

AG/RES. 2930 (XLIX-O/19)

INTERNATIONAL LAW<sup>1/2/3/4/5/6/</sup>

(Adopted at the first plenary session, held on June 27, 2019)

THE GENERAL ASSEMBLY,

RECALLING resolutions AG/RES. 2909 (XLVII-O/17) and AG/RES. 2926 (XLVIII-O/18), and all previous resolutions adopted on this topic; and

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly June 2018-June 2019” (AG/doc.5649/19 add. 1), in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP),

I. ACTIVITIES OF THE COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

RESOLVES:

1. To instruct the Permanent Council, the General Secretariat, and the other bodies referred to in Article 53 of the Charter of the Organization of American States (OAS) to continue working on the implementation of the applicable current mandates set out in previous General Assembly resolutions assigned to the Committee on Juridical and Political Affairs (CAJP), except as stated otherwise in any resolution.

2. To urge the member states to continue contributing to the attainment of the objectives established in said resolutions and to instruct the General Secretariat to provide the necessary support to those ends.

i. Observations and Recommendations on the Annual Report of the Inter-American Juridical Committee

HAVING SEEN the observations and recommendations of the member states on the Annual Report of the Inter-American Juridical Committee (CP/doc.5467/19), presented to the CAJP on April 11, 2019,

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1. Mexico reiterates the position expressed in its statement delivered at the first plenary session of the forty-ninth regular session of the General Assembly ...
  2. The Plurinational State of Bolivia places on record its position in accordance with Article 1 of the Charter of the Organization of American States, which stipulates: “*The American States ...*”
  3. Further to the Statement of the delegation of the Republic of Suriname on June 27, 2019 at the General Assembly of the Organization of American States and with reference to its Statement ...
  4. The Government of Barbados did not support Resolution CP/RES. 1124 (2217/19) of April 9, 2019 which sought to appoint Mr. Gustavo Tarre as the National Assembly’s designated Permanent ...
  5. The Government of the Commonwealth of Dominica places on record its reservations to the participation and voting by the purported representative(s) of the Bolivarian Republic of Venezuela...
  6. Antigua and Barbuda considers that the Bolivarian Republic of Venezuela is not a member state of the Organization of American States since, on 27 April 2017, the Government of the Bolivarian...

RESOLVES:

1. To thank the Inter-American Juridical Committee (CJI) for forwarding the Guide on Law Applicable to International Commercial Contracts in the Americas and the Practical Guide to the Application of Jurisdictional Immunity of International Organizations, to take note thereof, and to urge it to disseminate them as widely as possible through its Technical Secretariat.

2. To request the CJI to report on an ongoing basis on progress made with the items on its agenda, such as matters related to binding and non-binding agreements and cybersecurity, taking into account the efforts of the Working Group on Cooperation and Confidence-Building Measures in Cyberspace of the Inter-American Committee against Terrorism (CICTE), as well as work in this area by other relevant Organization of American States (OAS) units and entities, and the validity of foreign judicial decisions in light of the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards and the Model Inter-American Law on Access to Public Information, and to continue updating the Principles on Protection of Personal Data, bearing in mind how such data have evolved.

3. To invite member states to respond in a timely manner to requests for information from the CJI in order to facilitate the preparation of reports on issues within the Committee's remit.

4. To underscore the need to ensure and enhance administrative and budgetary support for the CJI and for the course on international law that the CJI and the Department of International Law, the latter in its capacity as Technical Secretariat, organize annually in Rio de Janeiro. To reaffirm as well the importance of the CJI's contacts with the OAS organs, with the legal advisers in the member states' Ministries of Foreign Affairs, and with other international organizations as well as with academia. In this regard, to entrust a study to the General Secretariat, subject to the available resources, to be circulated as quickly as possible to the member states, on the possible reestablishment of the post of executive secretary, the creation of another equivalent post, or alternative measures for the CJI's administrative and budgetary enhancement.

5. To acknowledge the importance of ensuring an ongoing dialogue between the CJI and the legal advisers in the member states' Ministries of Foreign Affairs, in follow-up to the periodic meetings that are held.

ii. Inter-American Program for the Development of International Law

TAKING INTO ACCOUNT the report that the Department of International Law, within the framework of the Inter-American Program for the Development of International Law adopted by resolution AG/RES. 1471 (XXVII-O/97) and updated by resolution AG/RES. 2660 (XLI-O/11), submitted to the CAJP at its meeting on April 11, 2019, covering the activities undertaken to implement it; and

RECOGNIZING the importance of the study and dissemination of constitutional law of the countries in the Hemisphere,

RESOLVES:

1. To reaffirm the importance of and its support for the Inter-American Program for the Development of International Law and to request that the Department of International Law continue to implement the actions called for in that Program and provide a biennial report thereon to the Committee on Juridical and Political Affairs (CAJP).

2. To instruct the Department of International Law to continue its support, within the activities envisaged in the Inter-American Program for the Development of International Law, to the member states with respect to the implementation of domestic laws on access to public information, and to disseminate the work of the CJI, including the Guide on Law Applicable to International Commercial Contracts in the Americas; the Practical Guide to the Application of Jurisdictional Immunity of International Organizations; the Recommendations to Bolster the Inter-American Legal Framework for Cultural Heritage Assets; the Model Law on the Simplified Corporation; the Principles and Guidelines on Public Defense in the Americas; and the Principles for Electronic Warehouse Receipts for Agricultural Products.

3. To also instruct the Department of International Law to continue promoting among member states further dissemination of private international law, in collaboration with organizations and associations engaged in this area, including the United Nations Commission on International Trade Law, the Hague Conference on Private International Law, the International Institute for the Unification of Private Law (UNIDROIT), and the American Association of Private International Law (ASADIP).

4. To encourage the Department of International Law to initiate actions to study and disseminate constitutional law in the countries of the Hemisphere.

5. To request that the Department of International Law, based on previous experiences, promote training and refresher courses for diplomatic academies and foreign ministry staff in the countries of the region, by invitation and on behalf of the interested member state.

6. To welcome the seventieth anniversary of the adoption of the Four Geneva Conventions of 1949, underscoring their relevance and universal acceptance, and to call upon those member states that have not yet done so to consider acceding to treaties on international humanitarian law.

7. To congratulate the CAJP for the special session on current issues in international humanitarian law held in conjunction with the International Committee of the Red Cross on January 24, 2019, and to urge member states to actively contribute to and participate in the 33rd International Conference of the Red Cross and Red Crescent, in Geneva, Switzerland, from December 9 to 12, 2019.

8. To hail the commemoration of the fiftieth anniversary of the signing of the 1969 Vienna Convention on the Law of Treaties, underscoring its importance as an instrument for codifying customary international law of treaties.

iii. Preparation of a Model Law on the Use of Fireworks

CONSIDERING that the misuse of fireworks causes irreparable damage to a significant number of people in the region, especially children;

CONSIDERING ALSO that the Declaration of the Rights of the Child and the Convention on the Rights of the Child require the States Parties to be mindful of the best interests of the child in all measures that concern them;

BEARING IN MIND that the OAS member states must cooperate to promote development of activities and technical instruments that further individuals' comprehensive protection and improvement in their quality of life, and that a Model Law is a normative tool that seeks to provide the countries that use it with guidance for their public policies,

RESOLVES:

1. To instruct the CJI to prepare a model law regulating the use of fireworks, whether for personal use or in large-scale firework displays, based on the existing legislation on this matter in the region, as well as the inputs that the states provide in collaboration with the CJI.

2. To request the CJI to present a draft model law to the Permanent Council, through the CAJP, for consideration by the General Assembly at its fifty-first regular session.

iv. Promotion of the International Criminal Court<sup>7/8/</sup>

REAFFIRMING the primary responsibility of states to investigate and prosecute the perpetrators of the most serious crimes of concern to the international community, as well as the complementary nature of the jurisdiction of the International Criminal Court as an effective instrument for ending impunity for such crimes and contributing to the consolidation of lasting peace;

TAKING NOTE of the activation of the Court's jurisdiction over the crime of aggression;

RECOGNIZING the importance of the universality of the Rome Statute and of the International Criminal Court for fulfilling its objectives;

UNDERSCORING the importance of preserving the independence and impartiality of the International Criminal Court to ensure that it operates in accordance with the highest international standards;

REITERATING its commitment to supporting and defending the principles and values enshrined in the Rome Statute, and to preserving its integrity by showing resilience to the threats against the Court, its officers, and others working with it, and the importance of the Court enjoying the full support of states so it can discharge its mandate;

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7. The United States cannot associate itself with the resolution to the extent it concerns the International Criminal Court. The United States remains steadfastly committed to promoting the rule of law and...
  8. The Government of Nicaragua expresses its deep concern over the continued systematic violations of international human rights law and humanitarian law occurring worldwide. Under our domestic...

MINDFUL of the importance of effective cooperation from states, international and regional organizations, and civil society for the International Criminal Court to function effectively, as recognized in the Rome Statute; and

UNDERSCORING the importance of the “Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court,” signed by the OAS General Secretariat and the International Criminal Court on April 18, 2011; of the cooperation agreement signed by the Inter-American Commission on Human Rights and the International Criminal Court in April 2012; and of the Memorandum of Understanding between the International Criminal Court and the Inter-American Court of Human Rights, signed on February 15, 2016,

RESOLVES:

1. To reiterate its support for the International Criminal Court as the first and only permanent, independent, and impartial international court for criminal matters, which acts in pursuit of the shared commitment to fighting impunity for the most serious crimes of concern to the international community.

2. To renew its appeal to those member states that have not already done so to consider ratifying or acceding to, as the case may be, the Rome Statute of the International Criminal Court and its Agreement on Privileges and Immunities.

3. To remind those member states that are parties to said instruments of the importance of the promotion of their universality and their continued adoption of the necessary measures to achieve their full and effective implementation and adjust their national legislation.

4. To call on those member states that are parties to the Rome Statute, on those member states that are not, and on international and regional organizations to strengthen their cooperation with and assistance to the International Criminal Court in accordance with the applicable international obligations, particularly as regards arrest and delivery, presentation of evidence, protection and movement of victims and witnesses, and serving of sentences, so as to avoid impunity for the perpetrators of crimes over which it has jurisdiction.

5. To express satisfaction at the cooperation in the area of international criminal law between the OAS and the International Criminal Court; to urge the General Secretariat to continue to strengthen that cooperation within the scope of its competence, and to request that the Permanent Council hold, during the second half of 2020, a technical working meeting that should include a high-level dialogue session among the permanent representatives of all member states to discuss measures that could strengthen cooperation with the International Criminal Court. The International Criminal Court, international organizations and institutions, and civil society will be invited to cooperate and participate in this working meeting.

## II. FOLLOW-UP AND REPORTING

### RESOLVES:

To request the Permanent Council to report to the General Assembly at its fiftieth regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution will be subject to the availability of financial resources in the program-budget of the Organization and other resources.

## FOOTNOTES

1. ... (Item 4. Report of the Secretary General on Credentials) and in the Footnote to the ‘Report of the Secretary General on the Presentation of Credentials of the Delegations Taking Part in the Forty-Ninth Regular Session of the General Assembly,’ document AG/doc.5653/19.

2. ... *establish by this Charter the international organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence.*

*The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the Member States.”*

It also clearly places on record that, in keeping with Article 143 of the Charter of the Organization of American States, its denunciation by a member state shall come into effect two years after the receipt thereof, at which time it shall cease to be in force with respect to the denouncing state, which shall be left without rights and duties and unattached from all actions and decisions of the Organization.

The Plurinational State of Bolivia reserves the right to recognize resolutions and declarations adopted with the participation of non-member states.

3. ... during the Regular Meeting of the Permanent Council of April 23, 2019 in relation to Resolution CP/RES. 1124 (2217/19) rev. 2 of April 9, 2019, the delegation of the Republic of Suriname wishes to put on record that until further notice, Suriname reserves its rights to recognize All resolutions and declarations that will be adopted on the occasion of the forty-ninth regular session of the General Assembly of the Organization of American States.

This reservation is based on our firm rejection of the selective interpretation of the procedural rules and other legal instruments of the Organization of American States.

4. ... Representative to the OAS and does not accept the credentials of the officials intending to represent the Bolivarian Republic of Venezuela at this forty-ninth regular session of the General Assembly of the OAS. The Government of Barbados therefore reserves its rights, until further notice, not to be bound by any decisions or resolutions adopted at this General Assembly in which the Bolivarian Republic of Venezuela participated.

5. ... on any resolutions, declarations, elections considered by the forty-ninth regular session of the General Assembly and any other body of the Organization of American States (OAS).

The Government of The Commonwealth of Dominica also places on record its view that in keeping with Article 143 of the Charter of the OAS which provides, inter alia, that the denunciation by a member state shall come into effect *two (2) years from the date on which the General Secretariat receives a notice of denunciation, the present Charter shall cease to be in force with respect to the denouncing State, which shall cease to belong to the Organization*; that the denouncing State shall be without rights and duties and shall be unattached from all actions and decisions of the Organization; that Venezuela is no longer a member state of the OAS and therefore not entitled to have a seat at the OAS. The Government of The Commonwealth of Dominica therefore does not recognise any person who occupies the seat of Venezuela who is not a person duly appointed by the Government of the State of Venezuela.

The Government of the Commonwealth of Dominica reserves its full rights in respect of the recognition resolutions and declarations adopted by the forty-ninth regular session of the General Assembly and

any resolution and declaration approved thereafter with the participation by the purported representatives of Venezuela.

6. ... Republic of Venezuela properly notified the Secretary-General of its denunciation of the Charter in accordance with Article 143 of the Charter of the Organization of American States and the Charter ceased to be in force with respect to the Bolivarian Republic of Venezuela which ceased to belong to the organization on 27 April 2019.

Antigua and Barbuda did not support resolution CP/RES. 1124 (2217/19) of April 9, 2019 which sought to appoint Mr. Gustavo Tarre as the National Assembly's Representative to the OAS and did not accept the credentials of the officials intending to represent the Bolivarian Republic of Venezuela at the forty-ninth regular session of the General Assembly.

Therefore Antigua and Barbuda notifies all member states and the General Secretariat of the Organization of American States that until further notice, it will not consider itself bound by any declaration or resolution of the forty-ninth regular session of the General Assembly or any future declarations or resolutions of any Council or organ of the Organization that includes the participation of any person or entity purporting to speak for or act on behalf of the Bolivarian Republic of Venezuela and in which 18 votes are attained with the participation of a purported representative of the Bolivarian Republic of Venezuela.

7. ... supporting efforts to bring those responsible for war crimes, crimes against humanity, and genocide to justice. The United States is not a party to the Rome Statute, and has consistently rejected any assertion of ICC jurisdiction over nationals of the States that are not parties to Rome Statute, absent a UN Security Council referral or the consent of such States. The United States regards any ICC investigation or other activities concerning U.S. personnel as illegitimate and unjustified. In addition, the United States understands that any OAS support rendered to the ICC would be drawn from specific-fund contributions rather than the OAS regular budget.

8. ... legal system, Nicaraguan criminal law attaches special importance to this issue, by defining these violations as criminal offenses under Section XXII of Law No. 641 of 2007 of the Criminal Code, with Nicaragua's judicial branch having exclusive jurisdiction over enforcement of these statutes. As regards the call for states to consider acceding to or ratifying the Rome Statute of the International Criminal Court, the Government of National Reconciliation and Unity cannot accept the current wording of the resolution and expresses its reservations thereto, because proper conditions for acceding to this Statute are not yet in place.