, Mr. Pedro Comissário Afonso, Mr. Abdelrazeg El-Murtadi Suleiman Gouider, Ms. Concepción Escobar Hernández, Mr. Mathias Forteau, Mr. Hussein A. Hassouna, Mr. Mahmoud D. Hmoud, Ms. Marie G. Jacobsson, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Ahmed Laraba, Mr. Donald M. McRae, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Bernd H. Niehaus, Mr. Ernest Petrič, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Mr. Amos S. Wako, Mr. Nugroho Wisnumurti, Sir Michael Wood, and Mr. Ki Gab Park (*ex officio*).

## C. Drafting Committee

6. At its 3295th, 3302nd, 3304th, 3307th, 3311th, 3315th and 3322nd meetings, on 10, 20, 25 and 31 May and on 7 June, and on 5 and 18 July 2016, the Commission established a Drafting Committee, composed of the following members for the topics indicated:

<sup>1</sup> Mr. Lucius Caflisch, Mr. Enrique Candioti, Mr. Maurice Kamto, Mr. Bernd H. Niehaus, Mr. Ernest Petrič, Mr. Narinder Singh and Mr. Nugroho Wisnumurti.

<sup>2</sup> Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez-Robledo, Ms. Marie G. Jacobsson, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Dire D. Tladi, Mr. Eduardo Valencia-Ospina and Sir Michael Wood.

(a) *Protection of persons in the event of disasters*: Mr. Pavel Šturma (Chairperson), Mr. Eduardo Valencia-Ospina (Special Rapporteur), Mr. Mathias Forteau, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Ernest Petrič, Mr. Gilberto Vergne Saboia, Mr. Narinder Singh, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Ki Gab Park (*ex officio*).

(b) *Crimes against humanity*: Mr. Pavel Šturma (Chairperson), Mr. Sean D. Murphy (Special Rapporteur), Ms. Concepción Escobar Hernández, Mr. Mathias Forteau, Mr. Mahmoud D. Hmoud, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Ernest Petrič, Mr. Gilberto Vergne Saboia, Mr. Narinder Singh, Mr. Marcelo Vázquez-Bermúdez, Mr. Amos S. Wako, Sir Michael Wood, and Mr. Ki Gab Park (*ex officio*).

(c) *Identification of customary international law*: Mr. Pavel Šturma (Chairperson), Sir Michael Wood (Special Rapporteur), Mr. Pedro Comissário Afonso, Ms. Concepción Escobar Hernández, Mr. Mathias Forteau, Mr. Mahmoud D. Hmoud, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Ernest Petrič, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez and Mr. Ki Gab Park (*ex officio*).

(d) *Subsequent agreements and subsequent practice in relation to the interpretation of treaties*: Mr. Pavel Šturma (Chairperson), Mr. Georg Nolte (Special Rapporteur), Mr. Mahmoud D. Hmoud, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Sean D. Murphy, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood, and Mr. Ki Gab Park (*ex officio*).

(e) *Protection of the atmosphere*: Mr. Pavel Šturma (Chairperson), Mr. Shinya Murase (Special Rapporteur), Mr. Mathias Forteau, Mr. Mahmoud D. Hmoud, Mr. Kriangsak Kittichaisaree, Mr. Donald M. McRae, Mr. Sean D. Murphy, Mr. Bernd H. Niehaus, Mr. Gilberto Vergne Saboia, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Ki Gab Park (*ex officio*).

(f) *Provisional application of treaties*: Mr. Pavel Šturma (Chairperson), Mr. Juan Manuel Gómez-Robledo (Special Rapporteur), Mr. Mathias Forteau, Mr. Maurice Kamto, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Georg Nolte, Mr. Ernest Petrič, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Ki Gab Park (*ex officio*).

(g) *Jus cogens*: Mr. Pavel Šturma (Chairperson), Mr. Dire D. Tladi (Special Rapporteur), Mr. Enrique J.A. Candioti, Ms. Concepción Escobar Hernández, Mr. Mathias Forteau, Mr. Mahmoud D. Hmoud, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Ernest Petrič, Mr. Gilberto Vergne Saboia, Mr. Narinder Singh, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Ki Gab Park (*ex officio*).

(h) *Protection of the environment in relation to armed conflicts*: Mr. Pavel Šturma (Chairperson), Ms. Marie G. Jacobsson (Special Rapporteur), Ms. Concepción Escobar Hernández, Mr. Mahmoud D. Hmoud, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Ki Gab Park (*ex officio*).

7. The Drafting Committee held a total of ... meetings on the eight topics indicated above.

## D. Working groups

8. At its 3291st meeting on 2 May 2016, the Commission established a *Working Group on Identification of customary international law*: Mr. Marcelo Vázquez-Bermúdez (Chairperson), Sir Michael Wood (Special Rapporteur), Mr. Pedro Comissário Afonso, Ms. Concepción Escobar Hernández, Mr. Mathias Forteau, Mr. Mahmoud D. Hmoud, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Donald M. McRae, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Ernest Petrič, Mr. Pavel Šturma and Mr. Ki Gab Park (*ex officio*).

9. The Planning Group reconstituted the *Working Group on the Long-term Programme of work*: Mr. Donald M. McRae (Chairperson), Mr. Lucius Caflisch, Mr. Abdelrazeg El-Murtadi Suleiman Gouider, Ms. Concepción Escobar Hernández, Mr. Mathias Forteau, Mr. Hussein A. Hassouna, Mr. Mahmoud D. Hmoud, Mr. Maurice Kamto, Mr. Kriangsak Kittichaisaree, Mr. Roman A. Kolodkin, Mr. Ahmed Laraba, Mr. Shinya Murase, Mr. Georg Nolte, Mr. Ernest Petrič, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Amos S. Wako, Mr. Nugroho Wisnumurti, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Ki Gab Park (*ex officio*).

## E. Secretariat

10. Mr. Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, represented the Secretary-General. Mr. Huw Llewellyn, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary to the Commission and, in the absence of the Legal Counsel, represented the Secretary-General. Mr. Arnold Pronto, Principal Legal Officer, served as Principal Assistant Secretary. Mr. Trevor Chimimba, Senior Legal Officer, served as Senior Assistant Secretary. Ms. Patricia Georget, Ms. Hanna Dreifeldt-Lainé and Mr. David Nanopoulos, Legal Officers, served as Assistant Secretaries to the Commission.

## F. Agenda

11. At its 3291st meeting, on 2 May 2016, the Commission adopted an agenda for its sixty-eighth session consisting of the following items:

1. Organization of the work of the session.
2. Protection of persons in the event of disasters.
3. Immunity of State officials from foreign criminal jurisdiction.
4. Subsequent agreements and subsequent practice in relation to the interpretation of treaties.
5. Provisional application of treaties.
6. Identification of customary international law.
7. Protection of the environment in relation to armed conflicts.
8. Protection of the atmosphere.
9. Crimes against humanity.
10. *Jus cogens*.
11. Programme, procedures and working methods of the Commission and its documentation.

12. Date and place of the sixty-ninth session.
  13. Cooperation with other bodies.
  14. Other business.
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