

AG/RES. 2959 (L-O/20)

INTERNATIONAL LAW^{1/2/}

(Adopted at the fourth plenary session, held on October 21, 2020)

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2930 (XLIX-O/19) and all previous resolutions adopted on this topic; and

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly, July 2019 – October 2020, July 2019 – October 2020” (AG/doc.5691/20 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 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. Inter-American Program for the Development of International Law

TAKING INTO ACCOUNT the report that the Department of International Law of the Secretariat for Legal Affairs, within the framework of the Inter-American Program for the Development of International Law –as adopted by resolution AG/RES. 1471 (XXVII-O/97) and updated by resolution AG/RES. 2660 (XLI-O/11)– presented to the CAJP at its meeting of January 30, 2020, on activities carried out for the promotion and dissemination of international law among member states in collaboration with agencies and organizations engaged in this area; and

REAFFIRMING the applicability of international law to cyberspace and the importance of implementing voluntary, non-binding norms for responsible State behavior in cyberspace, as set forth in the consensus reports of the United Nations Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security,

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1. Antigua and Barbuda considers that the Bolivarian Republic of Venezuela is not a member state of the Organization of American States since, on April 27, 2017, the Government of the Bolivarian ...
 2. Mexico reiterates the position articulated in its statement during the report of the Secretary General on Credentials at the plenary session of the fiftieth regular session of the General Assembly.

RESOLVES:

1. To express its appreciation for the work of the Department of International Law in the promotion, study, and dissemination of legal tools, and to request that it continue to implement the actions contained in the Inter-American Program for the Development of International Law and to submit a biennial report thereon to the CAJP.

2. To instruct the Department of International Law to explore, together with member states, technical means to advance the harmonization of rules in the private international law sphere, taking into account the activities envisaged in the Inter-American Program for the Development of International Law and, in so doing, to enlist the cooperation of other actors interested in promoting and applying private international law as a cooperation tool to reactivate the economy, strengthen small businesses, resolve conflicts between individuals, and provide legal certainty to private cross-border activities of all persons in the Hemisphere.

3. To request the Permanent Council to hold a special meeting in Washington, D.C. on a date to be determined in due course, to promote the study of private international law in the Americas, possibly with the participation of organizations specializing in that field to be invited by agreement among the member states.

4. To request the Department of International Law to promote technical training, cooperation, and exchange of knowledge with the ministries of foreign affairs and international development of member states, where appropriate by remote means, based on international good practices at the behest of the interested member state.

5. To instruct the CAJP to hold, prior to the fifty-second regular session of the General Assembly, a meeting to reflect collectively on the principles of international law on which the inter-American System is founded, as the normative framework that governs the work of the OAS and relations between member states, and to instruct the Department of International Law subsequently to prepare a report on the main outcomes of that meeting to be presented to the Inter-American Juridical Committee (CJI).

6. To instruct the CAJP to hold, prior to the fifty-second regular session of the General Assembly, a meeting to reflect collectively on strengthening the accountability regime in the use of information and communication technologies, and to instruct the Department of International Law to later prepare a report on its main outcomes and present it to the CJI.

7. To instruct the CAJP to hold, prior to the fifty-first regular session of the General Assembly, a meeting to reflect collectively on exceptionality in the use of force in the inter-American context, and to instruct the Department of International Law to prepare a report on the main outcomes of that meeting and to present it to the CJI.

8. To instruct the CAJP to hold, prior to the fifty-first regular session of the General Assembly, a meeting to reflect collectively on the inviolability of diplomatic premises as a principle of international relations and its relationship to the concept of diplomatic asylum, and to instruct the Department of International Law to later prepare a report on its main outcomes and present it to the CJI.^{3/}

3. The United States is not a party to the 1954 OAS Convention on Diplomatic Asylum and does not recognize the practice of diplomatic asylum as a matter of international law ...

9. To encourage member states and permanent observers to mark, in 2021, the sixtieth anniversary of the 1961 Vienna Convention on Diplomatic Relations.

ii. Inter-American Juridical Committee

CONSIDERING the observations and recommendations of the member states on the “Annual Report of the Inter-American Juridical Committee (CJI) to the General Assembly at its Fiftieth Regular Session” (CP/doc.5600/20); and

TAKING INTO ACCOUNT that, at its ninety-seventh regular session in August 2020, the Inter-American Juridical Committee adopted its “Guidelines on Binding and Non-binding Agreements” (CJI/doc.614/20 rev. 1 corr. 1) and transmitted them to the General Assembly for its due knowledge and consideration, along with the report “Improving Transparency: International Law and State Cyber Operations – Fifth Report” (CJI/doc.615/20), recommending that the General Assembly adopt the declaration contained in resolution CJI/RES. 260 (XCVII-O/20), “International Law and State Cyber Operations,”

RESOLVES:

1. To welcome the dissemination by the Technical Secretariat of the Inter-American Juridical Committee (CJI) of the Guide to the Law Applicable to International Commercial Contracts in the Americas among the member states and to urge the Technical Secretariat of the CJI to keep its contents current, in order to consolidate it as a tool at the service of member states.

2. To take note of the “Guidelines on Binding and Non-binding Agreements,” to request the Department of International Law to compile views from member states for dissemination with those Guidelines, to take note of the CJI report “Improving Transparency: International Law and State Cyber Operations,” and to request the Department of International Law, as its Technical Secretariat, to disseminate it as widely as possible.^{4/}

3. To reiterate the request to the CJI to continue moving forward with its agenda, as envisaged in resolution CJI/RES. 257 (XCVII/O/20).

4. To renew the invitation to member states to comment in a timely manner on requests for information from the CJI in order to facilitate the preparation of reports on issues within the Committee’s remit.

5. To recognize the need to move forward with the administrative and budgetary strengthening of the CJI to ensure that its objectives are met, in particular in its consultative role, as well as in its academic role through the Course on International Law organized annually in Rio de Janeiro. Accordingly, to reiterate to the General Secretariat, subject to available resources, the need for a study, to be circulated as soon as possible to the member states on the possible restoration of the position of executive secretary, the creation of an equivalent position, or alternative ways of bolstering the CJI administratively and financially.

6. To request the CJI to consolidate its collaboration with the United Nations International Law Commission, diplomatic academies and legal counsel offices of the ministries of foreign affairs of member states, academia, and civil society organizations, in order to enable it to fulfill its purposes, bearing

4. The United States recalls that a document adopted by the CJI as its own product, such as the Guidelines on Binding and Non-Binding Agreements, does not necessarily represent the views of ...

in mind the limited financial resources of States and the material challenges facing them in dealing with the COVID-19 pandemic; and to highlight the importance of enhancing CJI collaboration with the offices of legal affairs, legal advisers' offices, and legal counsel offices of the ministries of foreign affairs of member states, including with respect to seeking member state views on CJI outputs.

7. To encourage communication between the Permanent Council and the CJI so that the latter may perform its consultative function, with full respect for its autonomy and its technical dimension, thus contributing to the Organization's decisions and promoting the harmonious exercise of competencies among the organs of the inter-American system.

8. To request the CJI to promote and study those areas of juridical science that facilitate international cooperation in the inter-American system for the benefit of the societies of the Hemisphere.

9. To request the CJI to study the inter-American juridical framework the application of which could, along with domestic laws, strengthen the social and economic resilience of our countries in the context of the COVID-19 pandemic and its aftermath, in order to be able to have its considerations, ideally before the fifty-first regular session of the General Assembly in 2021.

iii. Promotion of and respect for international humanitarian law

RECOGNIZING that many states may have robust programs for the effective implementation of international humanitarian law by their armed forces;

DISMAYED that in various parts of the world violations of international humanitarian law persist, causing suffering to victims of armed conflict, particularly the civilian population, as well as by the challenges posed by current humanitarian consequences in the context of armed conflicts;

UNDERSCORING that 2019 marked the seventieth anniversary of the adoption of the 1949 Geneva Conventions, welcoming their universal ratification, and inviting states to consider ratifying relevant treaties on international humanitarian law;

RECALLING that the obligation, under any circumstances, to respect and ensure respect for international humanitarian law, whether treaty-based or arising from customary international law, applies to all states parties to the four universally recognized Geneva Conventions of 1949 and to the states parties to one or more of the three protocols additional thereto;^{5/}

REAFFIRMING, to that end, the need to strengthen international humanitarian law by promoting its universal acceptance, its broadest possible dissemination, and the adoption of national measures for its effective application, including through adjustments to domestic law and, as appropriate, the imposition of penalties on those who commit gross violations of international humanitarian law; and

EMPHASIZING the mandate and role of the International Committee of the Red Cross as a neutral, impartial, and independent institution working to protect and assist victims of armed conflicts and other situations of violence, as well as in promoting respect for international humanitarian law, as conferred by the four Geneva Conventions of 1949 and by the Statutes of the International Red Cross and Red Crescent Movement,

RESOLVES:

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5. The United States' position is that neither customary international law nor the Geneva Convention of 1949 and the Additional Protocols thereto imposes an obligation on states to respect and ensure ...

1. To call on member states and the parties engaged in armed conflict to honor and fulfill their obligations under international humanitarian law.

2. To invite member states to consider ratifying or acceding to the treaties on international humanitarian law, including those on prohibition or restriction of the use of certain weapons, and, as applicable, take the legislative steps needed to prevent conduct prohibited under those and other treaties, especially as regards the destruction of weapons, clean-up of areas contaminated with explosive remnants of war, proper care for victims, and control over the arms trade, and the ban on nuclear weapons.^{6/7/}

3. To exhort member states to consider integrating international humanitarian law into the doctrine, procedures, training, equipment, control mechanisms, and education of their armed and security forces.

4. To urge member states to contribute actively to follow-up on the resolutions adopted at the 33rd International Conference of the Red Cross and Red Crescent, held in Geneva, Switzerland, from December 9 to 12, 2019, and, in particular, the resolution “Bringing IHL home: A road map for better national implementation of international humanitarian law,” which recommends measures for more effective implementation of international humanitarian law at the national level and of voluntary pledges, for those States that have made them in the framework of that international forum.

5. To invite member states to continue to support the work of national committees, commissions, or other institutional mechanisms responsible for the dissemination and implementation of international humanitarian law and related agencies that advise and assist national authorities in the implementation, development, and dissemination of knowledge of international humanitarian law; and to encourage member states that have not yet done so to consider establishing such an entity and to promote its cooperation with related agencies at the international, regional, and transregional levels, in particular by exchanging information and good practices.

6. To encourage member states to follow up on the Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas to be held in Quito in the first half of 2021, sponsored by Ecuador.

7. To invite member states to consider accepting the competence of the International Humanitarian Fact-Finding Commission to inquire into allegations, as authorized by Article 90 of Additional Protocol I to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts.

8. To express satisfaction with the cooperation between the OAS and the International Committee of the Red Cross (ICRC) in promoting respect for international humanitarian law and the principles that govern that law, to urge the General Secretariat to continue to strengthen such cooperation, and to instruct the Permanent Council to hold a special meeting in the first half of 2021 on topics of current interest in international humanitarian law, including the applicability of this regulation to the issue of lethal autonomous weapons.^{8/}

6. Canada is committed to realizing a world without nuclear weapons and to working constructively towards this goal. To this end, Canada implements its obligations as a State Party to the NPT and ...

7. The United States does not support and will not sign the “Treaty on the Prohibition of Nuclear Weapons” (TPNW) and does not consider it to be an “effective measure” ...

8. The United States opposes the proposed discussion of lethal autonomous weapons systems (LAWS) in this forum. The Group of Governmental Experts on Emerging Technologies in the Area of Lethal ...

9. To request that the General Secretariat, through the Department of International Law and in coordination with the ICRC, organize within the framework of the Committee on Juridical and Political Affairs a course for member states, staff of the Organization, and the general public, in order to promote knowledge of and respect for international humanitarian law and related regional instruments, including measures for their effective implementation.

II. FOLLOW-UP AND REPORTING

RESOLVES:

1. To instruct the General Secretariat, through the areas responsible for follow-up and implementation of activities connected with the purpose of this resolution, to submit in due course its 2020–2021 plan of activities for consultations for proper oversight by member states.

2. To request the Permanent Council to report to the General Assembly at its fifty-first 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. ... 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 April 27, 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 it did not accept the credentials of the officials intending to represent the Bolivarian Republic of Venezuela at the forty-ninth and fiftieth regular sessions of the General Assembly.

Therefore, Antigua and Barbuda notifies all member states and the General Secretariat of the Organization of American States, as it did at the forty-ninth regular session of the General Assembly, that until further notice it will not consider itself bound by any declaration or resolution of the fiftieth 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.

3. ... In rare, exceptional circumstances, the United States has extended temporary refuge or protection in its diplomatic missions to persons who face serious, imminent danger. The granting of asylum is not recognized as a diplomatic function under the Vienna Convention on Diplomatic Relations (VCDR) or customary international law. To use embassies as havens for asylum of nationals of the host country might invite charges of violating provisions of the VCDR that prohibit diplomatic personnel from interfering in the internal affairs of the host country and from using embassy premises in any way incompatible with the functions of the embassy.

4. ... member states or of the Organization more generally. The United States further notes with disappointment that the Guidelines on Binding and Non-Binding Agreements were produced by the CJI without an adequate opportunity for member state input. It is important that the CJI's requests for information from member states provide member states adequate time to consider and respond, especially on a project such as the Guidelines involving issues on which state views and state practice are of central importance.

5. ... respect for all of international humanitarian law in all circumstances, but rather that states parties to the Geneva Conventions and Additional Protocols have an obligation to respect and ensure respect for those Conventions and the Additional Protocols to which they are party.

6. ... continues to support the Treaty as the cornerstone of the global nuclear nonproliferation and disarmament regime, including by calling for further concrete progress to be made towards nuclear disarmament. Canada remains concerned that the TPNW could erode the primacy of the NPT and its review process, and undermine efforts toward the NPT's universalization. Canada is also a State Party to the Biological Weapons Convention and to the Chemical Weapons Convention, and implements and fully supports, *inter alia*, UNSC Resolution 1540.

7. ... relating to nuclear disarmament under Article VI of the NPT. No state possessing nuclear weapons or which depends upon such weapons for its security supports this treaty. And this treaty will not result in the elimination of a single nuclear weapon, enhance the security of any state, or contribute in any tangible way to peace and security in the geopolitical reality of the 21st century. Rather, it will detract from legitimate efforts to advance the cause of nuclear disarmament. It ignores the current security challenges that make nuclear deterrence necessary, and risks undermining existing efforts to address global proliferation and security challenges. We share the desire to achieve a security environment that would make such progress possible and to make more and faster progress on nuclear disarmament, but the TPNW is not the answer. Effective, verifiable arms control and disarmament measures have proven to be the appropriate tools for limiting nuclear risks and preventing nuclear war. The TPNW cannot replace the NPT as the global gold standard for nuclear non-proliferation, nuclear disarmament, and the peaceful uses of nuclear energy. We reiterate our continued commitment to the better approach reflected in the NPT, including its disarmament provisions, and reaffirm our determination to safeguard and further promote its authority, universality, and effectiveness. The United States invites all states to support U.S. pursuit of a "new era of arms control" as we seek

to engage Russia and China to limit all nuclear warheads and strengthen verification, and to participate in other dialogues that will facilitate progress on nuclear disarmament. In this regard, we welcome the participation of regional states in the initiative on Creating the Environment for Nuclear Disarmament (CEND).

8. ... Autonomous Weapons Systems, convened by the High Contracting Parties to the Convention on Certain Conventional Weapons, offers an appropriate framework for dealing with the issue of emerging technologies in the area of lethal autonomous weapons systems within the context of the objectives and purposes of the Convention, which seeks to strike a balance between military necessity and humanitarian considerations.