

## Chapter II

### SUMMARY OF THE WORK OF THE COMMISSION AT ITS FIFTY-SECOND SESSION

13. Concerning the topic “State responsibility”, the Commission considered the third report of the Special Rapporteur (A/CN.4/507 and Add.1–4) containing his proposals for Part Two (Legal consequences of an internationally wrongful act of a State), as well as for a new Part Two bis (The implementation of State responsibility) and Part Four (General provisions), of the draft articles. The Commission decided to refer the draft articles in chapters I (General principles), II (The forms of reparation) and III (Serious breaches of obligations to the international community as a whole) of Part Two, chapters I (Invocation of the responsibility of a State) and II (Countermeasures) of Part Two bis, and Part Four to the Drafting Committee. The Commission took note of the report of the Drafting Committee (see chapter IV).

14. With regard to the topic “Diplomatic protection”, the Commission considered the first report of the Special Rapporteur (A/CN.4/506 and Add.1) dealing with issues of definition and scope of the topic and the nature and conditions under which diplomatic protection may be exercised, in particular the requirement of nationality and the modalities for diplomatic protection, addressed in articles 1 to 8. To follow up on the discussions and the suggestions made in the plenary meetings, the Commission referred articles 1, 3 and 6 to informal consultations chaired by the Special Rapporteur. Taking into account the report of the informal consultations, the Commission referred draft articles 1, 3, 5, 6, 7 and 8 to the Drafting Committee (see chapter V).

15. As regards the topic “Unilateral acts of States”, the Commission examined the third report of the Special Rapporteur (A/CN.4/505). The Special Rapporteur proposed a new draft article 1 on definition of unilateral acts, the deletion of the previous draft article 1 on the scope of the draft articles, a new draft article 2 on the capacity of States to formulate unilateral acts, a new draft article 3 on persons authorized to formulate unilateral acts on behalf of the State and a new draft article 4 on subsequent confirmation of an act formulated by a person not authorized for that purpose. He also proposed the deletion of previous draft article 6 on expression of consent and a new draft article 5 on the invalidity of unilateral acts. The Commission decided to refer new draft articles 1 to 4 to the Drafting Committee and new draft article 5 to the Working Group on unilateral acts of States (see chapter VI).

16. With respect to the topic “Reservations to treaties”, the Commission considered the fifth report of the Special Rapporteur (A/CN.4/508 and Add.1–4) concerning the alternatives to reservations and interpretative declarations and the formulation, modification and withdrawal of reservations and interpretative declarations. The Commission adopted five draft guidelines pertaining to reservations made under exclusionary clauses; unilateral statements made under an optional clause; unilateral statements providing for a choice between the provisions of a treaty; alternatives to reservations; and alternatives to interpretative declarations (see chapter VII).

17. With regard to the topic of “International liability for injurious consequences arising out of acts not prohibited by international law (prevention of transboundary damage from hazardous activities)”, the Commission established a Working Group to examine the comments and observations received from Governments (A/CN.4/509) on the draft articles on the sub-topic of prevention which had been provisionally adopted on first reading by the Commission at its fiftieth session.<sup>3</sup> On the basis of the discussion in the Working Group, the Special Rapporteur presented his third report (A/CN.4/510) containing a draft preamble and a revised set of draft articles on prevention, along with the recommendation that they be adopted as a framework convention. Furthermore, the third report addressed questions such as the scope of the topic, its relationship with liability, the relationship between an equitable balance of interests among States concerned and the duty of prevention, as well as the duality of the regimes of liability and State responsibility. The Commission considered the report and decided to refer the draft preamble and draft articles contained therein to the Drafting Committee (see chapter VIII).

18. The Commission adopted the report of the Planning Group dealing with the long-term programme of work which listed the following topics for inclusion in the programme together with syllabuses describing their possible contents: (a) responsibility of international organizations; (b) effects of armed conflict on treaties; (c) shared natural resources of States; (d) expulsion of aliens; and (e) risks ensuing from fragmentation of international law (see chapter IX, section A.1).

<sup>3</sup> *Yearbook . . . 1998*, vol. II (Part Two), p. 21, para. 55.

19. The Commission continued traditional exchanges of information with ICJ, the Asian-African Legal Consultative Committee, the Inter-American Juridical Committee and the Ad Hoc Committee of Legal Advisers on Public International Law of the Council of Europe (ibid., section C).

20. The International Law Seminar was held with 24 participants of different nationalities (ibid., section E).

21. The Commission decided that its next session should be held at the United Nations Office at Geneva in two parts, from 23 April to 1 June and from 2 July to 10 August 2001.