
Provisional

For participants only

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International Law Commission
Seventy-second session (second part)

Provisional summary record of the 3562nd meeting

Held at the Palais des Nations, Geneva, on Thursday, 5 August 2021, at 3 p.m.

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Present:

<i>Chair:</i>	Mr. Hmoud
<i>Members:</i>	Mr. Argüello Gómez
	Mr. Aurescu
	Ms. Escobar Hernández
	Mr. Forteau
	Ms. Galvão Teles
	Mr. Grossman Guiloff
	Mr. Hassouna
	Mr. Jalloh
	Mr. Laraba
	Ms. Lehto
	Mr. Murase
	Mr. Murphy
	Mr. Nguyen
	Ms. Oral
	Mr. Ouazzani Chahdi
	Mr. Park
	Mr. Petrič
	Mr. Rajput
	Mr. Ruda Santolaria
	Mr. Saboia
	Mr. Šturma
	Mr. Tladi
	Mr. Vázquez-Bermúdez
	Sir Michael Wood
	Mr. Zagaynov

Secretariat:

Mr. Llewellyn	Secretary to the Commission
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The meeting was called to order at 3.05 p.m.

Draft report of the Commission on the work of its seventy-second session *(continued)*

Chapter VII. Succession of States in respect of State responsibility (continued)
([A/CN.4/L.947](#), [A/CN.4/L.947/Add.1](#) and [A/CN.4/L.947/Add.2](#))

The Chair invited the Commission to resume its consideration of the paragraph of the portion of chapter VII of its draft report contained in document [A/CN.4/L.947/Add.1](#) that had been left in abeyance at a previous meeting.

Commentary to draft article 7 (Acts having a continuing character)

Paragraph (4)

Mr. Šturma (Special Rapporteur) said that, following consultations with Mr. Forteau and Mr. Jalloh regarding the proposed new final sentence of paragraph (4), on the *Lighthouses* arbitration, he wished to suggest that the word “responsible” should be replaced with “liable” so that the phrase would read “a tribunal held Greece liable”. He also wished to suggest the addition of a new final sentence, which would read: “Even if the claim was originally based on breach of a concession agreement, if the successor State, faced with a continuing breach on its territory, endorses and continues that situation, the inference may be drawn that it has assumed responsibility for it.” That proposal was based on paragraph (3) of the commentary to article 11 of the articles on responsibility of States for internationally wrongful acts, a reference to which would also be added to footnote 5.

Paragraph (4), as amended, was adopted, with the amendment to footnote 5.

The Chair invited the Commission to resume its consideration of those paragraphs of the portion of chapter VII of its draft report contained in document [A/CN.4/L.947](#) that had been left in abeyance.

Paragraphs 9 and 10

The Chair said he took it that the Commission wished to insert the date and number of the current meeting in paragraphs 9 and 10.

It was so decided.

Paragraphs 9 and 10, as amended, were adopted.

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

Chapter IX. Sea-level rise in relation to international law ([A/CN.4/L.949](#))

The Chair invited the Commission to consider chapter IX of its draft report ([A/CN.4/L.949](#)). An informal version of the document containing proposals made by several members of the Commission had also been circulated to facilitate the Commission’s deliberations.

A. *Introduction*

Paragraphs 1 to 11

Paragraphs 1 to 11 were adopted.

Paragraph 12

Sir Michael Wood said he wished to propose that a reference to the summary record of the meeting at which the presentation referred to in the paragraph had been made by the Co-Chair of the Study Group on sea-level rise in relation to international law should be provided in a footnote, for which the footnote marker should be placed at the end of the sentence. He would make similar proposals with regard to the first sentences of paragraphs 16, 18 and 20.

Paragraph 12 was adopted, with the insertion of a new footnote.

Discussions held in the Study Group

Paragraphs 13 and 14

Paragraphs 13 and 14 were adopted.

(a) *First issues paper*

Paragraph 15

Paragraph 15 was adopted.

Paragraph 16

Paragraph 16 was adopted, with the insertion of a new footnote as proposed by Sir Michael Wood.

Paragraph 17

Paragraph 17 was adopted.

Paragraph 18

Sir Michael Wood said he wished to propose that, at the end of the last sentence, the words “the loss of archipelagic State status of baselines” should be replaced with “the loss of archipelagic baseline status”, which was in keeping with the terminology used in the United Nations Convention on the Law of the Sea. He would also like to insert a reference to the summary record of the meeting at which the presentation referred to in the paragraph had been made.

Paragraph 18, as amended, was adopted, with the insertion of a new footnote.

Paragraph 19

Paragraph 19 was adopted.

(b) *Maritime delimitation practice of African States*

Paragraph 20

Paragraph 20 was adopted, with the insertion of a new footnote as proposed by Sir Michael Wood.

Paragraphs 21 and 22

Paragraphs 21 and 22 were adopted.

(c) *Summary of the general exchange of views held during the first part of the session*

(i) *General comments on the topic*

Paragraph 23

Paragraph 23 was adopted with a minor drafting change.

Paragraphs 24 and 25

Paragraphs 24 and 25 were adopted.

(ii) *General comments on the first issues paper*

Paragraph 26

Mr. Rajput said he wished to propose that a sentence should be inserted at the end of the paragraph to clarify that, as a result of the postponement of the Commission’s seventy-

first session, the Study Group had departed from the usual procedure, owing to the urgency and importance attached to the topic.

Mr. Aurescu (Co-Chair of the Study Group), supported by **Ms. Lehto**, said he wished to propose that Mr. Rajput's suggested sentence should become the second sentence of paragraph 26 and should read: "It was noted that it was also due to the adoption of a procedure different than that adopted by previous study groups, which was necessitated by the urgency and importance attached to this topic."

Sir Michael Wood said that he supported Mr. Aurescu's reformulation but was concerned that the phrase "necessitated by the urgency and importance attached to this topic" might imply that other topics were not considered to be important. He wished to propose the phrase "necessitated by the subject matter of the topic" as a more general alternative. Regarding the last sentence of the paragraph, the words "It was also noted though", which seemed somewhat defensive, should be replaced with "It was noted".

Mr. Park said that he wondered whether the new sentence was even necessary, as a similar explanation was already contained in paragraph 52.

Mr. Tladi, supported by **Mr. Aurescu** (Co-Chair of the Study Group), said that if a member had referred to the "urgency and importance" of the topic, that fact should be accurately reflected in the report; he therefore could not support Sir Michael Wood's proposal. He would prefer to retain the word "though" after "noted" because the phrase did indeed reflect a defensive reaction.

Mr. Rajput said that the words "urgency and importance" should be retained in order to faithfully reflect the discussions referred to in the paragraph.

Paragraph 26, as amended, was adopted.

Paragraph 27

Mr. Murphy said that, while he acknowledged the importance of faithfully capturing what members had said, he found the fourth sentence difficult to follow and overly long. He proposed that it should be redrafted to read: "It was also noted that the desire of States for 'stability' was not necessarily an 'indication' of *opinio juris*, as suggested by the first issues paper, to the extent that it was difficult to qualify the preference for stability as reflecting 'a sense of legal right or obligation'."

Ms. Oral (Co-Chair of the Study Group) said that she was reluctant to alter the sentence because it was taken from a contribution made in writing by a member of the Study Group. She wondered whether the usual "a view was expressed" formulation might go some way towards resolving the issue.

Sir Michael Wood said that Mr. Murphy's proposal would make the sentence more readable. Nevertheless, if the original formulation had to be retained, it could perhaps be amended slightly to reflect the wording of the Commission's 2018 conclusions. The second half of the sentence would therefore read: "... to the extent that it was difficult to qualify the preference for stability in the law of the sea as reflecting 'a sense of legal right or obligation', as stated in the Commission's 2018 conclusions on identification of customary international law".

Mr. Tladi said that he, too, supported Mr. Murphy's proposal. While it was important to accurately reflect the views expressed in the Study Group, it was not vital to keep the exact wording that had been used. Clarity was more important.

Mr. Aurescu (Co-Chair of the Study Group) said that the Study Group member in question had referred to, and quoted from, a paragraph in the first issues paper, for which reason he was reluctant to change the sentence too much. He therefore proposed that it should be retained with the small amendments proposed by Ms. Oral and Sir Michael Wood.

Sir Michael Wood said that he still preferred Mr. Murphy's proposed wording. Assuming that the member concerned was present at the current meeting, he or she had the opportunity to object to that proposal.

Mr. Park said that he was in favour of recasting the sentence in the way that Mr. Murphy had proposed. It was important to ensure that the member's view was clearly stated, even if it was not reproduced verbatim.

The Chair said he took it that the Commission wished to amend the sentence on the basis of Mr. Murphy's proposal.

It was so decided.

Paragraph 27, as amended, was adopted.

(iii) *Consideration of views expressed in the Sixth Committee and State practice*

Paragraph 28

Sir Michael Wood proposed that the words "the legal regime established by" in the second sentence should be deleted.

Paragraph 28, as amended, was adopted.

Paragraph 29

Sir Michael Wood said that, in the second sentence, he wished to propose the deletion of the word "they". In the last sentence, the words "in his capacity as depositary of" should be replaced with "under".

Paragraph 29, as amended, was adopted.

(iv) *Work of the International Law Association*

Paragraph 30

The Chair said that, in the penultimate sentence, a proposal had been made in the informal document to replace the word "definitive" with "the last word". A query had also been raised with regard to the sixth sentence, which read: "The view was also expressed that this need not be determinative of the issue in the specific case of sea-level rise."

Ms. Oral (Co-Chair of the Study Group) said that the Co-Chairs had decided to propose that the sixth sentence should be deleted.

Paragraph 30 was adopted with those amendments.

(v) *Interpretation of the United Nations Convention on the Law of the Sea: ambulatory or fixed baselines*

Paragraph 31

Paragraph 31 was adopted with minor editorial corrections.

Paragraph 32

Mr. Murphy said that, in the fifth sentence, the words "that silence" should be replaced with "any silence".

Paragraph 32, as amended, was adopted.

Paragraph 33

The Chair said that there was a proposal, in the informal document, to delete the word "systems" in the first sentence.

Paragraph 33, as amended, was adopted.

Paragraph 34

Paragraph 34 was adopted.

Paragraph 35

The Chair said that there was a proposal, in the informal document, to delete the word “system” in the second sentence.

Mr. Murphy said that, in the third sentence, the word “their” should be inserted before “land surface” for the sake of clarity.

Paragraph 35, as amended, was adopted.

Paragraphs 36 to 38

Paragraphs 36 to 38 were adopted.

*(vi) Other sources of international law**Paragraph 39*

Paragraph 39 was adopted.

*(vii) Permanency of the exclusive economic zone and the continental shelf**Paragraph 40*

Mr. Rajput said that, in the first sentence, the words “proposal of permanency of the” should be inserted before “continental shelf”. A similar amendment should also be made to the second sentence.

Paragraph 40, as amended, was adopted.

Paragraph 41

The Chair said that there was a proposal, in the informal document, to replace the words “in this view” with “as per this view” in the second sentence.

Mr. Aurescu (Co-Chair of the Study Group) said that, in the light of the amendments that the Commission had adopted in paragraph 40, the first sentence of paragraph 41 should be deleted.

Paragraph 41, as amended, was adopted.

*(viii) Sea-level rise and article 62, paragraph 2, of the Vienna Convention on the Law of Treaties**Paragraph 42*

Sir Michael Wood said that, in the sixth sentence, the words “changes in” should be inserted before the phrase “land and maritime boundaries should not constitute an unforeseen change of circumstances”, as it was obvious that the boundaries themselves could not constitute such a change. In the tenth sentence, the word “thus” should be deleted, as the fact that maritime agreements establishing boundaries and fixing limits were “treaties entered upon in accordance with the Vienna Convention on the Law of Treaties” did not explain why they were “binding upon all States”. Furthermore, he did not believe that view to be correct; after all, if a neighbouring State did not agree with the boundaries established and the limits fixed in such an agreement, then the agreement was not binding on that State. He therefore wished to propose that the words “are thus binding” should be replaced with “may be binding”. However, he was willing to withdraw his proposal if it was not acceptable to the Commission.

Mr. Saboia said that he could accept the deletion of “thus” but would prefer to maintain the rest of the sentence as originally drafted.

Paragraph 42, as amended, was adopted, with minor editorial changes.

(ix) *Islands, artificial islands and rocks*

Paragraph 43

Paragraph 43 was adopted with a minor editorial amendment.

(d) *Concluding remarks at the end of the first part of the session*

Paragraphs 44 and 45

Paragraphs 44 and 45 were adopted.

Paragraph 46

The Chair said that there was a proposal, in the informal document, to replace the word “findings” in the second sentence with “prior work” and to replace the phrase “While the preliminary character of the findings of the first issues paper” in the third sentence with “The preliminary character of the first issues paper”.

Paragraph 46, as amended, was adopted.

Paragraph 47

Paragraph 47 was adopted with a minor editorial amendment.

Paragraph 48

The Chair said that there was a proposal, in the informal document, to change the words “It was then for States” in the last sentence to “It would then be for States” and to replace the word “crystallize” with “adopt”.

Paragraph 48, as amended, was adopted.

Paragraph 49

Paragraph 49 was adopted.

(e) *Outcome of the interactive discussion held during the second part of the session*

Paragraph 50

Paragraph 50 was adopted with minor drafting changes.

Paragraphs 51 and 52

Paragraphs 51 and 52 were adopted.

Paragraph 53

Paragraph 53 was adopted, subject to the correction of footnote 21 by the secretariat.

Paragraph 54

Paragraph 54 was adopted.

Paragraph 55

Mr. Grossman Guiloff, supported by **Mr. Tladi**, said that, in subparagraph (b), the phrase “the role of equity” should be replaced with “the principle of equity”.

Mr. Aurescu (Co-Chair of the Study Group) said that the concept of equity as a principle was disputed; the Study Group had therefore preferred to avoid referring to it as such.

Mr. Zagaynov said that he wondered whether footnote 27, which referred to the Convention for the Safeguarding of the Intangible Cultural Heritage, should refer instead to the Convention on the Protection of the Underwater Cultural Heritage.

Ms. Lehto, noting the statement, in footnote 22, that “Several members invoked the principle of equity, an issue also raised by many States”, said that it would be appropriate, if only for the sake of consistency, to refer to the “principle of equity” in the text of subparagraph (b). However, she would not insist on that amendment, as she did not wish to prolong the debate.

Mr. Jalloh, supported by **Mr. Vázquez-Bermúdez**, said he agreed with Mr. Grossman Guiloff and Ms. Lehto that “principle of equity” should be used.

Sir Michael Wood said he wished to propose that the phrase “rules of general international law” in subparagraph (a) should be deleted and that the word “public” in subparagraph (b) should be omitted from the phrase “public international law”, since it was not standard practice to distinguish public international law from private international law unless a specific point was being made about either. In subparagraph (c), in addition to a minor editorial amendment, he wished to suggest that the word “State” in the phrase “State practice and *opinio juris*” should be omitted, so as to encompass international organizations where appropriate; that would also more closely reflect the language used in Article 38 of the Statute of the International Court of Justice. The sentence that made up subparagraph (d) might read better if the phrase “consider how to bring responses” was replaced with “consider suggestions”. Lastly, he had no strong views on whether the text should refer to the “principle” or the “role” of equity.

Mr. Park said that, to his knowledge, the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty, both of which were mentioned in subparagraph (a), had no direct link to the topic “Sea-level rise in relation to international law”. He would appreciate clarification on that point.

Ms. Oral (Co-Chair of the Study Group), responding to the remarks made by Mr. Zagaynov and Mr. Park, said that the instruments in question had not been chosen by the Co-Chairs of the Study Group, but rather had been suggested during the substantive discussion it had held on the topic. Nevertheless, she would not object to the addition of a reference to the Convention on the Protection of the Underwater Cultural Heritage. Regarding the phrase “role of equity”, she agreed that the word “role” should be replaced with “principle”.

Mr. Rajput said that the phrase “role of equity” seemed appropriate in the current context. Under articles 74 and 83 of the United Nations Convention on the Law of the Sea, equity was a rule in the delimitation of the continental shelf and of the exclusive economic zone between States with opposite or adjacent coasts. But outside the Convention, equity could not be considered a rule. He did not, therefore, agree that the paragraph under consideration should refer to the “principle of equity”. Nonetheless, he would not insist on retaining the original phrase.

Mr. Murphy said that he recalled having suggested that the Study Group should examine both treaties relating to the Antarctic region. Those treaties might not have direct links to the Commission’s work on the topic, but it was a fact that the coastline of Antarctica was changing radically, in a way that could have implications for the Commission’s work. The Convention on the Protection of the Underwater Cultural Heritage regulated coastal States and other States on the basis of maritime zones, and changes to those zones might have implications for the implementation of the Convention. If no member supported the inclusion of a reference to the Convention for the Safeguarding of the Intangible Cultural Heritage, he would propose that it should be replaced with a reference to the Convention on the Protection of the Underwater Cultural Heritage. On the question of equity, he was inclined to agree with the views expressed by Mr. Rajput, but would likewise not insist on retaining the expression “role of equity”. He wondered whether “good faith” could also be said to be a principle.

Mr. Rajput said that if, in paragraph 55 (b), the phrase “role of equity” was replaced with “principle of equity”, the same change should also be made in paragraph 39.

Mr. Vázquez-Bermúdez, responding to Mr. Murphy’s statement, said that the words “the principle of” should be inserted immediately before “good faith” in subparagraph (b).

Paragraph 55, as amended, was adopted.

Paragraph 56

Paragraph 56 was adopted.

(f) *Future work of the Study Group*

Paragraph 57

Paragraph 57 was adopted.

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

Mr. Forteau said he wished to note that the Commission had adopted chapter IX of its draft report on the basis of the English version of the document, which was the only version that had been circulated far enough in advance for the members' consideration. The Commission's adoption of that chapter was without prejudice to any corrections that might need to be made to the other language versions of the text.

Chapter I. Introduction (A/CN.4/L.941)

The Chair invited the Commission to consider chapter I of its draft report (A/CN.4/L.941).

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

Chapter II. Summary of the work of the Commission at its seventy-second session (A/CN.4/L.942)

The Chair invited the Commission to consider chapter II of its draft report (A/CN.4/L.942).

Paragraphs 1 to 3

Paragraphs 1 to 3 were adopted.

Paragraph 4

Paragraph 4 was adopted with minor drafting changes.

Paragraph 5

Ms. Escobar Hernández said that, in the first sentence, the words "the issue of" should be inserted before the words "good practices", for consistency with the language of chapter VI of the draft report, as adopted by the Commission.

Sir Michael Wood said that the last sentence of the paragraph was unclear; perhaps the secretariat could adjust the language in line with similar summaries of the work of the Commission on a given topic.

Paragraph 5, as amended, was adopted, subject to the requisite editorial adjustments.

Paragraph 6

Paragraph 6 was adopted.

Paragraph 7

Mr. Murphy said that it would be necessary to decide whether the last two sentences should be deleted or the square brackets around them should be removed.

The Chair said that the square brackets would be removed.

Paragraph 7, as amended, was adopted, subject to a minor editorial adjustment.

Paragraph 8

Mr. Jalloh, supported by **Mr. Grossman Guiloff**, said that it should perhaps be mentioned that the Study Group on sea-level rise in relation to international law had delivered a report.

Mr. Murphy said that a new sentence should be added, to read: “The Co-Chairs of the Study Group reported to the plenary.” It was important to avoid the implication that there was a stand-alone report that was available for consultation.

Ms. Oral (Co-Chair of the Study Group) said she wished to propose that the final sentence should be amended to read: “The Study Group subsequently undertook an interactive discussion, over three further meetings held during the second part of the session, which was reflected in a draft interim report that served as the basis for chapter IX of the annual report.” The word “several” could perhaps be deleted before “informal contribution papers and comments” in the second sentence.

Sir Michael Wood said that, as chapter II was intended only to be a summary of the Commission’s work, he was not convinced that it was appropriate to go into detail with regard to a draft interim report that was in any case not available to States, especially as its content was already reflected in chapter IX of the report. He would prefer a simple reference to the fact that the Co-Chairs of the Study Group had made an oral report to the plenary.

Ms. Oral (Co-Chair of the Study Group) said that she would not object to a simple reference to an oral report.

Mr. Rajput said that the end of the last sentence should be deleted and a full stop should be inserted after “the second part of the session”. A sentence could then be added that read: “The Co-Chairs made an oral report to the plenary of the plenary-like debate and the interactive session, a summary of which formed the basis of chapter IX.”

Mr. Murphy said that a simpler solution might be to insert an additional sentence at the end, right before the parenthetical reference to chapter IX, that read: “Thereafter, the Co-Chairs reported to the plenary on the work of the Study Group.”

The Chair said he took it that the Commission wished to adopt the amendments proposed by Mr. Murphy and Ms. Oral.

It was so decided.

Paragraph 8, as amended, was adopted.

Paragraph 9

Paragraph 9 was adopted, subject to a minor editorial amendment.

Paragraph 10

Sir Michael Wood said that the wording “However, it managed to have” in the last sentence had connotations of struggle. Perhaps a better formulation would be “However, it was able to have”.

Mr. Rajput said that, in order to emphasize how highly the Commission valued its interaction with the regional organizations concerned, perhaps the word “regrettably” could be inserted before “unable to have its traditional exchanges of information” in the second sentence.

Paragraph 10, as amended, was adopted.

Paragraph 11

Paragraph 11 was adopted.

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

Chapter X. Other decisions and conclusions of the Commission (A/CN.4/L.950)

The Chair invited the Commission to consider chapter X of its draft report (A/CN.4/L.950).

Chapter X of the draft report as a whole was adopted, subject to minor drafting changes in paragraph 35.

Chapter III. Specific issues on which comments would be of particular interest to the Commission (A/CN.4/L.943)

The Chair invited the Commission to consider chapter III of its draft report (A/CN.4/L.943).

Paragraph 1

Paragraph 1 was adopted.

A. *Succession of States in respect of State responsibility*

Paragraph 2

Mr. Park asked whether it was not standard practice to establish a deadline for the receipt of information from States.

Mr. Šturma (Special Rapporteur) said that, in his experience, the Commission did not usually receive many responses to its requests for information from States, and he would therefore be happy to receive information at any stage. However, it would be appropriate to follow standard practice and indicate a reasonable deadline.

The Chair said that a deadline of 31 December 2021 could be added, as was customary.

Mr. Rajput said that, given the paucity of comments usually received, the Commission should not deter States by specifying a deadline.

Mr. Tladi said that he supported the idea of establishing a deadline. In any case, given that States sometimes submitted information after the deadline, it was not necessarily a deterrent.

Mr. Murphy said he agreed that establishing a deadline was a good idea. The Commission should be guided by the Special Rapporteur on the topic in terms of what would be most helpful for him in preparing his next report.

He wished to propose some changes aimed at streamlining paragraph 2. In the chapeau, the words “relevant to this topic” should be added after “receiving examples”. The words “relevant to the topic” could then be deleted from subparagraph (b). In subparagraph (c), the second half of the sentence – “addressing issues involving the succession of States in respect of State responsibility” – could also be deleted.

The Chair said he took it that the Commission wished to adopt the amendments proposed by Mr. Murphy and indicate a deadline of 31 December 2021.

It was so decided.

Paragraph 2, as amended, was adopted.

B. *Sea-level rise in relation to international law*

Paragraph 3

Mr. Murphy said that it would be helpful to streamline the requests for information in paragraph 3 in order to avoid any overlap or repetition. In the second sentence of the chapeau, the formulation “on their practice and other relevant information” should be amended to read “on their practice, including national laws, policies and other relevant information”. In the individual subparagraphs, the word “practice” could then be used alone to avoid repetition.

In subparagraph (a), it should be made clear that the “loss of territory” being referred to was intended solely in the context of sea-level rise, given that issues of legal personality could be triggered in other contexts such as loss of territory to another State. In subparagraph (b), the phrase “territories conquered from the sea” had connotations relating to the use of force and should be reformulated. The information being requested in that subparagraph could perhaps be said to be covered by subparagraph (c).

Mr. Rajput said that it was important for the Commission's requests to remain open-ended, rather than hinting at a certain type of outcome. For example, subparagraph (a) should be redrafted to read "treatment of international legal personality after a loss of territory" in order to elicit a broader range of practice.

Ms. Galvão Teles (Co-Chair of the Study Group) asked Mr. Murphy, Mr. Rajput and any other interested members to submit their proposals for paragraph 3 in writing to the Co-Chairs of the Study Group.

The Chair said he took it that the Commission wished to postpone its consideration of paragraph 3.

It was so decided.

Paragraph 4

Sir Michael Wood said that he would be interested to learn why the Co-Chairs had decided to ask States to submit information by 30 June 2022.

Ms. Oral (Co-Chair of the Study Group) said that, in paragraph 3, the earlier date of 31 December 2021 had been chosen in order to give priority to the work of the Co-Chairs dealing with issues related to statehood and to the protection of persons, who would report to the plenary at the Commission's next session. However, the work on issues related to the law of the sea would continue, which was why the longer deadline of 30 June 2022 had been set for information on that subtopic.

Paragraph 4 (a)

Mr. Murphy said that paragraph 4 (a) should be reformulated to read: "examples of practice relating to the frequency of reviewing or updating national laws regarding baselines used for measuring the breadth of maritime zones; practice relating to the frequency of updating national maritime zone notifications deposited with the Secretary-General of the United Nations".

Mr. Rajput said that, in his view, asking States about frequency might lead to confusion. The main thrust of the request was to elicit information on whether States updated their baselines after they had deposited their notifications. In addition, the reference to "national maritime zone notifications" was somewhat misleading; under article 16 of the United Nations Convention on the Law of the Sea, States parties were required to deposit information relating to baselines rather than maritime zones.

Mr. Aurescu (Co-Chair of the Study Group) said that Mr. Murphy's proposals were acceptable. With regard to Mr. Rajput's comment, it seemed to him that asking about updating and frequency amounted to the same thing.

Ms. Oral (Co-Chair of the Study Group) said that a reference to frequency was important, since it would elicit information on whether States had an established time frame for updating their baselines.

Mr. Rajput said that the Commission needed to find a way to elicit information on, firstly, whether States updated their baselines at all, and secondly, how frequently they did so. Some States might prefer not to update their baselines at all once they had deposited their notifications.

Sir Michael Wood said that he agreed with Mr. Rajput. He proposed that the words "including the frequency thereof" should be inserted after the words "breadth of maritime zones".

Mr. Murphy said that the thrust of his proposals had been to elicit information on the periodicity of any updates. If a State responded that it had last updated its baselines two years previously, that would not give any indication of how often it made such updates. Asking for information on frequency would elicit more specific responses on time frames.

Mr. Jalloh said that there were undoubtedly some States, including several African States, that had not deposited any notifications and would not therefore be able to provide any information on whether or how often they updated their baselines. The formulation

“relating to the review of” could perhaps be amended to read “relating to the updating and frequency of reviewing”.

Mr. Rajput said that some Asian and African States would have trouble providing any of the information the Commission was seeking in paragraph 4 (a). Furthermore, without a direct reference to article 16 of the United Nations Convention on the Law of the Sea, States were likely to be confused about what was meant by “national maritime zone notifications deposited with the Secretary-General of the United Nations”.

The Chair said he took it that the Commission supported the amendments proposed by Mr. Murphy. There did not appear to be any support for the inclusion of a reference to article 16 of the United Nations Convention on the Law of the Sea.

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

Paragraph 4 (b)

Mr. Rajput said that he would be interested to learn which provision of the United Nations Convention on the Law of the Sea the Co-Chairs had had in mind when referring to “registration of maritime zones and navigational charts”.

Mr. Aureescu (Co-Chair of the Study Group) said that the wording mirrored the language adopted by the Commission in paragraph 37 of chapter IX of its draft report, namely “charts that are deposited with the Secretary-General of the United Nations for purposes of registration of maritime zones”.

Mr. Rajput, supported by **Sir Michael Wood**, said that, in order to avoid creating confusion for States, which did not register maritime zones with the Secretary-General, it would be helpful to use the language of, or include a reference to, article 16 of the United Nations Convention on the Law of the Sea.

Mr. Murphy said that, as in the case of paragraph 4 (a), it would be helpful to ask States to provide information on the frequency with which they made updates.

Mr. Forteau said that the formulation “charts that are deposited with the United Nations Secretary-General for purposes of registration of maritime zones and navigational charts” should be rephrased to read “charts or lists of geographical coordinates that are deposited with the Secretary-General of the United Nations” in order to reflect the language used in article 16 of the United Nations Convention on the Law of the Sea.

Mr. Aureescu (Co-Chair of the Study Group) said that the aim was to elicit information on whether and how often States updated their navigational charts. Lists of geographical coordinates were another matter entirely and fell within the scope of paragraph 4 (a).

Mr. Murphy said that a fair amount of information on such matters was already available in the annual *Law of the Sea Bulletin*, which captured, *inter alia*, national laws adopted by States. It might be helpful to indicate that the Commission was seeking information that was not already reflected in documents issued by the United Nations or the International Maritime Organization.

Ms. Oral (Co-Chair of the Study Group) said that the Co-Chairs were looking at a range of other sources, rather than just the United Nations Convention on the Law of the Sea. Since navigational safety had been raised as an issue, they were seeking information on all kinds of navigational charts, whether or not they had been deposited with the Secretary-General under article 16 of the Convention.

The meeting rose at 6.05 p.m.