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Summary record of the 3035th meeting

Topic:
<multiple topics>

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to know to whom the word “they” in the English text referred.

74. The CHAIRPERSON said that in the English text of the final sentence, the word “they” should be replaced by “it”.

75. Mr. CANDIOTI (Chairperson of the Working Group on shared natural resources) said he himself thought that it was important to say that the Commission had decided to address the questionnaire on oil and gas once again to States, as that reflected the discussion in the Working Group on shared natural resources.

76. The CHAIRPERSON, speaking as a member of the Commission, proposed that the final sentence of paragraph 3 should be retained unchanged.

It was so decided.

Section B, as amended, was adopted.

A bis. Expulsion of aliens (A/CN.4/L.747/Add.1)

Section A bis was adopted.

Chapter III, as a whole, as amended, was adopted.

The meeting rose at 1.05 p.m.

3035th MEETING

Friday, 7 August 2009 at 10.10 a.m.

Chairperson: Mr. Ernest PETRIČ

Present: Mr. Caffisch, Mr. Candiotti, Mr. Comissário Afonso, Mr. Dugard, Ms. Escarameia, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Ms. Jacobsson, Mr. Kolodkin, Mr. McRae, Mr. Melescanu, Mr. Murase, Mr. Perera, Mr. Singh, Mr. Valencia-Ospina, Mr. Vargas Carreño, Mr. Vasciannie, Mr. Vázquez-Bermúdez, Mr. Wako, Mr. Wisnumurti, Sir Michael Wood.

Draft report of the Commission on the work of its sixty-first session (concluded)

CHAPTER XIII. Other decisions and conclusions of the Commission (A/CN.4/L.757)

1. The CHAIRPERSON invited the Commission to consider chapter XIII of its draft report as contained in document A/CN.4/L.757.

A. Programme, procedures and working methods of the Commission and its documentation

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

1. APPOINTMENT OF SPECIAL RAPPORTEUR FOR THE TOPIC “EFFECTS OF ARMED CONFLICTS ON TREATIES”

Paragraph 3

Paragraph 3 was adopted.

2. WORKING GROUP ON THE LONG-TERM PROGRAMME OF WORK

Paragraph 4

Paragraph 4 was adopted.

3. CONSIDERATION OF GENERAL ASSEMBLY RESOLUTION 63/128 OF 11 DECEMBER 2008 ON THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS

Paragraph 5

Paragraph 5 was adopted.

4. DOCUMENTATION AND PUBLICATIONS

(a) *Processing and issuance of reports of Special Rapporteurs*

Paragraph 6

Paragraph 6 was adopted.

(b) *Summary records of the work of the Commission*

Paragraph 7

Paragraph 7 was adopted.

(c) *Trust fund on the backlog relating to the Yearbook of the International Law Commission*

Paragraph 8

Paragraph 8 was adopted.

(d) *Other publications and the assistance of the Codification Division*

Paragraphs 9 and 10

Paragraphs 9 and 10 were adopted.

5. PROPOSALS ON THE ELECTIONS OF THE COMMISSION

Paragraph 11

2. Ms. ESCARAMEIA said that the penultimate sentence should be deleted, since it wrongly implied that the Planning Group wished to remove from its agenda the item of elections, whereas, in fact, the reference was only to a specific proposal under that item.

3. Mr. WISNUMURTI (Chairperson of the Planning Group) recalled that the sentence had been proposed by Mr. Pellet.

4. Mr. CANDIOTI said that he concurred with Ms. Escarameia. The question had been discussed, but no decision had been taken.

5. Mr. HASSOUNA said that, if the sentence was deleted, the word “however” in the last sentence would also need to be deleted.

6. Ms. JACOBSSON (Rapporteur) said that the word “however” was still needed to balance what would become, after the proposed deletion, the penultimate sentence.

7. Mr. KOLODKIN said that the proposed deletion would give a misleading impression. The Planning Group had reached a very clear understanding that the issue of staggered elections would no longer be on the agenda. He would, however, abide by any consensus decision.

8. Mr. VALENCIA-OSPINA concurred. He suggested that, in the penultimate sentence, the words “this item” should be replaced by the phrase “the proposal concerning the staggering of elections”.

9. Mr. WISNUMURTI (Chairperson of the Planning Group) said that he supported that suggestion. If the question was not dealt with, it might re-emerge in the future. The sentence should be made unambiguous.

10. Mr. GAJA said that, in the last sentence, the word “Commission” should be replaced by the words “Planning Group”. Otherwise, the text implied that the Planning Group itself had not discussed the issue of gender balance.

Paragraph 11, as amended by Mr. Valencia-Ospina and Mr. Gaja, was adopted.

6. SETTLEMENT OF DISPUTES CLAUSES

Paragraph 12

Paragraph 12 was adopted.

7. METHODS OF WORK OF THE COMMISSION

Paragraph 13

Paragraph 13 was adopted.

8. HONORARIA

Paragraph 14

Paragraph 14 was adopted.

9. ASSISTANCE TO SPECIAL RAPPORTEURS

Paragraph 15

Paragraph 15 was adopted.

10. ATTENDANCE OF SPECIAL RAPPORTEURS IN THE GENERAL ASSEMBLY DURING THE CONSIDERATION OF THE COMMISSION'S REPORT

Paragraph 16

Paragraph 16 was adopted.

11. JOINT MEETING WITH LEGAL ADVISERS OF INTERNATIONAL ORGANIZATIONS WITHIN THE UNITED NATIONS SYSTEM

Paragraph 17

11. Ms. ESCARAMEIA said that a reference should be included to the Gilberto Amado Memorial Lecture. It was

mentioned in paragraph 31, but only in the context of the International Law Seminar.

12. The CHAIRPERSON concurred. He suggested that the lecture should be the subject of a separate paragraph 17 *bis*.

Paragraph 17 was adopted.

New paragraph 17 bis was adopted.

Section A, as a whole, as amended, was adopted.

B. Date and place of the sixty-second session of the Commission

Paragraph 18

Paragraph 18 was adopted.

Section B was adopted.

C. Cooperation with other bodies

Paragraphs 19 to 23

13. Mr. GALICKI said that a reference should be made somewhere in the report to the visit paid to the Commission by the Legal Counsel.

14. The CHAIRPERSON said that the Legal Counsel was mentioned in paragraph 11 of chapter I, in document A/CN.4/L.745.

Paragraphs 19 to 23 were adopted.

Section C was adopted.

D. Representation at the sixty-fourth session of the General Assembly

Paragraph 24

15. The CHAIRPERSON said that a new paragraph 24 *bis* should be added, with the following text:

“At its 3035th meeting on 7 August 2009, the Commission requested Mr. Eduardo Valencia-Ospina, Special Rapporteur on the topic ‘Protection of persons in the event of disasters’, to attend the sixty-fourth session of the General Assembly, under the terms of paragraph 5 of General Assembly resolution 44/35 of 4 December 1989.”

Paragraph 24, as amended, was adopted.

New paragraph 24 bis was adopted.

Section D, as amended, was adopted.

E. International Law Seminar

Paragraphs 25 to 39

Paragraphs 25 to 39 were adopted.

Section E was adopted.

Chapter XIII, as a whole, as amended, was adopted.

CHAPTER I. Organization of the session (A/CN.4/L.745)

16. The CHAIRPERSON invited the Commission to consider chapter I of its draft report as contained in document A/CN.4/L.745.

Paragraph 1

Paragraph 1 was adopted.

A. Membership

Paragraph 2

Paragraph 2 was adopted.

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

Paragraph 7

17. Mr. HMOUD said that his name should appear among those listed in paragraph 7 (a) as a member of the Drafting Committee on reservations to treaties.

Paragraph 7, as amended, was adopted.

Paragraph 8

Paragraph 8 was adopted.

E. Working Groups and Study Groups

Paragraph 9

Paragraph 9 was adopted.

F. Tribute to the former Secretary of the Commission

Paragraph 10

Paragraph 10 was adopted.

G. Secretariat

Paragraph 11

Paragraph 11 was adopted.

H. Agenda

Paragraph 12

Paragraph 12 was adopted.

Chapter I as a whole, as amended, was adopted.

CHAPTER II. Summary of the work of the Commission at its sixty-first session (A/CN.4/L.746)

18. The CHAIRPERSON invited the Commission to consider chapter II of its draft report, as contained in document A/CN.4/L.746.

Paragraph 1

19. Mr. GAJA said that in the first sentence the phrase “final provisions” should be replaced by the phrase “general provisions”, in order to avoid giving the impression that the Commission had completed its work on the draft articles.

Paragraph 1, as amended, was adopted.

Paragraphs 2 to 4

Paragraphs 2 to 4 were adopted.

Paragraph 5

20. Mr. GAJA said that the last sentence was identical to a sentence in the corresponding report at the previous session. Since no further action had been taken, there seemed little point in retaining the sentence.

Paragraph 5, as amended, was adopted.

Paragraphs 6 to 11

Paragraphs 6 to 11 were adopted.

Paragraph 12

21. Mr. PERERA said that, in view of the two paragraphs added to the report of the Study Group the previous day, the following phrase should be inserted in the second sentence after the words “Study Group”: “made a preliminary assessment of the 1978 draft articles.”

Paragraph 12, as amended, was adopted.

Paragraph 13

Paragraph 13 was adopted.

Paragraph 14

22. Ms. ESCARAMEIA said that ideally the disparate topics dealt with should each appear in separate paragraphs, but she did not wish to tamper with the traditional format. It would, however, read more logically if the order of the second and third sentences were reversed.

23. The CHAIRPERSON suggested the effect would be improved still more if the second sentence—relating to the appointment of Mr. Cafilisch as Special Rapporteur on the topic “Effects of armed conflicts on treaties”—were moved to the beginning of the paragraph.

Paragraph 14, as amended, was adopted.

Chapter II of the report as a whole, as amended, was adopted.

The report of the International Law Commission on the work of its sixty-first session, as a whole, as amended, was adopted.

Chairperson’s concluding remarks

24. The CHAIRPERSON announced that, at the invitation of the Council of Europe and after consulting

the Bureau, he had nominated Mr. Caffisch, Special Rapporteur for the topic “Effects of armed conflicts on treaties”, to represent the Commission at the meeting of CAHDI which would be held in Strasbourg on 10 and 11 September 2009.

25. In response to the invitation from the President of the International Tribunal for the Law of the Sea, he would be paying a visit to the Tribunal on 29 September in his capacity as Chairperson of the Commission. He trusted that the visit would foster good relations between the two institutions.

26. The sixty-first session had been productive despite a number of difficulties. He was grateful to his colleagues on the Bureau for their advice and guidance. He had

appreciated the assistance and continuous support offered by the secretariat, the Codification Division and the Legal Liaison Office in Geneva. He also wished to thank all the précis-writers, interpreters, conference officers, translators and other members of conference services who were not seen, but who performed valuable services daily.

Closure of the session

27. After the customary exchange of courtesies, the CHAIRPERSON declared the sixty-first session of the International Law Commission closed.

The meeting rose at 11 a.m.
