

Document:-  
**A/CN.4/3075**

**Summary record of the 3075th meeting**

Topic:  
**<multiple topics>**

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methods of work of the Commission, notably the work of the special rapporteurs, on the basis of a memorandum which he had prepared. Following discussion, the text had been revised. The revised text of the memorandum concerning the work of the special rapporteurs would be transmitted to the Working Group in 2011. The minutes of the debate had been circulated and sent to all members of the Commission.

26. The Planning Group had also addressed issues relating to its working methods and had agreed that, in order to better organize plenary debates and make full use of available resources, the members of the Commission should speak on the topic as early as possible after the introduction by the Special Rapporteur of the relevant report. The Planning Group had noted that it would be only in exceptional circumstances and for valid reasons that the plenary should only take note of draft articles adopted by the Drafting Committee during a given session and that every effort should be made to ensure that such draft articles were adopted and included in the report of the Commission, together with the commentaries prepared by the Special Rapporteurs. The Planning Group also recommended that when the Commission took note of draft articles, they should appear in a footnote in the Commission's report.

27. It was his understanding that the other recommendations of the Planning Group, if approved by the Commission, as was customary, would be incorporated into the report of the Commission under the chapter entitled "Other decisions and conclusions of the Commission", with the necessary adjustments.

28. Mr. PELLET said that, with regard to taking note of the draft articles adopted by the Drafting Committee, he was not radically opposed to the Commission's reproducing them in its report, but expressed a word of caution in that regard: there had been only one precedent, that of the draft articles on responsibility of States, which the Drafting Committee had adopted in 2000 and which the Commission had been so imprudent as to reproduce in its report. The result had been disastrous, because States had thought that they were expected to comment on the draft articles without really knowing, in the absence of commentary, what had motivated them.

29. Concerning the draft guidelines on reservations to treaties, he would like the Commission to discuss the future of the draft Guide to Practice, a first version of which had a good chance of being adopted by the end of the current session. Regardless of its fate, the Guide would need to be reviewed in its entirety by the Commission at the 2011 session. To that end, the Commission might envisage setting up a working group to meet for a week to put the final touches on all the commentaries to the draft guidelines, an enormous and rather technical task, since the Guide to Practice would be approximately 800 pages long.

30. Finally, he recalled that the Chairperson of the Human Rights Committee had written a letter to the Chairperson of the Commission. It would be useful for the Commission to have a brief exchange of views on how to reply.

31. The CHAIRPERSON said that the Enlarged Bureau would meet to discuss the three questions raised by Mr. Pellet. He took it that the Commission wished to adopt the report of the Planning Group (A/CN.4/L.775).

*The report of the Planning Group was adopted.*

*The meeting rose at 4.30 p.m.*

### 3075th MEETING

*Wednesday, 4 August 2010, at 10.10 a.m.*

*Chairperson:* Mr. Nugroho WISNUMURTI

*Present:* Mr. Caffisch, Mr. Candioti, Mr. Comissário Afonso, Mr. Dugard, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Mr. McRae, Mr. Nolte, Mr. Pellet, Mr. Perera, Mr. Petrič, 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 XIII. Other decisions and conclusions of the Commission (A/CN.4/L.773 and Add.1)**

1. The CHAIRPERSON invited the Commission to begin its consideration of chapter XIII of the report with sections C, D and E of that chapter contained in document A/CN.4/L.773/Add.1 and to adopt them paragraph by paragraph.

##### **C. Cooperation with other bodies**

Paragraphs 1 to 5

*Paragraphs 1 to 5 were adopted.*

*Section C was adopted.*

##### **D. Representation at the sixty-fifth session of the General Assembly**

Paragraph 6

*Paragraph 6 was adopted.*

Paragraph 7

2. Mr. GAJA proposed that the Commission should decide at the current plenary meeting which special rapporteur it would request to attend the sixty-fifth session of the General Assembly, under the terms of paragraph 5 of General Assembly resolution 44/35 of 4 December 1989.

3. The CHAIRPERSON said that the Bureau had discussed the matter and had agreed to recommend that Mr. Pellet, Special Rapporteur for the topic "Reservations to treaties", should be requested to attend the forthcoming session of the General Assembly.

4. Mr. VASCIANNIE said that he wished to nominate Mr. Pellet for that purpose.

5. The CHAIRPERSON said that, if he heard no objection, he would take it that the Commission wished to adopt the Bureau's recommendation and to fill in the blanks in paragraph 7 accordingly.

*It was so decided.*

*Paragraph 7, as completed, was adopted.*

*Section D, as completed, was adopted.*

#### E. International Law Seminar

Paragraphs 8 to 21

*Paragraphs 8 to 21 were adopted.*

*Section E was adopted.*

#### Other business (concluded)

[Agenda item 15]

6. Mr. CANDIOTI announced that, on 2 August 2010, in San Juan, Argentina, a framework agreement had been signed between Argentina, Brazil, Paraguay and Uruguay on the management and use of the Guaraní aquifer, which was one of the world's largest transboundary underground water sources. In its preamble, the agreement included an express reference to General Assembly resolution 63/124 of 11 December 2008, which reproduced the Commission's draft articles on the law of transboundary aquifers and urged the States concerned to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, taking into account the provisions of those draft articles. It was rewarding to note that the four countries sharing the aquifer had complied with that request in their agreement, and a hopeful sign that States were beginning to take into account the Commission's valuable efforts in that area, in particular the excellent work carried out by Mr. Yamada, former member of the Commission and former Special Rapporteur on the topic of shared natural resources. As soon as the agreement became available, he would provide copies of it to the members of the Commission.

7. The CHAIRPERSON said that, on behalf of the Commission, he wished to express congratulations to the States parties to that auspicious agreement. It was gratifying that the Commission's work had been considered useful; that, in turn, provided encouragement for its future work on shared natural resources.

8. He announced that immediately following the public part of the meeting the Commission would meet in closed session to discuss plans for its sixty-third session.

*The meeting rose at 10.25 a.m.*

## 3076th MEETING

*Wednesday, 4 August 2010, at 3.05 p.m.*

*Chairperson:* Mr. Nugroho WISNUMURTI

*Present:* Mr. Cafilisch, Mr. Candiotti, Mr. Dugard, Mr. Fomba, Mr. Gaja, Mr. Galicki, Mr. Hassouna, Mr. Hmoud, Mr. McRae, Mr. Nolte, Mr. Pellet, Mr. Perera, Mr. Petrič, 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 (continued)*\* (A/CN.4/L.764 and Add.1–10)

B. *Consideration of the topic at the present session (continued)\*\** (A/CN.4/L.764 and Add.1)

Paragraph 12 *bis*

1. The CHAIRPERSON said that a proposal had been made for the insertion of the following new paragraph 12 *bis* (document without a symbol distributed at the meeting):

“Having provisionally adopted the entire set of draft guidelines in the Guide to Practice, the Commission intends to adopt the final version of the Guide to Practice during its sixty-third session, taking into consideration the observations of States and international organizations as well as the bodies with which the Commission cooperates, made since the beginning of the examination of the topic, and also those that could be received by the Secretariat before 31 January 2011.”

He invited the members of the Commission to comment on the proposal.

2. Mr. NOLTE proposed, in the interests of clarity, to split the paragraph into three sentences. The first would end with the words “sixty-third session”. The second would read: “It will take into consideration the observations of States and international organizations as well as the bodies with which the Commission cooperates, made since the beginning of the examination of the topic.” The third and last sentence would read: “The Commission also invites further comments relating to the entire set of draft guidelines contained in the Guide to Practice, which should be received by the Secretariat before 31 January 2011.”

3. Sir Michael WOOD said that while he supported the proposal to end the first sentence after “sixty-third session”, he would prefer to maintain the second part of the initial text as it stood. The second sentence would thus begin: “In doing so, the Commission will take into consideration...”

*Sir Michael's proposal was adopted.*

*Paragraph 12 bis, as amended, was adopted.*

\* Resumed from the 3070th meeting.

\* Resumed from the 3074th meeting.

\*\* Resumed from the 3073rd meeting.