

(Check against delivery)

STATEMENT OF THE CHAIR OF THE INTERNATIONAL LAW COMMISSION,

MR. EDUARDO VALENCIA-OSPINA

Cluster One

Chapters I-III, XII, XIII, IV and V: Introductory chapters; Commemoration of the seventieth anniversary of the Commission; Other decisions and conclusions of the Commission; Subsequent agreements and subsequent practice in relation to the interpretation of treaties; and Identification of customary international law

Mr. Chair,

I wish to begin my statement by thanking you most sincerely for your kind remarks about the

International Law Commission. Allow me to convey to you, on behalf of the Commission, its best wishes to you all for a successful seventy-third session of the Sixth Committee. The tradition of interaction and collaboration between the Committee and the Commission in the progressive development of international law and its codification is one that the Commission cherishes and desires to be fostered. For that reason, I

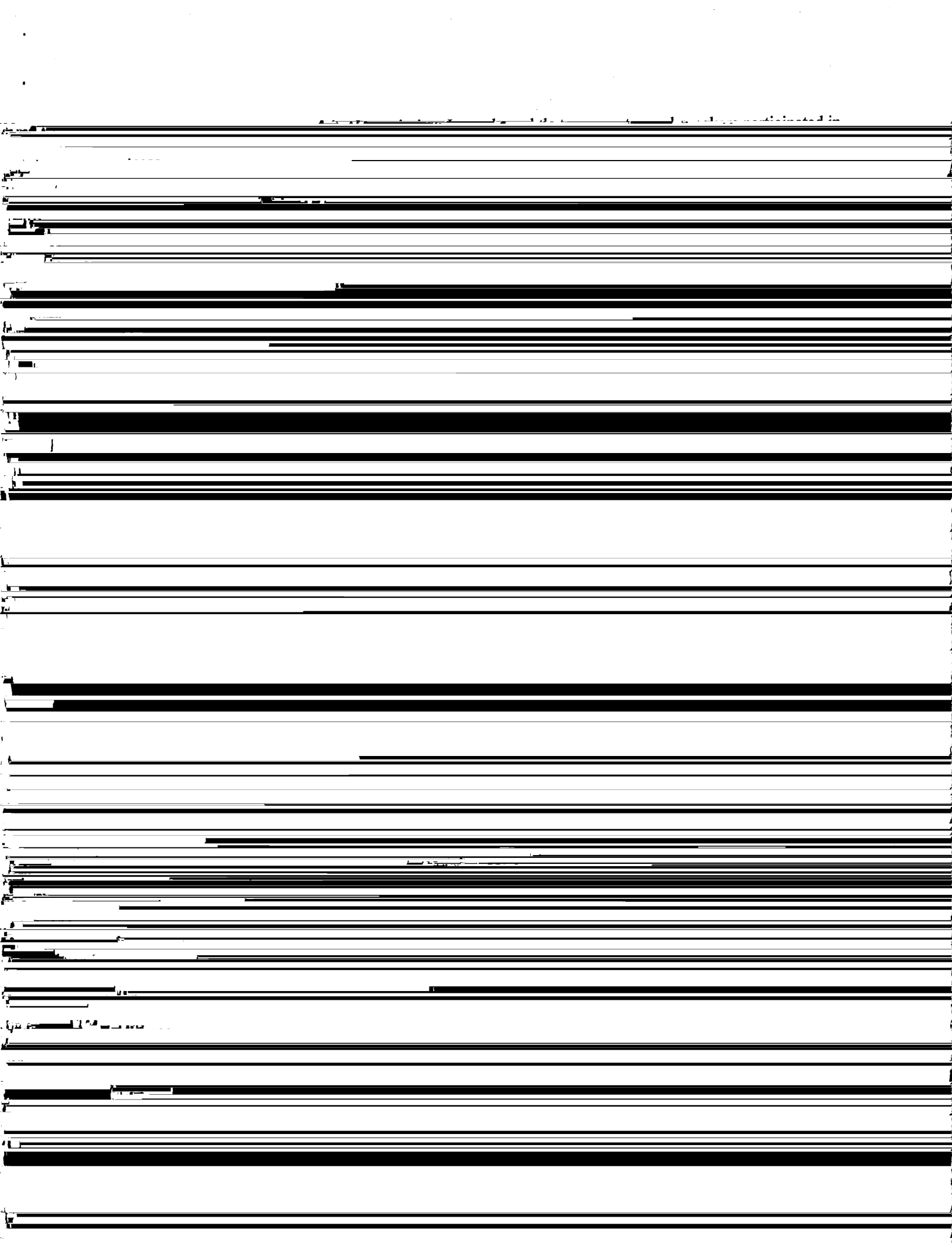
the Commission and Other decisions and conclusions of the Commission

Mr. Chair,

First, let me note the change in the membership of the Commission that occurred further to the resignation of our esteemed colleague, Mr. Roman A. Kolodkin. Pursuant to its statute, it fell on the Commission to fill the casual vacancy occasioned by this resignation. Mr. Evgeny Zagaynov was elected

by the Commission at the very beginning of the session.

As summarised in Chapter II, the Commission made significant progress during this session. First, the Commission concluded the second reading of the topics “**Subsequent agreements and subsequent practice in relation to the interpretation of treaties**” and “**Identification of customary international law**” by adopting two full sets of draft conclusions and commentaries thereto. Second, the Commission



the Office of Legal Affairs for the substantive servicing of the Commission. In particular, at this session, the Commission expressed its appreciation to the Secretariat for its preparation of a memorandum on ways and means for making the evidence of customary international law more readily available, and requested that this memorandum be reissued to reflect the text of the draft conclusions and commentaries on

purpose is to facilitate the work of those who are called on to interpret treaties, in particular States, international organizations, and courts and tribunals at the international and national levels.

Mr. Chair,

The draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties are organized under four parts. **Part One**, entitled “Introduction”, comprises draft conclusion 1 on the scope of the draft conclusions.

Part Two, which comprises four draft conclusions, addresses the basic rules and definitions. The purpose of draft conclusion 2 “General rule and means of treaty interpretation”, is to situate subsequent

on the interpretation of treaties set forth in articles 31 and 32 of the 1969 Vienna Convention. Draft

conclusion 2 is titled “Subsequent agreements and subsequent practice as authentic means of

means of interpretation under article 31, paragraph 3 (a) and (b), of the 1969 Vienna Convention from subsequent practice as a supplementary means of interpretation under article 32.

Let me now turn to **Part Four**, which addresses specific aspects. It comprises three draft conclusions.

Draft conclusion 11 deals with “Decisions adopted within the framework of a Conference of States

agreement or subsequent practice under article 31, paragraph 3, or subsequent practice under article 32.

Allow me to reiterate the deep appreciation and warm congratulations expressed by the Commission to the Special Rapporteur, Sir Michael Wood, for the outstanding contribution he has made to the preparation of the draft conclusions through his tireless efforts and devoted work, and for the results achieved in the elaboration of the draft conclusions on identification of customary international law. Sir Michael submitted five reports on the topic from 2013 to 2018 on the basis of which the Commission the topic was considered. I shall also thank the Special Rapporteur for preparing an updated bibliography on the topic, which is comprised in an annex to his fifth report.

In addition to the comments and observations received from Governments and the fifth report of the
Special Rapporteur, Sir Michael Wood, and made suggestions on their basis, the Commission

also had before it a memorandum by the Secretariat on ways and means for making the evidence of customary international law more readily available. That memorandum, which surveyed the present state

of the Commission's work, and made suggestions for its improvement, was also discussed

evidence for the two constituent elements of customary international law. As indicated in the commentary,

international law from the various pieces of evidence available at the time of the assessment, which reflects

Draft conclusion 11 concerns the significance of treaties for the identification of customary international law. This draft conclusion clarifies the way in which their provisions (and the processes of

their adoption and application) may shed light on the content of customary international law. Draft conclusion 12 addresses the role that resolutions adopted by international organizations or at intergovernmental conferences may play in the determination of rules of customary international law. Draft conclusion 13 concerns the role of decisions of courts and tribunals, both international and national, as an aid in the identification of rules of customary international law. Indeed, such decisions may offer valuable guidance for determining the existence or otherwise of rules of customary international law. Draft conclusion 14 concerns the role of teachings in the identification of rules of customary international law. It

...and the processes of their adoption and application) may shed light on the content of customary international law.

(d) note the Secretariat memorandum on ways and means for making the evidence of customary international law more readily available (A/CN.4/710), which surveys the present state of evidence of ~~customary~~ international law and makes suggestions for its improvement

(i) calling to the attention of States and international organizations the desirability of publishing