

International Law Commission

76th session

Sea-level rise in relation to international law

- The Commission had before it the final consolidated report of the Co-Chairs (A/CN.4/783).
 - The final report covered all three subtopics: law of the sea, statehood and protection of persons in the context of sea-level rise.
 - It reflected on the practice of States and the views expressed during the previous sessions of the Sixth Committee.
 - It also considered cross-cutting issues including the importance of legal certainty, stability and predictability, and the role of equitable consideration and the duty to cooperate.
 - The final report further reflected on developments at regional initiatives and the consideration of the issue of climate change-related sea-level rise in recent advisory proceedings at international tribunals.
 - The Co-Chairs proposed a draft final report of the Study Group.
- The Study Group discussed the final consolidated report of the Co-Chairs and adopted the final report of the Study Group.
- Conclusion of the consideration of the topic by the International Law Commission.
- The report of the Study Group is reproduced in an annex to the Commission's report (see annex I).

Immunity of State officials from foreign criminal jurisdiction

- The Commission had before it the second report of the Special Rapporteur (A/CN.4/780), as well as comments and observations from Governments (A/CN.4/771 and Add.1–3).
 - The report addressed Governments' comments on draft articles 7 to 18 and the draft annex, as adopted on first reading, and included proposals for their consideration on second reading.
- After debate in plenary, the Commission referred draft articles 7 to 18 and the draft annex to the Drafting Committee.

- The Drafting Committee provisionally adopted draft articles 7, 8 and 9 (see report of the Drafting Committee A/CN.4/L.1017).
- The Drafting Committee adopted the following changes to the text of draft articles 7 to 9, when compared to the first-reading texts
 - Draft article 7 (Crimes under international law in respect of which immunity *ratione materiae* shall not apply):
 - the list of crimes was expanded to include aggression, slavery and the slave trade;
 - the annex was deleted, and the text of draft article 7 itself now refers to crimes “as defined according to the applicable rules of international law”.
 - Draft article 8 (Application of Part Four):
 - restructured into two paragraphs;
 - wording streamlined for clarity.
 - Draft article 9 (Examination of immunity by the forum State):
 - the words “against an official of another State” were added for clarity.
- Because of the reduced length of the session, there was no time for preparation, translation and consideration of commentaries to draft articles 7, 8 and 9.
 - The adoption by the Commission of draft articles 7, 8 and 9, together with commentaries thereto, was therefore postponed to the seventy-seventh session.
- The Commission provisionally adopted draft articles 1, 3, 4 and 5, together with their commentaries, which the Commission had taken note of at the seventy-fifth session.

General principles of law

- The Commission had before it the fourth report of the Special Rapporteur (A/CN.4/785) with the bibliography thereto (A/CN.4/785/Add.1), as well as comments and observations from Governments (A/CN.4/779 and Add.1).
 - o The fourth report addressed the comments and observations received from Governments on the draft conclusions and commentaries adopted on first reading.
 - o The Special Rapporteur suggested modifications to the draft conclusions based on the comments received from Governments.
- After debate in plenary, the Commission referred draft conclusions 1 to 12 to the Drafting Committee.
- The Drafting Committee provisionally adopted draft conclusions 1 to 12 on second reading (see report of the Drafting Committee A/CN.4/L.1018).
- Compared to the first-reading text, the following modifications were introduced or suggested by the Drafting Committee:
 - o Draft conclusion 2 (Recognition)
 - Commentary will clarify the possible role of international organizations in the recognition process.
 - o Draft conclusion 7 (Identification of general principles of law formed within the international legal system)
 - The second paragraph (a without-prejudice clause) was deleted, and its content will be incorporated into the commentary;
 - Commentary will explain the methodology for the identification of general principles of law formed within the international legal system, the importance of State consent, and whether rules like the persistent objector may apply.
 - o Draft conclusions 8 (Decisions of courts and tribunals) and 9 (Teachings)
 - Refined to align the provisions with the Commission's work on the topic "Subsidiary means for the determination of rules of international law".
 - o Draft conclusion 10 (Functions of general principles of law)

- Restructured to emphasize the normative functions of general principles of law, with adjustments underscoring their contribution to the coherence of the international legal system.
- o Draft conclusion 12 (General principles of law with a limited scope of application)
 - New provision, framed as a “without prejudice” clause. Deals with general principles of law with a limited scope of application, as the title suggests.
- Because of the reduced length of the session, there was no time to prepare, translate and consider the commentaries to draft conclusions 1 to 12.
 - o The adoption by the Commission of the draft conclusions on second reading, together with commentaries thereto, was postponed to the seventy-seventh session.
- As is always the case with the Commission’s outputs, the draft conclusions are to be read together with the commentaries.
- The Report of the Commission contains a summary of the plenary debate on the fourth report of the Special Rapporteur.

Subsidiary means for the determination of rules of international law

- The Commission had before it the third report of the Special Rapporteur (A/CN.4/781) and a bibliography on the topic (A/CN.4/781/Add.1).
 - o Analyzed the meaning and role of teachings in determining rules of international law and the weight to be given to them.
 - o Analyzed the outputs and pronouncements of private expert groups, State-created expert bodies and of resolutions of international organizations and intergovernmental conferences and the weight to be given to them.
 - o Considered the question of unity and coherence of international law, and the relationship between subsidiary means for the determination of rules of law and supplementary means of interpretation of treaties.
- The Drafting Committee adopted draft conclusions 9 to 13 and reorganized the parts and draft conclusions adopted at previous sessions; the Drafting Committee provisionally adopted draft conclusions 1 to 13 on first reading.

- The adoption of draft conclusions 1 to 13 by the Commission was postponed to the seventy-seventh session, owing to the unavailability of time for the translation and consideration of the commentaries to the draft conclusions, as a consequence of the reduced length of the session.
- As is always the case with the Commission's outputs, the draft conclusions are to be read together with the commentaries.
- The full text of the draft conclusions and the commentaries thereto, once adopted by the Commission on first reading, will be presented to States for comments.
- The Report of the Commission contains a summary of the plenary debate of the proposed draft conclusions 8 to 13 as submitted by the Special Rapporteur.

Settlement of disputes to which international organizations are parties

- The Commission had before it the third report of the Special Rapporteur (A/CN.4/782) with the bibliography thereto (A/CN.4/782/Add.1).
 - o Focused on the discussion of disputes between international organizations and private parties.
 - o Provided an analysis of the practice of settling such disputes, as well as of policy issues relevant to the Commission's work on the topic.
 - o Special Rapporteur proposed five draft guidelines.
- Owing to the reduction of the length of the session, the Commission was unable to consider the third report in the plenary.
- A Working Group was established, chaired by the Special Rapporteur, to allow for a preliminary exchange of views on the third report (1 meeting).
- The report of the Working Group is reproduced in the Commission's report.

Prevention and repression of piracy and armed robbery at sea

- The Commission had before it a note by the Special Rapporteur (A/CN.4/786)
- The note:
 - o Addressed points of law which, in the opinion of the Special Rapporteur, could constitute major themes of the work of the Commission on the topic;

- o Outlined general areas of inquiry based on the main features of the topic; and
 - o Provided methodological guidance
- The Commission established a working group on the topic, chaired by the Special Rapporteur (1 meeting).
- The Working Group held an exchange of views on the note and the proposed schedule of future work on the topic.
- The report of the Working Group is reproduced in the Commission's report.

Succession of States in respect of State responsibility

- Further to its decision at the previous session, the Commission established a working group on the topic and appointed Mr. Bimal N. Patel as its Chair.
- The purpose of the Working Group was to draft a report that would bring the work of the Commission on the topic to an end.
- The Working Group had before it a draft report prepared by its Chair (A/CN.4/L.1004).
- Owing to the reduction of the length of the session, the Working Group could not fully consider and adopt the draft report (1 meeting).
- The Working Group held an exchange of views on the draft report and took note of it.
- The report of the Working Group is reproduced in the Commission's report.
- It is expected that the Working Group will consider and adopt a revised draft report at its session next year.

Non-legally binding international agreements

- The Commission had before it the second report of the Special Rapporteur (A/CN.4/784).
 - o General elements of the topic, its purpose, the terminology used, the scope of the project, the form of the outcome and the matters to be addressed through a "without prejudice" clause.

- o distinction between treaties and non-legally binding international agreements.
 - o Special Rapporteur proposed six draft conclusions.
- Owing to the reduction of the length of the session, the Commission was unable to consider the second report in the plenary.
- A Working Group was established, chaired by the Special Rapporteur, to allow for a preliminary exchange of views on the second report (1 meeting).
- The report of the Working Group is reproduced in the Commission's report.

Other decisions

- The Commission decided to include the topics "Compensation for the damage caused by internationally wrongful acts" and "Due diligence in international law" in its programme of work and to appoint Mr. Mārtiņš Paparinskis and Ms. Penelope Ridings, respectively, as Special Rapporteurs.
- The Commission decided to include in its long-term programme of work the topics "The principle of non-intervention in international law", "Identification and legal consequences of obligations *erga omnes* in international law" and "Legal aspects of accountability for crimes committed against United Nations personnel serving in peacekeeping operations" (see annexes II, III and IV respectively, in the Commission's report).
- The Commission decided that its seventy-seventh session would be held in New York, from 20 April to 29 May 2026, and in Geneva, from 29 June to 7 August 2026.