

Document:-  
**A/CN.4/3078**

**Summary record of the 3078th meeting**

Topic:  
**Draft report of the International Law Commission  
on the work of its sixty-second session**

Extract from the Yearbook of the International Law Commission:-  
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however, considered that the nature of the treaty should have explicitly been included, as an element of its object and purpose, in the list of factors to be taken into account when determining the intent of the author of the reservation.”

58. Mr. PELLET (Special Rapporteur) said it was true that the Commission had had a long discussion on the subject, and he had no objection to the inclusion of the sentence, on the understanding that it would be harmonized with the second footnote to the paragraph, which explained why the Commission had not ceded to Mr. Nolte’s argument.

*On that understanding, paragraph (46), as amended, was adopted.*

Paragraph (47)

59. Sir Michael WOOD proposed that the word “criteria” in the first sentence should be replaced by “factors” as in the first sentence in paragraph (48).

60. Mr. PELLET (Special Rapporteur) said he had no objection to that proposal, although the French language was apparently more amenable to elegant variation than English.

*Paragraph (47), as amended, was adopted.*

Paragraphs (48) to (50)

*Paragraphs (48) to (50) were adopted.*

*The commentary to guideline 4.5.2 [4.5.3], as amended, was adopted.*

*Commentary to guideline 4.5.3 [4.5.4] (Reactions to an invalid reservation)*

Paragraphs (1) and (2)

*Paragraphs (1) and (2) were adopted.*

Paragraph (3)

61. Mr. GAJA said that the final clause described one of the several ways in which objections were formulated when the validity of a reservation was being questioned: the objection precluded the treaty’s entry into force in its entirety in the author’s relations with the reserving State. Often, however, States did not specify that the treaty entered into force in its entirety, and that left the door open to various interpretations of their objection. He proposed that the words “in its entirety” be deleted, as they applied to some but not all of the objections in question.

62. Mr. PELLET (Special Rapporteur) said Mr. Gaja’s analysis was correct, but his solution was unsatisfactory: it would be better to add, at the end of the sentence, “and sometimes it remains silent on that point”.

63. Mr. GAJA said that he agreed with the Special Rapporteur’s approach but thought that the wording could be clearer. The point was that the State objecting to an invalid reservation but stating that the treaty nevertheless entered into force in its bilateral relations with the reserving State

sometimes did not specify whether it meant that the treaty in its entirety entered into force. Perhaps the Special Rapporteur could devise language to convey that idea more succinctly.

*Paragraph (3), as amended, was adopted.*

Paragraph (4)

64. Sir Michael WOOD, drawing attention to the first sentence, which stated that the jurisprudence of the ICJ “was not a model of consistency”, said that surely a more diplomatic formula could be found, something along the lines that the Court’s jurisprudence was developing on that point.

65. Mr. PELLET (Special Rapporteur) said that the statement was nothing but the truth: the Court’s jurisprudence was so inconsistent that it was practically useless.

66. Mr. NOLTE suggested the wording “was not entirely clear”, which was softer while still being slightly critical.

67. Mr. McRAE said that clarity was not the problem with the Court’s jurisprudence: the point was that it was not consistent.

68. Mr. GAJA proposed the phrase “does not appear to be entirely consistent”.

*Paragraph (4), as amended, was adopted.*

Paragraphs (5) to (13)

*Paragraphs (5) to (13) were adopted.*

Paragraph (14)

69. Mr. GAJA proposed that the third and fourth sentences should be deleted, as they blurred the distinction between objections to invalid reservations, which could be made at any time, and late objections to valid reservations that were subject to a 12-month deadline.

*Paragraph (14), as amended, was adopted.*

Paragraph (15)

*Paragraph (15) was adopted.*

*The commentary to guideline 4.5.3 [4.5.4], as amended, was adopted.*

*The meeting rose at 12.55 p.m.*

## 3078th MEETING

*Thursday, 5 August 2010, at 3.10 p.m.*

*Chairperson:* Mr. Nugroho WISNUMURTI

*Present:* Mr. Caflisch, Mr. Candioti, Mr. Dugard, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. McRae, Mr. Melescanu,

Mr. Nolte, Mr. Pellet, Mr. Perera, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Sir Michael Wood.

### Draft report of the International Law Commission on the work of its sixty-second session (*continued*)

#### CHAPTER IV. *Reservations to treaties (concluded)* (A/CN.4/L.764 and Add.1–10)

##### C. **Text of the draft guidelines on reservations to treaties provisionally adopted so far by the Commission (*concluded*)** (A/CN.4/L.764/Add.2–10)

##### 2. TEXT OF THE DRAFT GUIDELINES WITH COMMENTARIES THERETO PROVISIONALLY ADOPTED BY THE COMMISSION AT ITS SIXTY-SECOND SESSION (*concluded*) (A/CN.4/L.764/Add.3–10)

1. The CHAIRPERSON invited the Commission to continue its adoption of section C.2 of chapter IV with the consideration, paragraph by paragraph, of the commentaries to the draft guidelines contained in document A/CN.4/L.764/Add.10.

*Commentary to guideline 4.6* (Absence of effect of a reservation on the relations between the other parties to the treaty)

Paragraphs (1) to (11)

*Paragraphs (1) to (11) were adopted.*

*The commentary to guideline 4.6 was adopted.*

*Commentary to guideline 4.7* (Effect of an interpretative declaration)

Paragraphs (1) to (6)

*Paragraphs (1) to (6) were adopted.*

*The commentary to guideline 4.7 was adopted.*

*Commentary to guideline 4.7.1* (Clarification of the terms of the treaty by an interpretative declaration)

Paragraphs (1) to (33)

*Paragraphs (1) to (33) were adopted.*

*The commentary to guideline 4.7.1 was adopted.*

*Commentary to guideline 4.7.2* (Effect of the modification or the withdrawal of an interpretative declaration in respect of its author)

Paragraphs (1) to (5)

*Paragraphs (1) to (5) were adopted.*

*The commentary to guideline 4.7.2 was adopted.*

*Commentary to guideline 4.7.3* (Effect of an interpretative declaration approved by all the contracting States and contracting organizations)

Paragraphs (1) to (5)

*Paragraphs (1) to (5) were adopted.*

*The commentary to guideline 4.7.3 was adopted.*

##### 5. *Reservations, acceptances of and objections to reservations, and interpretative declarations in the case of succession of States*

*Commentary*

Paragraphs (1) to (4)

*Paragraphs (1) to (4) were adopted.*

Paragraph (5)

2. Mr. GAJA proposed to amend the first sentence of the paragraph to read:

“That said, this Part of the Guide to Practice assumes that the rules and principles set out in the 1978 Vienna Convention on succession of States in respect of treaties correspond to the rules of customary international law, even if the practice of States may raise certain doubts in this regard.”

3. The Commission would thereby indicate that the 1978 Vienna Convention corresponded to customary international law as it applied to a very small number of States. At the same time, it would remain prudent with regard to what it took as settled, so as to remain consistent with its previous work and with the position taken by States at the Conference during which the Convention had been adopted.

4. Mr. PELLET (Special Rapporteur) said that he did not entirely agree with Mr. Gaja, because he would prefer the Commission to refrain from taking a stance on the issue of whether the rules in question constituted customary rules of general international law. Personally, he would prefer to use the term “applicable rules”.

5. Sir Michael WOOD said that the issue could be settled by replacing the words “assumes that” with the phrase “is based on”.

*Paragraph (5), as amended, was adopted.*

Paragraph (6)

6. Mr. GAJA said that the final part of the paragraph was superfluous. He therefore proposed deleting all of the words that followed the footnote symbol.

*Paragraph (6), as amended, was adopted.*

Paragraph (7)

*Paragraph (7) was adopted.*

*The commentary to Part 5 of the Guide to Practice, as amended, was adopted.*

##### 5.1 *Reservations and succession of States*

*Commentary to guideline 5.1.1 [5.1]* (Newly independent States)

Paragraph (1)

7. Mr. NOLTE said that, without reopening the debate, it would be useful to recount the discussion sparked by Sir Michael on whether it was appropriate for the Commission to begin Part 5 of the Guide to Practice with the case of newly independent States. He therefore proposed

to add the following two sentences at the end of paragraph (1): “The Commission considered whether it was appropriate to begin this Part of the Guide to Practice with a guideline relating to the case of newly independent States. It ultimately decided that it should proceed from the only provision of the 1978 Vienna Convention on succession of States in respect of treaties dealing explicitly with succession to reservations.”

8. Sir Michael WOOD said that the discussion that he had had and to which Mr. Nolte was referring had been unnecessary. It was reflected in the summary record, and there was no need to mention it in the commentary.

9. Mr. VASCIANNIE supported Mr. Nolte’s proposal, which was aimed at describing a discussion that had, in fact, taken place.

10. Mr. PELLET (Special Rapporteur) said that, while he was not opposed to the principle behind Mr. Nolte’s proposal, the insertion of the new sentences in paragraph (1) would give more importance to the issue than it warranted.

11. Mr. NOLTE proposed that the two sentences in question should constitute a new paragraph (8) of the general commentary to Part 5.

12. Sir Michael WOOD said that doing so would give too much importance to the matter. If it must be mentioned, it would be preferable to do so in the commentary to guideline 5.1.1, for example, by adding the following sentence: “This guideline is placed first in Part 5 since it is based on the only provision of the 1978 Vienna Convention on succession of States in respect of treaties dealing with succession to reservations.”

13. Mr. VÁZQUEZ-BERMÚDEZ said that it would suffice to add the second sentence proposed by Mr. Nolte to paragraph (1) of the commentary to guideline 5.1.1.

14. Sir Michael WOOD proposed, as a compromise, to add the following sentence at the end of paragraph (1): “The Commission decided to place this guideline first in Part 5 since it is based on the only provision of the 1978 Vienna Convention on succession of States in respect of treaties which deals with succession to reservations.”

*Paragraph (1), as amended, was adopted.*

Paragraphs (2) to (20)

*Paragraphs (2) to (20) were adopted.*

*The commentary to guideline 5.1.1 [5.1], as amended, was adopted.*

*Commentary to guideline 5.1.2 [5.2] (Uniting or separation of States)*

Paragraphs (1) to (12)

*Paragraphs (1) to (12) were adopted.*

Paragraph (13)

15. Mr. PELLET (Special Rapporteur) said that the French text of the separate opinion annexed by Judge

Tomka to the judgment of the ICJ of 26 February 2007 in *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* was available and should replace the English text, and the text in brackets at the end of the footnote should be deleted.

*Paragraph (13), as amended, was adopted.*

Paragraphs (14) to (16)

*Paragraphs (14) to (16) were adopted.*

*The commentary to guideline 5.1.2 [5.2], as amended, was adopted.*

*Commentary to guideline 5.1.3 [5.3] (Irrelevance of certain reservations in cases involving a uniting of States)*

Paragraphs (1) to (4)

*Paragraphs (1) to (4) were adopted.*

*The commentary to guideline 5.1.3 [5.3] was adopted.*

*Commentary to guideline 5.1.4 (Establishment of new reservations formulated by a successor State)*

Paragraph (1)

16. Mr. GAJA proposed that the words “in accordance with guideline 5.1.1 or 5.1.2” be replaced with the phrase “with regard to reservations formulated by a newly independent State, this results from the reference to articles 20 to 23 of the Vienna Convention on the Law of Treaties, contained in article 20, paragraph 3, of the 1978 Vienna Convention on succession of States in respect of treaties. The present guideline also covers new reservations that the successor State may formulate according to guideline 5.1.2, paragraph 3”.

*Paragraph (1), as amended, was adopted.*

Paragraph (2)

*Paragraph (2) was adopted.*

*The commentary to guideline 5.1.4, as amended, was adopted.*

*Commentary to guideline 5.1.5 [5.4] (Maintenance of the territorial scope of reservations formulated by the predecessor State)*

Paragraphs (1) to (4)

*Paragraphs (1) to (4) were adopted.*

*The commentary to guideline 5.1.5 [5.4] was adopted.*

*Commentary to guideline 5.1.6 [5.5] (Territorial scope of reservations in cases involving a uniting of States)*

Paragraphs (1) to (9)

*Paragraphs (1) to (9) were adopted.*

*The commentary to guideline 5.1.6 [5.5] was adopted.*

*Commentary to guideline 5.1.7 [5.6]* (Territorial scope of reservations of the successor State in cases of succession involving part of a territory)

Paragraphs (1) to (6)

*Paragraphs (1) to (6) were adopted.*

*The commentary to guideline 5.1.7 [5.6] was adopted.*

*Commentary to guideline 5.1.8 [5.7]* (Timing of the effects of non-maintenance by a successor State of a reservation formulated by the predecessor State)

Paragraphs (1) to (3)

*Paragraphs (1) to (3) were adopted.*

*The commentary to guideline 5.1.8 [5.7] was adopted.*

*Commentary to guideline 5.1.9 [5.9]* (Late reservations formulated by a successor State)

Paragraphs (1) to (4)

*Paragraphs (1) to (4) were adopted.*

*The commentary to guideline 5.1.9 [5.9] was adopted.*

#### 5.2 Objections to reservations and succession of States

*Commentary to guideline 5.2.1 [5.10]* (Maintenance by the successor State of objections formulated by the predecessor State)

Paragraphs (1) to (9)

*Paragraphs (1) to (9) were adopted.*

*The commentary to guideline 5.2.1 [5.10] was adopted.*

*Commentary to guideline 5.2.2 [5.11]* (Irrelevance of certain objections in cases involving a uniting of States)

Paragraphs (1) to (3)

*Paragraphs (1) to (3) were adopted.*

*The commentary to guideline 5.2.2 [5.11] was adopted.*

*Commentary to guideline 5.2.3 [5.12]* (Maintenance of objections to reservations of the predecessor State)

Paragraphs (1) to (3)

*Paragraphs (1) to (3) were adopted.*

*The commentary to guideline 5.2.3 [5.12] was adopted.*

*Commentary to guideline 5.2.4 [5.13]* (Reservations of the predecessor State to which no objections have been made)

Paragraphs (1) to (4)

*Paragraphs (1) to (4) were adopted.*

*The commentary to guideline 5.2.4 [5.13] was adopted.*

*Commentary to guideline 5.2.5 [5.14]* (Capacity of a successor State to formulate objections to reservations)

Paragraphs (1) to (8)

*Paragraphs (1) to (8) were adopted.*

*The commentary to guideline 5.2.5 [5.14] was adopted.*

*Commentary to guideline 5.2.6 [5.15]* (Objections by a successor State other than a newly independent State in respect of which a treaty continues in force)

Paragraphs (1) to (3)

*Paragraphs (1) to (3) were adopted.*

*The commentary to guideline 5.2.6 [5.15] was adopted.*

#### 5.3 Acceptances of reservations and succession of States

*Commentary to guideline 5.3.1 [5.16 bis]* (Maintenance by a newly independent State of express acceptances formulated by the predecessor State)

Paragraphs (1) to (6)

*Paragraphs (1) to (6) were adopted.*

*The commentary to guideline 5.3.1 [5.16 bis] was adopted.*

*Commentary to guideline 5.3.2 [5.17]* (Maintenance by a successor State other than a newly independent State of express acceptances formulated by the predecessor State)

Paragraphs (1) to (3)

*Paragraphs (1) to (3) were adopted.*

*The commentary to guideline 5.3.2 [5.17] was adopted.*

*Commentary to guideline 5.3.3 [5.18]* (Timing of the effects of non-maintenance by a successor State of an express acceptance formulated by the predecessor State)

*The single paragraph constituting the commentary to guideline 5.3.3 [5.18] was adopted.*

*The commentary to guideline 5.3.3 [5.18] was adopted.*

#### 5.4 Interpretative declarations and succession of States

*Commentary to guideline 5.4.1 [5.19]* (Interpretative declarations formulated by the predecessor State)

Paragraphs (1) to (7)

*Paragraphs (1) to (7) were adopted.*

*The commentary to guideline 5.4.1 [5.19] was adopted.*

*Section C.2 of chapter IV of the draft report of the Commission, as amended, was adopted.*

#### 1. TEXT OF THE DRAFT GUIDELINES (A/CN.4/L.764/Add.2)

17. The CHAIRPERSON invited the Commission to adopt, as a whole, the text of the draft guidelines on reservations to treaties provisionally adopted so far by the Commission, constituting section C.1 of chapter IV of the draft report of the Commission, as contained in document A/CN.4/L.764/Add.2.

18. Sir Michael WOOD proposed to amend the title of section C and its introductory paragraph to read: "Text of the set of draft guidelines provisionally adopted by the Commission."

19. Mr. PELLET (Special Rapporteur) suggested that, in the title of section C and in the introductory paragraph, the words “constituting the Guide to Practice” should be inserted after “guidelines”.

*Section C.1 of chapter IV of the draft report of the Commission (A/CN.4/L.764/Add.2), as a whole, as amended, was adopted.*

*Section C of chapter IV of the draft report of the Commission, contained in document A/CN.4/L.764/Add.2–10, as a whole, as amended, was adopted.*

**CHAPTER VIII. The obligation to extradite or prosecute (aut dedere aut judicare) (A/CN.4/L.768)**

20. The CHAIRPERSON invited the Commission to begin its consideration, paragraph by paragraph, of chapter VIII of the draft report, contained in document A/CN.4/L.768.

**A. Introduction**

Paragraphs 1 to 3

*Paragraphs 1 to 3 were adopted.*

*Section A was adopted.*

**B. Consideration of the topic at the present session**

Paragraphs 4 and 5

*Paragraphs 4 and 5 were adopted.*

Paragraph 6

*Paragraph 6 was adopted.*

Paragraph 7

*Paragraph 7 was adopted, subject to minor editorial changes to the English text.*

Paragraph 8

21. Sir Michael WOOD said that the current wording of the third sentence was somewhat confusing. He proposed to reformulate it by replacing the words “the Survey on multilateral treaty practice on which the Secretariat study had been focused” by “the multilateral treaty practice on which the Secretariat survey had focused”. In the following sentence, the words “in respect of criminality” were superfluous and should therefore be deleted.

*Paragraph 8, as amended, was adopted.*

Paragraph 9

22. Sir Michael WOOD proposed to add at the end of the paragraph the phrase “based on the general framework agreed in 2009”.

*Paragraph 9, as amended, was adopted.*

*Section B, as amended, was adopted.*

*Chapter VIII of the draft report, as a whole, as amended, was adopted.*

**CHAPTER X. Treaties over time (A/CN.4/L.770)**

23. The CHAIRPERSON invited the Commission to begin its consideration of chapter X of the draft report, contained in document A/CN.4/L.770.

**A. Introduction**

Paragraph 1

*Paragraph 1 was adopted.*

*Section A was adopted.*

**B. Consideration of the topic at the present session**

Paragraphs 2 to 11

*Paragraphs 2 to 11 were adopted.*

*Section B was adopted.*

*Chapter X of the draft report, as a whole, was adopted.*

**CHAPTER III. Specific issues on which comments would be of particular interest to the Commission (A/CN.4/L.763 and Add.1)**

24. The CHAIRPERSON invited the Commission to begin its consideration of the portion of chapter III of the draft report contained in document A/CN.4/L.763 and Add.1.

**B. Treaties over time (A/CN.4/L.763)**

Paragraph 1

*Paragraph 1 was adopted.*

Paragraph 2

*Paragraph 2 was adopted, subject to minor editorial changes.*

Paragraph 3

25. Mr. NOLTE proposed amending the paragraph to read: “In this context, the Commission would also be interested in instances of interpretation which involved taking into account other factors arising after the entry into force of the treaty (factual or legal developments).”

*Paragraph 3, as amended, was adopted.*

*Section B of chapter III of the draft report of the Commission, contained in document A/CN.4/L.763, as a whole, as amended, was adopted.*

**A. Reservations to treaties (A/CN.4/L.763/Add.1)**

26. The CHAIRPERSON invited the Commission to begin its consideration of the portion of chapter III of the draft report contained in document A/CN.4/L.763/Add.1.

*Section A, contained in document A/CN.4/L.763/Add.1, was adopted.*

*Chapter III of the draft report of the Commission, as a whole, as amended, was adopted.*

**CHAPTER IV. Reservations to treaties (concluded)****B. Consideration of the topic at the present session (concluded)\* (A/CN.4/L.764 and Add.1)**

27. The CHAIRPERSON suggested that, at the end of section B (Consideration of the topic at the present session), a paragraph be added, to read:

“At its 3078th meeting on 5 August 2010, the Commission expressed its deep appreciation for the outstanding contribution the Special Rapporteur, Mr. Alain Pellet, had made to the treatment of the topic through his scholarly research and vast experience, thus enabling the Commission to provisionally adopt the complete Guide to Practice on Reservations to Treaties.”

*It was so decided.*

*Section B of chapter IV of the draft report of the Commission, as a whole, as amended and completed, was adopted.*

*Chapter IV of the draft report of the Commission, as a whole, as amended, was adopted.*

**CHAPTER XI. The most-favoured-nation clause (A/CN.4/L.771)****A. Introduction**

Paragraphs 1 and 2

*Paragraphs 1 and 2 were adopted.*

*Section A was adopted.*

**B. Consideration of the topic at the present session**

Paragraphs 3 and 4

*Paragraphs 3 and 4 were adopted.*

## 1. DISCUSSIONS OF THE STUDY GROUP

Paragraphs 5 to 14

*Paragraphs 5 to 14 were adopted.*

## 2. CONSIDERATION OF FUTURE WORK OF THE STUDY GROUP

Paragraphs 15 to 19

*Paragraphs 15 to 19 were adopted.*

*Section B was adopted.*

*Chapter XI of the draft report, as a whole, was adopted.*

**CHAPTER I. Organization of the session (A/CN.4/L.761)**

Paragraph 1

*Paragraph 1 was adopted.*

**A. Membership**

Paragraph 2

*Paragraph 2 was adopted.*

\* Resumed from the 3076th meeting.

**B. Casual vacancy**

Paragraph 3

*Paragraph 3 was adopted.*

**C. Officers and the Enlarged Bureau**

Paragraphs 4 to 6

*Paragraphs 4 to 6 were adopted.*

**D. Drafting Committee**

Paragraphs 7 and 8

*Paragraphs 7 and 8 were adopted.*

**E. Working Groups and Study Groups**

Paragraph 9

28. Mr. GALICKI proposed that Mr. Candiotti's name be added to subparagraph (b).

*Paragraph 9, as amended, was adopted.*

**F. Secretariat**

Paragraph 10

*Paragraph 10 was adopted.*

**G. Agenda**

Paragraph 11

*Paragraph 11 was adopted.*

*Chapter I of the draft report, as a whole, as amended, was adopted.*

**CHAPTER XIII. Other decisions and conclusions of the Commission (concluded)\* (A/CN.4/L.773 and Add.1)****A. Programme, procedures and working methods of the Commission and its documentation (A/CN.4/L.773)**

Paragraphs 1 to 3

*Paragraphs 1 to 3 were adopted.*

## 1. SETTLEMENT OF DISPUTES CLAUSES

Paragraph 4

29. The CHAIRPERSON said that the words “sixty-second session” should be replaced by “sixty-first session”.

30. Sir Michael WOOD said that in the third sentence, the phrase “were missed” should be replaced by “were raised”.

31. Mr. GAJA proposed that in the final sentence, the name of the member in question, namely Sir Michael Wood, should be cited.

*Paragraph 4, as amended, was adopted.*

## 2. CONSIDERATION OF GENERAL ASSEMBLY RESOLUTION 64/116 OF 16 DECEMBER 2009 ON THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS

Paragraphs 5 to 9

*Paragraphs 5 to 9 were adopted.*

\* Resumed from the 3075th meeting.

## 3. WORKING GROUP ON THE LONG-TERM PROGRAMME OF WORK

Paragraph 10

32. Mr. CANDIOTI suggested inverting the order of the second sentence so that it read: “The Planning Group took note of an oral progress report presented by the Chairperson of the Working Group on 27 July 2010.”

*Paragraph 10, as amended, was adopted.*

## 4. METHODS OF WORK OF THE COMMISSION

Paragraph 11

33. Sir Michael WOOD proposed beginning the second sentence with the words “The Working Group” instead of “Such a working group”.

*Paragraph 11, as amended, was adopted.*

## 5. HONORARIA

Paragraph 12

*Paragraph 12 was adopted.*

## 6. ASSISTANCE TO SPECIAL RAPPORTEURS

Paragraph 13

*Paragraph 13 was adopted.*

## 7. ATTENDANCE OF SPECIAL RAPPORTEURS IN THE GENERAL ASSEMBLY DURING THE CONSIDERATION OF THE COMMISSION’S REPORT

Paragraph 14

*Paragraph 14 was adopted.*

## 8. DOCUMENTATION AND PUBLICATIONS

Paragraphs 15 to 19

*Paragraphs 15 to 19 were adopted.*

## 9. COMMUNICATION FROM THE CHAIRPERSON OF THE AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

Paragraph 20

*Paragraph 20 was adopted.*

**B. Date and place of the sixty-third session of the Commission**

Paragraph 21

*Paragraph 21 was adopted.*

*Sections A and B of chapter XIII, as a whole, as amended, were adopted.*

*Chapter XIII of the draft report of the Commission, contained in document A/CN.4/L.773 and Add.1, as a whole, as amended, was adopted.*

*The meeting rose at 5.20 p.m.*

**3079th MEETING**

*Friday, 6 August 2010, at 10.10 a.m.*

*Chairperson:* Mr. Nugroho WISNUMURTI

*Present:* Mr. Caflich, Mr. Candiotti, Mr. Comissário Afonso, Mr. Dugard, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. McRae, Mr. Melescanu, Mr. Nolte, Mr. Pellet, Mr. Perera, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Sir Michael Wood.

**Draft report of the International Law Commission on the work of its sixty-second session (concluded)****CHAPTER V. Expulsion of aliens (A/CN.4/L.765)**

1. The CHAIRPERSON invited the Commission to begin its consideration of chapter V of the draft report, contained in document A/CN.4/L.765.

**A. Introduction**

Paragraphs 1 to 6

*Paragraphs 1 to 6 were adopted.*

*Section A was adopted.*

**B. Consideration of the topic at the present session**

Paragraph 7

*Paragraph 7 was adopted.*

Paragraph 8

2. Mr. GAJA said that, since the Commission had had two different draft articles 8 before it at different times—one contained in the fifth and one in the sixth report on the topic—the reference to that text should be clarified. He proposed that the words “contained in the fifth report” should be inserted after “draft articles 8 to 15”.

3. Mr. MIKULKA (Secretary to the Commission) explained that document A/CN.4/617 cited in the text contained the revised version of the draft articles, which was the version referred to the Drafting Committee.

4. Mr. GAJA said that it would nevertheless be helpful to the reader, and would certainly do no harm, to add the words he had proposed.

*Paragraph 8, as amended, was adopted.*

Paragraph 9

5. Mr. GAJA queried whether draft article A1 had been referred to the Drafting Committee.

6. Sir Michael WOOD suggested that it could be left to the secretariat to verify whether that had in fact been the case.

*Paragraph 9 was adopted, subject to verification by the secretariat that all the draft articles cited had been referred to the Drafting Committee.*