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

Rapporteur: Mr. Bogdan Aurescu

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Chapter I

Introduction

1. The International Law Commission held the first part of its sixty-ninth session from 1 May to 2 June 2017 and the second part from 3 July to 4 August 2017 at its seat at the United Nations Office at Geneva. The session was opened by Mr. Gilberto Vergne Saboia, Second Vice- Chairperson of the sixty-eighth session of the Commission.

A. Membership

2. The Commission consists of the following members:

Mr. Ali Mohsen Fetais Al-Marri (Qatar)

Mr. Carlos J. Argüello Gómez (Nicaragua)

Mr. Bogdan Aurescu (Romania)

Mr. Yacouba Cissé (Côte d'Ivoire)

Ms. Concepción Escobar Hernández (Spain)

Ms. Patricia Galvão Teles (Portugal)

Mr. Juan Manuel Gómez Robledo (Mexico)

Mr. Claudio Grossman Guiloff (Chile)

Mr. Hussein A. Hassouna (Egypt)

Mr. Mahmoud D. Hmoud (Jordan)

Mr. Huikang Huang (China)

Mr. Charles Chernor Jalloh (Sierra Leone)

Mr. Roman A. Kolodkin (Russian Federation)

Mr. Ahmed Laraba (Algeria)

Ms. Marja Lehto (Finland)

Mr. Shinya Murase (Japan)

Mr. Sean D. Murphy (United States of America)

Mr. Hong Thao Nguyen (Viet Nam)

Mr. Georg Nolte (Germany)

Ms. Nilüfer Oral (Turkey)

Mr. Hassan Ouazzani Chahdi (Morocco)

Mr. Ki Gab Park (Republic of Korea)

Mr. Chris Maina Peter (United Republic of Tanzania)

Mr. Ernest Petrič (Slovenia)

Mr. Aniruddha Rajput (India)

Mr. August Reinisch (Austria)

Mr. Juan José Ruda Santolaria (Peru)

Mr. Gilberto Vergne Saboia (Brazil)

Mr. Pavel Šturma (Czechia)

Mr. Dire D. Tladi (South Africa)

Mr. Eduardo Valencia-Ospina (Colombia)
 Mr. Marcelo Vázquez-Bermúdez (Ecuador)
 Mr. Amos S. Wako (Kenya)
 Sir Michael Wood (United Kingdom of Great Britain and Northern Ireland)

B. Officers and the Enlarged Bureau

3. At its 3348th meeting, on 1 May 2017, the Commission elected the following officers:

Chairperson:	Mr. Georg Nolte (Germany)
First Vice-Chairperson:	Mr. Eduardo Valencia-Ospina (Colombia)
Second Vice-Chairperson:	Mr. Hussein A. Hassouna (Egypt)
Chairperson of the Drafting Committee:	Mr. Aniruddha Rajput (India)
Rapporteur:	Mr. Bogdan Aurescu (Romania)

4. The Enlarged Bureau of the Commission was composed of the officers of the present session, the previous Chairperson of the Commission¹ and the Special Rapporteurs.²

5. At its 3350th meeting on 3 May 2017, the Commission set up a Planning Group composed of the following members: Mr. Eduardo Valencia-Ospina (Chairperson), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Hussein A. Hassouna, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Mr. Roman A. Kolodkin, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

C. Drafting Committee

6. At its 3349th, 3354th, 3360th, 3365th, 3374th and 3381st meetings, on 2, 9, 18, 30 May and on 13 and 25 July 2017, the Commission established a Drafting Committee, composed of the following members for the topics indicated:

(a) *Provisional application of treaties*: Mr. Aniruddha Rajput (Chairperson), Mr. Juan Manuel Gómez Robledo (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Ms. Patricia Galvão Teles, Mr. Claudio Grossman Guiloff, Mr. Charles Chernor Jalloh, Mr. Roman A. Kolodkin, Ms. Marja Lehto, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. Pavel Šturma, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

(b) *Crimes against humanity*: Mr. Aniruddha Rajput (Chairperson), Mr. Sean D. Murphy (Special Rapporteur), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Charles Chernor Jalloh, Mr. Roman A. Kolodkin, Ms. Marja Lehto, Mr. Georg Nolte, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

¹ Mr. Ernest Petrič.

² Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez Robledo, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Eduardo Valencia-Ospina and Sir Michael Wood.

(c) *Protection of the atmosphere*: Mr. Aniruddha Rajput (Chairperson), Mr. Shinya Murase (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

(d) *Immunity of State officials from foreign criminal jurisdiction*: Mr. Aniruddha Rajput (Chairperson), Ms. Concepción Escobar Hernández (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Yacouba Cissé, Ms. Patricia Galvão Teles, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

(e) *Peremptory norms of general international law (jus cogens)*: Mr. Aniruddha Rajput (Chairperson), Mr. Dire Tladi (Special Rapporteur), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Charles Chernor Jalloh, Mr. Roman A. Kolodkin, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Pavel Šturma, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

(f) *Succession of States in respect of State responsibility*: Mr. Aniruddha Rajput (Chairperson), Mr. Pavel Šturma (Special Rapporteur), Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Claudio Grossman Guiloff, Mr. Mahmoud Hmoud, Mr. Charles Chernor Jalloh, Mr. Roman A. Kolodkin, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Ki Gab Park, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

7. The Drafting Committee held a total of 30 meetings on the six topics indicated above.

D. Working Groups

8. At its 3357th meeting on 12 May 2017, the Commission established a *Working Group on provisional application of treaties*: Mr. Marcelo Vázquez-Bermúdez (Chairperson), Mr. Juan Manuel Gómez Robledo (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Mahmoud D. Hmoud, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Pavel Šturma, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

9. At its 3380th meeting on 25 July 2017, the Commission established a *Working Group on protection of the environment in relation to armed conflicts*: Mr. Marcelo Vázquez-Bermúdez (Chairperson), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Claudio Grossman Guiloff, Mr. Mahmoud Hmoud, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

10. The Planning Group established the following Working Groups:

(a) *Working Group on the long-term programme of work*: Mr. Mahmoud D. Hmoud (Chairperson), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Hussein A. Hassouna, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Mr. Roman A. Kolodkin, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Mr. Bogdan Aurescu (*ex officio*).

(b) *Working Group on methods of work*: Mr. Hussein A. Hassouna (Chairperson), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Ms. Patricia Galvão Teles, Mr. Claudio Grossman Guiloff, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Eduardo Valencia-Ospina, Mr. Marcelo Vázquez-Bermúdez and Sir Michael Wood.

E. Secretariat

11. 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 to the Commission. Mr. Trevor Chimimba, Senior Legal Officer, served as Senior Assistant Secretary to the Commission. Ms. Patricia Georget, Mr. David Nanopoulos and Ms. Carla Hoe, Legal Officers, and Mr. Daniel Stewart and Mr. Bart Smit Duijzentkunst, Associate Legal Officers, served as Assistant Secretaries to the Commission.

F. Agenda

12. At its 3348th meeting, on 1 May 2017, the Commission adopted an agenda for its sixty-ninth session consisting of the following items:

1. Organization of the work of the session.
2. Immunity of State officials from foreign criminal jurisdiction.
3. Provisional application of treaties.
4. Protection of the environment in relation to armed conflicts.
5. Protection of the atmosphere.
6. Crimes against humanity.
7. Peremptory norms of general international law (*jus cogens*).
8. Programme, procedures and working methods of the Commission and its documentation.
9. Date and place of the seventieth session.
10. Cooperation with other bodies.
11. Other business.