

FIFTY-SECOND REGULAR SESSION
October 5 to 7, 2022
Lima, Peru

OEA/Ser.P
AG/doc.5779/22 rev. 1
5 October 2022
Original: Spanish

Item 14 on the agenda

DRAFT RESOLUTION

“INTERNATIONAL LAW”

(Considered by the Permanent Council at its regular meeting held on September 29, 2022, and forwarded to the Plenary of the General Assembly with the recommendation that the sections and paragraphs that are *ad referendum*, under consultation, or pending be referred to the General Committee for consideration - reflects the changes requested by delegations as of September 30, 2022)

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2974 (LI-O/21) and all previous resolutions adopted on this topic; and

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly,” 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

1. TAKING INTO ACCOUNT the “Biennial Report on the Inter-American Program for the Development of International Law” (document [CP/CAJP-3585/21](#)), which 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 May 20, 2021, and which concerned activities carried out for the promotion and dissemination of international law among member states in collaboration with agencies and organizations engaged in this area;

2. BEARING IN MIND the special meeting held by the Permanent Council by mandate of the General Assembly on July 20, 2022, to celebrate the twenty-fifth anniversary of the Inter-American Program for the Development of International Law to enable member states to identify the activities of the Program that they regard as priorities in terms of addressing their particular needs and interests, and taking note also of the statements of the member states at that meeting,

RESOLVES:

1. To express its appreciation to the Department of International Law for its efforts in the promotion and dissemination of international and inter-American law and to request that it continue to implement the actions contained in the Inter-American Program for the Development of International Law and present a biennial report thereon to the CAJP, and to commend the Permanent Council on the results of the special meeting of July 20, 2022, to celebrate the twenty-fifth anniversary of the Program, and to instruct it to hold similar meetings every two years so that member states can continue to have a space to discuss activities that they regard as priorities within the framework of the Program.

2. To request the Department of International Law to continue promoting technical training, cooperation, and exchange of knowledge with the ministries of foreign affairs and international development of member states, as well as their respective diplomatic academies, when so requested by the member state concerned, in which regard the success of the training carried out to date in Chile, Ecuador, Colombia, Costa Rica, El Salvador, Guatemala, Mexico, and Uruguay are to be highlighted, and to continue strengthening the cooperation and exchange activities that it

has been pursuing with various academic institutions in the region for the purpose of disseminating the inter-American system.

ii. Private international law

1. TAKING INTO ACCOUNT the rich exchange of ideas and the results of the special meeting held by the CAJP on July 14, 2022, where strategies for the Organization to resume its activities in the area of codification and progressive development of private international law were discussed;

2. TAKING NOTE of the document “Private International Law in the Americas: Achieving Transnational Justice for Individuals” (document [CP/CAJP-3667/22](#)) prepared by the OAS Department of International Law by mandate of the General Assembly on the occasion of the special meeting of the CAJP, as well as the specific proposals contained therein;

3. RECOGNIZING the importance of the role of private international law for sustainable development, in particular for the achievement of the United Nations Sustainable Development Goals,

RESOLVES:

1. To request the CAJP to hold another special meeting to continue discussing strategies for the Organization to continue and to strengthen its activities in the area of codification and progressive development of private international law, as well as to evaluate the concrete proposals contained in document CP/CAJP-3667/22 prepared by the Department of International Law and those that the member states may decide to put forward.

2. To request the Department of International Law, for the purpose of strengthening the study of private international law, to continue, in coordination with the permanent missions of member states, to promote greater dissemination of this subject among public officials of member states, including the judiciary, and other actors, in collaboration with private international law associations, universities and specialized institutions that work in this area, through events and activities that promote greater knowledge of the inter-American and universal conventions on the subject, as well as : soft-law instruments on private international law, and to request member states to collaborate to the best of their ability with this initiative by identifying the actors within their

respective countries that could best benefit from it and to inform the Department of International Law accordingly.

3. To welcome the project on the establishment of a jurisprudence database on the application of inter-American conventions on private international law for the purpose of promoting harmonization in the interpretation and application of inter-American instruments proposed by the Department of International Law at the special meeting of the CAJP of June 14, 2022, and to encourage member states to designate points of contact so that, to the best of their ability, they may provide the relevant information for the Department to implement said project.

4. To request the Department of International Law to continue organizing joint meetings annually with the areas specializing in private international law of the legal offices of the ministries of foreign affairs and other ministries of member states in order to learn about the specific needs of member states as regards codification and progressive development of private international law in the region and to promote new developments in this area, and, in that connection, to request that member states continue to promote the participation of those specialized areas in such meetings.

5. To renew the request to states parties to the various inter-American conventions on legal and judicial cooperation, if they have not already done so, to designate the respective central authorities for the purpose of facilitating and promoting such cooperation, or to update the information for the central authorities already designated.

6. To instruct the Department of International Law, while trying to avoid overlap, to continue working in cooperation with other international agencies such as the United Nations Commission on International Trade Law (UNCITRAL), the Hague Conference on Private International Law (HCCH), and the International Institute for the Unification of Private Law (UNIDROIT), in order to generate common proposals to reactivate activities related to the study and development of private international law and to promote, within those agencies, the work that has been carried out in the inter-American system. At the regional level, to continue to work closely with the regional offices of those forums, including the Regional Office for Latin America and the Caribbean of the Hague Conference on Private International Law, in order jointly to address issues currently being discussed within the expert groups of those forums.

7. To encourage Member States to join the actions presented in document CP/CAJP-3667/22, with a view to ensuring a more active participation in future activities for the progressive development of private international law in the region, and to encourage them to join the efforts in other multilateral forums in order to strengthen the position of the Hemisphere in the negotiation of new instruments.

iii. Inter-American Juridical Committee

1. CONSIDERING the observations and recommendations of the member states on the Annual Report of the Inter-American Juridical Committee, contained in document [CP/CAJP-3683/22](#) of July 22, 2022;

2. TAKING INTO ACCOUNT that during its one hundredth regular session held in Lima, Peru, in May 2021, the Inter-American Juridical Committee adopted the “Declaration of the Inter-American Juridical Committee on International Law on the Occasion of its Hundredth Regular Session” [CJI/DEC. 02 (C-O/22)],

RESOLVES:

1. To highlight the importance of the latest contributions of the Inter-American Juridical Committee (CJI) to international law and to request that the Department of International Law, as its technical secretariat, continue to disseminate these documents and those pertaining to other topics on its work agenda as widely as possible, including through virtual media.

2. To request the CJI to continue making progress with its agenda and to renew the invitation to member states to comment in a timely manner and to the extent that their possibilities allow on requests for information from the CJI to facilitate the preparation of the reports contained in that agenda.

3. To request the CJI to continue considering more topics concerning the analysis of private international law on its work agenda in order to reactivate activities related to the development of this area at the regional level and, if necessary, to propose to the General Assembly the updating of some of the legal instruments in this area and/or propose new convention or protocol texts that may be submitted for consideration by the General Assembly that reflect the practice of

States and the particular circumstances and specific needs of the region in relation to private international law and new communication technologies and transmission of data and information.

4. To recognize the need to move forward with the administrative and budgetary strengthening of the CJI to ensure that it can fulfill the multiple mandates that it receives, and to reiterate to the General Secretariat the request that it reinstate the position of executive secretary of the CJI or establish alternative means for such administrative and budgetary strengthening.

5. To request the CJI to continue cementing its collaboration with different international organizations, academia, and civil society, highlighting the importance of continuing to strengthen exchanges with the legal offices and counsels of ministries of foreign affairs in member states in order, thereby, to gather the opinions of member states on developments in the work of the CJI.

iv. International law in cyberspace

1. REAFFIRMING the applicability of international law to cyberspace and the importance of implementing voluntary, non-binding norms for responsible State behavior in cyberspace adopted by the General Assembly of the United Nations Organization; and

2. RECALLING the report “International Law Applicable to Cyberspace” (document CJI/doc. 671/22 rev.2, that the Inter-American Juridical Committee presented at its 101st regular session held in August 2022, in which it provided an update on the main developments in the law applicable to cyberspace at the international level,

RESOLVES:

1. To take note with satisfaction of the course proposal prepared by the Department of International Law at the request of the CJI on “International Law and Cyber Operations,” and to request that it undertake the training activities requested by member states in that regard.

2. To request the General Secretariat, the Inter-American Telecommunication Commission, the Inter-American Committee against Terrorism, and the Inter-American Defense Board to coordinate actions to support member states and offer them assistance in their efforts to

implement the framework adopted by the General Assembly of the United Nations on responsible state behavior in cyberspace.

3. To request the Department of International Law to disseminate as widely as possible and foster reflection on the CJI report “Improving Transparency: International Law and State Cyber Operations,” including through the organization of a forum and/or course for public officials from member states that so request.

v. Use of international law for strengthening the OAS

1. TAKING NOTE of the results of the meeting of the CAJP to reflect collectively on the international law on which the inter-American system is founded, as the normative framework that governs the work of the Organization of American States, which were forwarded to the Inter-American Juridical Committee for its consideration.

2. RECALLING that the principles of the OAS Charter establish: “International law is the standard of conduct of States in their reciprocal relations,

RESOLVES:

1. To request the Inter-American Juridical Committee to include in its agenda the topic related to the principles of international law on which the inter-American system is based, so that its members may analyze their codification and progressive development of this topic at the regional level.

2. To request the Permanent Council to hold a special meeting to promote an exchange of experiences among member states on the principles of international law on which the inter-American system is founded.

vi. International legal framework for arms and ammunition companies

1. RECALLING the report “Conscious and Effective Regulation of Business in the Area of Human Rights” (document CJI/doc.522/17 rev. 2) adopted by the Inter-American Juridical Committee at its 90th session held in March 2017;

2. TAKING INTO ACCOUNT resolution AG/RES. 2840 (XLIV-O/14), “Promotion and Protection of Human Rights in Business,” adopted by the General Assembly at its second plenary session on June 4, 2014, and resolves to continue promoting the implementation of the United Nations Guiding Principles on Business and Human Rights, in order to achieve greater awareness of the benefits of their implementation;

3. RECOGNIZING that arms and ammunition manufacturers, distributors, and sellers, by defining the capabilities of weapons, their modifiability, portability, assembly, and commercial practices for their sale play an important in the prevention of armed violence and human rights violations ~~must~~ **should** seek to act with due diligence; **[US: Editorial change in English only - email 100522]**

4. UNDERSCORING the role of civil society and other social actors in defending people adversely affected by human rights violations, especially of the right to life;

RESOLVES:

1. To recognize the importance of continuing discussions on the responsibility to respect human rights by arms companies and, therefore, to invite member states to consider the matter in the appropriate bodies.

2. To request the Inter-American Juridical Committee to include in its work agenda on the issue of corporate responsibility of manufacturers and sellers of weapons in the area of human rights, in order to rekindle activities for the development of this topic at the regional level.

3. To request the Department of International Law, in order to strengthen the study of human rights and business that manufacture and sell weapons, to promote the widest dissemination and reflection on this subject, in collaboration with international law institutions, universities, and specialized institutions.

4. To request the Permanent Council to hold a special meeting to foster an exchange of experiences in the promotion and protection of human rights and the role of arms companies in this area.

5. To request the Department of International Law to organize joint meetings with the areas specializing in human rights and business, with the aim of promoting new developments in that area.

vii. The Law of the Sea

A. Sea-level rise in relation to international law

1. TAKING INTO ACCOUNT OAS General Assembly resolution AG/RES. 2818 (XLIV-O/14), “Climate Change in the Context of Sustainable Development in the Hemisphere,” adopted by the General Assembly at its session on June 4, 2014;

2. CONSIDERING that, according to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, this phenomenon is likely to accelerate in the future, causing the planet's sea level to rise, permanently inundating low-lying coastal areas and islands;

3. EMPHASIZING that, in the framework of its seventieth session in 2018, the United Nations International Law Commission decided to include the topic “Sea-level rise in relation to international law” in its long-term program of work and that the General Assembly of the United Nations took note of that fact in its resolution 73/265 of December 22, 2018;

4. CONSIDERING that discussions must continue on the consequences of sea-level rise and its potential legal implications and that at these discussions must be respected for the rights of coastal states over their respective maritime spaces.

5. HIGHLIGHTING the response or adaptation measures in light of the possible consequences of sea level rise, implemented by States, such as land reclamation or island fortification;

6. CONSIDERING that small island developing states are particularly vulnerable to the effects of climate change;

7. TAKING NOTE OF the recent discussions in the United Nations International Law Commission on sea level rise in relation to international law.

RESOLVES:

1. To request that the General Secretariat, through the Department of International Law organize a seminar for member states, staff of the Organization, and the general public to raise awareness of the possible legal implications of sea level rise caused by climate change.

2. To instruct the Committee on Juridical and Political Affairs, prior to the fifty-third regular session of the General Assembly, to hold a special meeting to consider the particular challenges facing the region in relation to the consequences of sea-level rise and its potential legal implications, examine the response or adaptation measures that member states of the Organization have implemented, 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).

B. Conservation and sustainable use of the oceans

1. RECOGNIZING that problems concerning the oceans including, inter alia, the increasing effects of climate change are closely interrelated and must be addressed holistically;

2. RECALLING resolution 72/249, adopted by the General Assembly of the United Nations on December 24, 2017, by which it convened an intergovernmental conference to consider the elements and elaborate the text of an international instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

3. EMPHASIZING the work that has been carried out in the framework of the five sessions of the Intergovernmental Conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

4. CONSIDERING, likewise, that the Fifth Session of the Intergovernmental Conference had its first working days from August 15 to 26, 2022, and was suspended in order to complete at a later date the negotiations on an internationally binding instrument within the framework of the United Nations Convention on the Law of the Sea the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

5. CONSIDERING declaration AG/DEC. 104 (LI-O/21), “Renewed Commitment to Sustainable Development in the Americas Post COVID-19,” adopted by the OAS General Assembly on November 12, 2021, during its fifty-first regular session, which recognized the need to advance towards a comprehensive, multidisciplinary approach to achieve the goals established in the 2030 Agenda for Sustainable Development;

RESOLVES:

1. To urge member states to continue to participate actively in the negotiations on a new legally binding international instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with the aim that this will constitute a framework that strengthens hemispheric and international coordination and cooperation for the governance of the oceans that ensures the conservation and sustainable use of marine biological diversity, through the establishment of area-based management mechanisms, including marine protected areas access to and use of marine genetic resources and the fair and equitable sharing of their benefits, the conduct of environmental impact assessments, and ensuring capacity building and marine technology transfer for the benefit of humanity as a whole.

2. To urge member states to join efforts to conclude the negotiations during the Fifth Session of the Intergovernmental Conference and adopt a text that favors universality in order to achieve the objectives of conservation and sustainable use of marine biological diversity beyond national jurisdiction.

viii. Promotion of and respect for international humanitarian law^{1/}

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

^{1/} “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 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.”

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

3. UNDERSCORING that 2022 marks the forty-fifth anniversary of the adoption of the Protocols Additional to the Geneva Conventions of 1949 and inviting States to consider ratifying relevant treaties on international humanitarian law;

4. RECALLING that the obligation, under any circumstances, to respect and ensure respect for international humanitarian 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; ~~(The USA will present a footnote)~~ [Footnote received from the US – email 100522]

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, as recalled in Resolution 1 (33IC/19/R1) “Bringing IHL home: A road map for better national implementation of international humanitarian law,” adopted at the 33rd International Conference of the Red Cross and Red Crescent (“Resolution 1”);

6. RECOGNIZING the work done by States to implement Resolution 1 through different actions, including organization of and participation in regional conferences such as the Regional Consultation of Latin American States: International Humanitarian Law and Cyber Operations During Armed Conflicts, co-organized by the Ministry of Foreign Affairs of Mexico and the ICRC on November 9 and 10, 2021, and the subregional meeting entitled “Voluntary reports on national implementation of international humanitarian law: Sharing practical experiences and perspectives” held on March 22, 2022;

7. HIGHLIGHTING the drafting or commitment to drafting of voluntary reports by several States of the Americas on the implementation of international humanitarian law in their countries; and

8. 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:

1. To urge 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 persons affected by armed conflict, control over the arms trade, and the ban on certain arms such as nuclear weapons.

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, in particular, Resolution 1 (33IC/19/R1) “Bringing IHL home: A road map for better national implementation of international humanitarian law,” which recommends measures for a more effective implementation of IHL at the national level, as well as voluntary pledges, for those states that have made them in the framework of that international forum.

5. To invite States to share examples of and exchange good practices of national implementation measures taken in accordance with IHL obligations, as well as other measures that may go beyond state’s IHL obligations, including by making use of existing tools and of national committees and similar entities on IHL, where they exist. ~~(Ad referendum of the United States)~~

[Withdrawn by the US – email 100522]

6. To invite member states to consider accepting the ~~competence~~ of the International Humanitarian Fact-Finding Commission to investigate claims as authorized by Article 90 of the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts (Protocol 1).

7. To invite member states to develop their position on the manner in which international humanitarian law protects against the effects of cyber operations, in particular, in relation to the preservation of civil infrastructure from significant disruptions and the protection of civil data.

8. 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.

9. To encourage member states to follow up on the recommendations of the Declaration of the Regional Meeting of National Committees on International Humanitarian Law and Other Similar Entities of the Americas, held in Quito from February 2 to 5, 2021, with Ecuador as sponsor.

10. To express satisfaction with the cooperation between the OAS and the 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 2023 on topics of current interest in international humanitarian law, including the applicability of this regulation to the issue of new technologies of warfare such as lethal autonomous weapons and cyber operations, explosive weapons in densely populated areas, and the protection of the natural environment during armed conflict.

11. 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.

