



International Covenant on Civil and Political Rights

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Summary record of the 2742nd meeting

Held at the Palais Wilson, Geneva, on Friday, 30 July 2010, at 10 a.m.

Chairperson: Mr. Iwasawa

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Closure of the session

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The meeting was called to order at 10.20 a.m.

Organizational and other matters (*continued*)

1. **The Chairperson**, reviewing the status of the communications considered under the Optional Protocol as at the end of the current session, said the Committee had dealt with a total of 26 communications and had taken decisions on admissibility in 8 cases, declaring 2 communications admissible and 6 inadmissible. It had adopted Views on the merits of 14 cases and had found violations in 14 cases. It had decided to discontinue consideration of four communications.
2. As part of its work under article 40 of the Covenant, the Committee had considered the reports of Estonia, Israel, Colombia and Cameroon, and had adopted concluding observations on each.
3. At its next session, to be held in October 2010, the Committee would consider the sixth periodic report of El Salvador, the sixth periodic report of Poland, the fifth periodic report of Belgium, the third periodic report of Jordan, and the fifth periodic report of Hungary. It would also adopt lists of issues in respect of the third periodic report of Jamaica, the third periodic report of Bulgaria, the second periodic report of Kuwait and the third periodic report of Guatemala, as well as a list of issues in respect of one country whose report was long overdue.
4. At its previous session, the Committee had decided to adopt the new optional reporting procedure under which a list of issues would first be sent to a State party, and the State party's written responses would be treated as its periodic report. That procedure would not apply to a State party's initial report but to subsequent reports. At its current session, the Committee had considered a paper on the new procedure by the Rapporteur Ms. Keller (CCPR/C/99/4/CRP.1) and had adopted it with amendments. The Committee had also adopted new revised guidelines for initial reports of States parties, which he believed would be helpful in assisting States engaged in preparing their initial reports.
5. The Committee had made progress on its draft general comment No. 34, dealing with article 19 of the Covenant, and would continue work on it during its next session. Of the 54 paragraphs constituting the draft text, the Committee had so far dealt with paragraphs 1–36.
6. As the Committee's next session would be its 100th, a meeting commemorating the occasion would be held on 29 October 2010, in room XIX of the Palais des Nations.
7. **Mr. Rivas Posada** and **Mr. O'Flaherty** said that the dissenting or separate opinions on one of the communications had not been recorded in the report on the Committee's decision. Only three individual opinions had been listed.
8. **Mr. Amor** said the same problem had occurred with another communication. He hoped the final text would soon become available. In the agenda for the Committee's next session, it was important to make room for a discussion of the time frame for communications.
9. **The Chairperson** said that the voting record on communications was not yet complete, and any omissions would be corrected. As for the time frame for communications, he took it that Mr. Amor was referring to the delay in dealing with communications, a matter that would be taken up at the Committee's next session.
10. Referring to the draft guidelines on reservations to treaties, recently provisionally adopted by the Drafting Committee of the International Law Commission (A/CN.4/L.760/Add.3), he said he had sent a letter to the Commission on behalf of the Committee, expressing its concerns in relation to draft guideline 4.5.2 (Status of the author

of an invalid reservation in relation to the treaty). In that letter he had mentioned similar concerns expressed by the Working Group on reservations of the Meeting of Chairpersons of the human rights treaty bodies. The Commission's Special Rapporteur on reservations to treaties, Mr. Pellet, had proposed a text similar to that provisionally adopted for guideline 4.5.2, based on the positive presumption that, in the event of an invalid reservation to a treaty, the reserving State did become a party to the treaty unless it had a contrary intention. The Working Group on reservations shared that view, and had conveyed it to the Commission. The negative presumption was that a contracting State would not become a party if the reservation was invalid. He could himself accept the positive position, although the phrase "as the case may be" was far from clear.

11. **Ms. Chanet** said draft guideline 3.3.4 (Effect of collective acceptance of an impermissible reservation) muddled the waters still further. What did it mean to say that "A reservation that is prohibited by the treaty or which is incompatible with its object and purpose shall be deemed permissible if no contracting State or contracting organization objects to it"? She would have serious difficulty with the idea that a reservation incompatible with the treaty could somehow become "permissible".

12. **Mr. O'Flaherty** agreed. Draft guideline 3.3.4 sought to make legitimate what was illegitimate, and was moreover in outright contradiction to draft guideline 3.3.3.

13. **Mr. Salvioli** said the draft guidelines could seriously undermine the competence of any treaty body to determine whether a reservation to its founding treaty was valid. He was in favour of conveying the Committee's concerns on that score to the Inter-Committee Meeting.

14. **The Chairperson** pointed out that the International Law Commission had not yet formally adopted either draft guideline in plenary. The second reading should take place during its next session in 2011. Moreover, the Commission's report would become available in September and would contain its commentaries on the draft guidelines, which should help to clarify their meaning. The Committee could then take the matter up again at its next session in October, and its concerns could be expressed at the Inter-Committee Meeting in December.

15. **Mr. Thelin** referred to the Committee's draft general comment No. 34. It was still the position that the draft should not be officially released before the first reading, but it would be useful to inform the general public of it at an earlier stage by placing it on the Internet.

16. **Mr. O'Flaherty** requested the secretariat to make available a hard copy of the Committee's report on its session as soon as possible. He drew attention to the recent very useful information meeting with non-governmental organizations, to which members of the Committee had been invited. The present timing of such meetings, on the first day of the Committee's session, was far from ideal, and he hoped the question of a more suitable timing could be raised at the Committee's next session.

17. **The Chairperson** undertook to bring those organizational matters before the Committee at its next session.

18. After an exchange of courtesies, he declared the ninety-ninth session of the Committee closed.

The meeting rose at 10.50 a.m.