



Permanent Mission of Costa Rica to the United Nations – Pro Tempore Presidency

69th Session of the General Assembly of the United Nations

**STATEMENT OF THE PERMANENT MISSION OF COSTA RICA TO THE UNITED NATIONS ON
BEHALF OF THE COMMUNITY OF LATIN AMERICAN AND CARRIBEAN STATES, CELAC**

Item 78

Report of the International Law Commission

New York, 27 October, 2014

-Please check against delivery-

Mr. Chairman,

I have the honor to speak on behalf of the Community of Latin American and Caribbean States, CELAC. I should first like to recall that in CELAC's second Presidential Summit, which took place in La Havana in January 2014, our Community reiterated that it is based upon an unrestricted respect for the purposes and principles set forth in the Charter of the United Nations and in international law.

CELAC would therefore like to acknowledge the leading role played by the International Law Commission in the progressive development of international law and its codification. Indeed, a number of the most important international conventions have derived from the Commission's work, and even draft documents of the ILC are often referred to in the judgments of the International Court of Justice, which clearly illustrates that the work of the Commission may influence that of the Court.

Consequently, while renewing its commitment to international law and to the International Law Commission, CELAC encourages a fruitful exchange of views in the following days, as well as discussions between the members of the Sixth Committee and the members of the Commission.

Mr. Chairman,

In fulfilling its functions, the ILC requires Governments to furnish documents relevant to the topic being studied, including text of laws, decrees, judicial decisions, treaties, diplomatic correspondence, and doctrine. Hence, the contribution of Member States is critical. Similarly, the contribution of

international, regional and sub-regional courts and tribunals, and academic institutions, is also key in this process. CELAC hence highlights the need for all Member States to continue providing strong support to the work of the Commission.

CELAC welcomes that the ILC Report indicates, in Chapter III, a list of specific issues -concerning seven of the items on the Commission's agenda- on which comments from Member States would be of particular interest of the ILC.

In this regard, CELAC would like to highlight the difficulties faced by many States and their legal departments to provide the required information. We wish to emphasize that this is explained by the asymmetries in resources among teams of international lawyers in different countries, and not by lack of interest. In order to increase the legitimacy in the progressive development and codification of international law, it is extremely important that we do our utmost to ensure that all States effectively participate in our discussions.

Mr. Chair

While the Commission continues to hold its sessions at the European Office of the United Nations in Geneva, CELAC reiterates its call to hold half of the ILC sessions in the United Nations Headquarters in New York. The positive impact of such simple measure would be remarkable: Sixth Committee delegates would be able to attend the deliberations as observers, and this would foster an early engagement in the topics, including by our capitals, even before the ILC Report is circulated. Consequently, CELAC once again invites delegations to consider this proposal.

While recognizing and appreciating the efforts made in recent years, CELAC is of the opinion that more can be done to strengthen cooperation and dialogue between the Commission and Member States. It is regrettable, for example, that due to budgetary constraints not all special rapporteurs dealing with topics under discussion can come to New York to interact with Sixth Committee delegates. Their participation is essential to the effectiveness of "thematic debates" in the Sixth Committee, given its informal nature. This should always be scheduled at a date close to the meeting of Legal Advisers, and should not overlap with other relevant meetings of the General Assembly that could prevent their attendance.

CELAC also wishes to highlight the relevance of the International Law Seminar, that this year commemorated its 50th anniversary. It enables young international lawyers or university teachers specialized in international law, from developing countries, to familiarize themselves with the work of the Commission. In the same vein, participation in the International Law Seminar from legal advisers from all regions can indeed contribute significantly to the work of the Sixth Committee and its interaction with the ILC. In this regard, the Community welcomes voluntary contributions to the Trust Fund for Participation in the International Law Seminar and invites States to consider making additional contributions.

Mr. Chairman,

The Community of Latin American and Caribbean States is mindful of the vast and complex work fulfilled by the Commission and in particular by the Special Rapporteurs. We appreciate the work product of the Commission in the various issues addressed in its 66th session.

The Commission adopted, on second reading, a set of 31 draft articles on the “Expulsion of Aliens”. Similarly, the Commission adopted, on first reading, a set of 21 draft articles on the “Protection of persons in the event of disasters” presented by special rapporteur Eduardo Valencia Ospina from Colombia.

In addition to that, the Commission provisionally adopted five draft conclusions on the topic “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”; presented three draft guidelines on the topic “Protection of the atmosphere”; provisionally adopted one draft article concerning the topic “Immunity of State officials from foreign criminal jurisdiction”; and took note of the interim report of the Chairman of the Drafting Committee of the topic “Identification of customary international law”. Similarly, the Commission had before it the important topic of the “Protection of the environment in relation to armed conflicts”; the “Provisional application of treaties”; and the topic recently included in its programme of work, namely, “Crimes against humanity”. For all these specific issues, CELAC takes special note of the deadline established by the Commission to Member States in order to furnish possible comments and observations.

On the other hand, after having reconstituted the Study Group on the topic “The Most-Favoured-Nation clause” the Commission will probably have before it the revised draft final report of that study group at its 67th session in 2015. Finally, CELAC notes with appreciation the Commission’s endorsement of the recommendation for the inclusion in its long-term programme of work of the topic *jus cogens*.

Mr. Chair

The productivity of the ILC must be matched by adequate funding so that documents that are of great relevance to the progressive development and codification of international law have the necessary publicity. We cannot accept that periodic publications by the Codification Division of the Office of Legal Affairs may be in perilous situation due to financial reasons. CELAC supports the continuation of the legal publications prepared by the Codification Division (as referred to in paragraph 282 of the Report), in particular *The Work of the International Law Commission*. We welcome the dissemination activities carried out by the Codification Division and the Division of Conference Management. We also welcome voluntary contributions to the Trust Fund to eliminate the backlog in the publication of the *Yearbook of the International Law Commission*, and invite States to consider making additional contributions.

Mr. Chairman:

We commend the significant progress in the work product of the International Law Commission. However, we must continue to improve its relations with the Sixth Committee, so that the General Assembly can better process and utilize the invaluable work of the Commission. The Community of Latin American and Caribbean States reiterates its firm commitment to contributing to this process and to working towards our common goal of progressively developing and codifying international law.

I thank you.