



Permanent Mission of Ecuador to the United Nations

Pro Tempore Presidency

70° Período Ordinario de Sesiones de la Asamblea General de las Naciones Unidas

**INTERVENCIÓN DE LA REPRESENTACIÓN PERMANENTE DE ECUADOR ANTE
LAS NACIONES UNIDAS A NOMBRE DE LA COMUNIDAD DE ESTADOS
LATINOAMERICANOS Y CARIBEÑOS, CELAC**

Tema de agenda 83

Informe de la Comisión de Derecho Internacional

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-Cotejar con texto leído-

70th Period of Sessions of the General Assembly of the United Nations

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

Agenda Item 83

Report of the International Law Commission

New York, 2 November 2015

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Speaker: Minister Agustin Fornell

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 third Presidential Summit, which took place in Belen, Costa Rica in January 2015, our Community reiterated, inter alia, its firm commitment with the principles of 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.

That said, allow us to also acknowledge the Commission's role in promoting the rule of law through its work on a number of particular topics. In this regard, the Report of the International Law Commission on the work of its sixty-seventh session (document A/70/10) highlights the proposals that became the subject to multilateral treaty processes (para. 294 of the report).

As set out in Article 1 of its Statute, the object of the International Law Commission is the promotion of the progressive development of international law and its codification. This mandate, which is also that of the Sixth Committee, stems from Article 13, paragraph 1 a), of the United Nations Charter. 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.

In this regard, there is a need to take into account 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.

While the Commission continues to hold its sessions at the European Office of the United Nations at 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 could 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. In this regard, while CELAC countries note with appreciation the Commission's recommendation contained in paragraph 298 to consider holding part of its

seventieth session(2018) in New York, it remains important to revert to the overarching proposal of having half of the ILC sessions in New York, including as reflected in paragraph 388 of the report of the Commission on the work of its sixty third session.The fruitful informal dialogues held in New York between some of the Commission's Rapporteurs and delegates to the Sixth Committee during the intersessional period demonstrated the potential reciprocal gains of such interaction

We believe austerity measures of the Organization should take into account the efficiency and productivity of its processes.

Consequently, CELAC once again invites delegations to consider this proposal both as a matter of principle and in practical terms. Regarding the principles, all Member States are conscious of the importance of the ILC and of their eminent membership. The ILC has contributed notably along the years to the codification and progressive development of international law, and will continue to do so. In practical terms, however, the effectiveness of that contribution depends on the consideration of its successful work by Member States. Here is where interaction between the Sixth Committee and the ILC becomes essential. CELAC believes that bringing the ILC closer to Sixth Committee delegates during part of its sessions would clearly contribute to our own engagement with their work.

This would also have a positive impact on the quality of the interaction with capitals,when Member States formulate comments and observations in written form to the ILC. In this connection, CELAC welcomes that the ILC Report, in Chapter III, while considering as stillrelevant its requests for information on the topics: protection of the atmosphere, Identification of customary international law, and Crimes against Humanity, further indicates a list of specific issues –concerningfiveof the items on the Commission's agenda- on which comments from Member States would be of particular interest of the ILC.¹ In this regard, it is to be recalled thatupon a request by CELAC that questionnaires prepared by Special Rapporteurs should focus on the main aspects of the topic under study,the General Assembly adopted its resolution 67/92, whereby it drew the attention of Governments, inter alia, to the importance of having their views on all the specific issues identified in the Report.

Mr. Chairman,

CELAC welcomes voluntary contributions to the Trust Fund for Participation in the International Law Seminar of the Commission, and invites States to consider making additional contributions. In this regard, the International Law Seminar enables young international lawyers or university teachers specialized in international law, especially 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 regionscan indeed contribute significantly to the work of the Sixth Committee and its interaction with the ILC.

While recognizing and appreciating the efforts made in recent years, CELAC is of the opinion that more can be done to improve cooperation and dialogue between the Commission and Member States. It is regrettable, for example, that due to budgetary constraints not all special rapporteurs dealing withtopics under discussion can come to New York to interact withSixth Committee delegates. Their participation is essential to the effectiveness of "thematic debates"

¹ Subsequent agreements and subsequent practice in relation to the interpretation of treaties; Protection of the environment in relation to armed conflicts; Immunity of States Officials from foreign criminal jurisdiction; Provisional application of treaties; and *Jus cogens*.

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.

Mr. Chairman,

CELAC 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 67th session.

In that regard the Commission adopted, the final report on the topic "The Most-Favoured Nation clause".

In addition to that, CELAC countries reaffirm the importance of submitting possible comments and observations by 31 January 2016, in particular on the specific issues identified in chapter III, regarding: "Protection of the atmosphere"; "Identification of customary international law"; "Crimes against humanity"; "Subsequent agreements and subsequent practice in relation to the interpretation of treaties"; "Protection of the environment in relation to armed conflicts"; "Immunity of State officials from foreign criminal jurisdiction"; "Provisional application of treaties"; and the new topic: "*Jus cogens*".

In this regard, CELAC notes with appreciation the Commission's decision to include the topic "*Jus cogens*" in its programme of work.

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. In this regard, we welcome the establishment of a new website of the Commission and express our appreciation to the Secretariat for the accomplishment of such work. However, 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 therefore supports the continuation of the legal publications prepared by the Codification Division (as referred to in paragraph 300 of the Report), in particular *The Work of the International Law Commission*, in the various official languages. 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:

In conclusion, 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.