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**International Law Commission****Sixty-fifth session**

Geneva, 6 May–7 June and 8 July–9 August 2013

**Draft report of the International Law Commission on the work of its sixty-fifth session***Rapporteur:* Mr. Mathias Forteau**Chapter XI  
The Most-Favoured-Nation clause****A. Introduction**

1. The Commission, at its sixtieth session (2008), decided to include the topic “The Most-Favoured-Nation clause” in its programme of work and to establish, at its sixty-first session, a Study Group on the topic.<sup>1</sup>
2. The Study Group, co-chaired by Mr. Donald M. McRae and Mr. A. Rohan Perera, was established at the sixty-first session (2009),<sup>2</sup> and reconstituted at the sixty-second (2010) and sixty-third (2011) sessions, under the same co-chairmanship.<sup>3</sup> At the sixty-

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<sup>1</sup> At its 2997th meeting, on 8 August 2008 (*Official Records of the General Assembly, Sixty-third Session, Supplement No. 10 (A/63/10)*, para. 354). For the syllabus of the topic, see *ibid.*, annex B. The General Assembly, in paragraph 6 of its resolution 63/123 of 11 December 2008, took note of the decision.

<sup>2</sup> At its 3029th meeting, on 31 July 2009, the Commission took note of the oral report of the Co-Chairmen of the Study Group on The Most-Favoured-Nation clause (*ibid.*, *Sixty-fourth Session, Supplement No. 10 (A/64/10)*, paras. 211–216). The Study Group considered, *inter alia*, a framework that would serve as a road map for future work and agreed on a work schedule involving the preparation of papers intended to shed additional light on questions concerning, in particular, the scope of MFN clauses and their interpretation and application.

<sup>3</sup> At its 3071st meeting, on 30 July 2010, the Commission took note of the oral report of the Co-Chairmen of the Study Group (*ibid.*, *Sixty-fifth Session, Supplement No. 10 (A/65/10)*, paras. 359–373). The Study Group considered and reviewed the various papers prepared on the basis of the 2009 framework to serve as a road map of future work, and agreed upon a programme of work for 2010. At its 3119th meeting, on 8 August 2011, the Commission took note of the oral report of the Co-Chairmen of the Study Group (*ibid.*, *Sixty-sixth Session, Supplement No. 10 (A/66/10)*, paras. 349–363). The Study Group considered and reviewed additional papers prepared on the basis of the 2009 framework.

fourth session, the Commission reconstituted the Study Group on The Most-Favoured-Nation clause, under the chairmanship of Mr. Donald M. McRae.<sup>4</sup>

**B. Consideration of the topic at the present session**

3. At the present session, the Commission reconstituted the Study Group on The Most-Favoured-Nation clause, under the chairmanship of Mr. Donald M. McRae. In his absence, Mr. Mathias Forteau served as Chairman. The Study Group held three meetings on 23 May, and on 10 and 15 July 2013.
4. At its ... meeting, on ... July 2013, the Commission took note of the oral report of the Chairman of the Study Group.
5. [Report of the Study Group A/CN.4/L.828 to be inserted.]

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<sup>4</sup> At its 3151st meeting, on 27 July 2012, the Commission took note of the oral report of the Chairman of the Study Group (*ibid.*, *Sixty-seventh Session, Supplement No. 10 (A/67/10)*, paras. 245–265). The Study Group considered and reviewed additional papers prepared on the basis of the 2009 framework.