

Document:-
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Summary record of the 3079th meeting

Topic:
<multiple topics>

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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.

1. CONSIDERATION OF THE REVISED AND RESTRUCTURED DRAFT ARTICLES ON PROTECTION OF THE HUMAN RIGHTS OF PERSONS WHO HAVE BEEN OR ARE BEING EXPELLED

(a) Presentation of the draft articles by the Special Rapporteur

Paragraphs 10 to 21

Paragraphs 10 to 21 were adopted.

(b) Summary of the debate

Paragraphs 22 to 28

Paragraphs 22 to 28 were adopted.

2. CONSIDERATION OF THE SIXTH REPORT OF THE SPECIAL RAPPORTEUR

(a) Presentation of the Special Rapporteur

Paragraphs 29 to 40

Paragraphs 29 to 40 were adopted.

(b) Summary of the debate

Paragraphs 41 to 47

Paragraphs 41 to 47 were adopted.

Paragraph 48

7. Mr. GAJA said that, for the reasons he had outlined earlier in connection with paragraph 8, the words “in his sixth report” should be inserted after “the Special Rapporteur”.

Paragraph 48, as amended, was adopted.

Paragraphs 49 to 66

Paragraphs 49 to 66 were adopted.

(c) Concluding remarks of the Special Rapporteur

Paragraph 67

8. The CHAIRPERSON drew attention to revised paragraph 67 proposed by the Special Rapporteur. It read:

“The Special Rapporteur wished, firstly, to react to a number of general comments that had been made during the debate. In response to the remark that the topic was more suited for political negotiation than for an exercise of codification and progressive development, he observed that all the topics considered by the Commission were in reality, and with no exception, possible subjects of negotiations. The Special Rapporteur recalled that the methodology adopted in his reports was firstly to examine the sources of international law recognized in Article 38 of the Statute of the International Court of Justice; only in the absence of a rule derived from one or the other of those sources could domestic practice serve as a basis for proposing draft articles as a matter of progressive development. Replying to certain criticisms of his use of sources and examples in his sixth report, the Special Rapporteur explained that he had tried to make the best use of the material available, the sources of which had always been clearly cited, and that he had clearly stated in his report that the cases cited were not comprehensive and certainly not intended to

stigmatize the countries mentioned. Based on available information, the Special Rapporteur had also attempted to take into account the jurisprudence of several regions as well as the positions and practice of States belonging to various regions of the world. Finally, the consideration of old sources—some of which appeared to be unavoidable—was in no way anachronistic; it aimed at providing an account of the evolution of the topic.”

9. Mr. DUGARD said that he much preferred the original text of paragraph 67. If the revised version was to be adopted, however, the opening phrase should be amended to read: “The Special Rapporteur reacted to a number of general comments”.

10. Mr. HASSOUNA queried the propriety of revising the Special Rapporteur’s own remarks and said that if the Commission made any changes to his text, they should be minimal.

11. Mr. MELESCANU said that he agreed with Mr. Hassouna’s remarks. The text proposed by the Special Rapporteur reflected his own concluding remarks and was not a summary of the debate in the Commission. The revised paragraph 67 should be adopted, with the amendment proposed by Mr. Dugard.

Paragraph 67, as revised by the Special Rapporteur and amended by Mr. Dugard, was adopted.

Paragraph 67 bis

12. The CHAIRPERSON drew attention to a proposal by the Special Rapporteur for an additional paragraph 67 bis, to read:

“Concerning the proposal aimed at restructuring the draft articles, the Special Rapporteur was of the view that it would be better, at this stage, to continue working on the basis of the revised workplan contained in document A/CN.4/618; once all the draft articles had been elaborated, it would be appropriate to restructure, in a coherent and logical way, the whole set of draft articles.”

Paragraph 67 bis was adopted.

Paragraph 68

Paragraph 68 was adopted.

Paragraph 69

13. Mr. GAJA proposed that the words “during the course of the discussion” be deleted, as the revised version of draft article 8 had actually been proposed after the discussion of the sixth report had been completed.

Paragraph 69, as amended, was adopted.

Paragraphs 70 to 76

Paragraphs 70 to 76 were adopted.

Section B of chapter V of the draft report of the Commission, as a whole, as amended, was adopted.

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

The report of the International Law Commission, as a whole, as amended, was adopted.

Chairperson's concluding remarks

14. The CHAIRPERSON said that the sixty-second session had been a productive one. He was grateful to his colleagues on the Bureau for their advice and guidance. He was also grateful for the competent assistance and continuous support provided by the Secretariat, the Codification Division and the Legal Liaison Office in Geneva. He wished to thank all the précis-writers, interpreters, conference officers, translators and other members of conference services who performed services for

the Commission daily. The documents services in particular had faced up to the challenge of unusually voluminous documentation and tight deadlines because of the Commission's busy work schedule. He expressed wholehearted gratitude and appreciation for their impressive work, which had greatly contributed to the success of the session.

Closure of the session

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

The meeting rose at 11.50 a.m.
