

Chapter II

SUMMARY OF THE WORK OF THE COMMISSION AT ITS FIFTY-FOURTH SESSION

14. With regard to the topic “Reservations to treaties”, the Commission adopted 11 draft guidelines dealing with formulation and communication of reservations and interpretative declarations. The Commission also considered the Special Rapporteur’s seventh report (A/CN.4/526 and Add.1–3) and referred 15 draft guidelines dealing with withdrawal and modification of reservations to the Drafting Committee (see chap. IV).

15. Regarding the topic “Diplomatic protection”, the Commission considered the remaining portions of the Special Rapporteur’s second report³ relating to the rule on the exhaustion of local remedies, namely articles 12 and 13, as well as the third report (A/CN.4/523 and Add.1), covering draft articles 14 to 16 and dealing with the exceptions to that rule, the question of the burden of proof and the so-called Calvo clause, respectively. The Commission also undertook a general discussion, *inter alia*, on the scope of the study and held several open-ended informal consultations on the issue of the diplomatic protection of crews and that of corporations and shareholders. The Commission further adopted articles 1 to 7 [8] on the recommendation of the Drafting Committee. It also referred to the Drafting Committee draft article 14, subparagraphs (a), (b), (c) and (d) (the latter two to be considered in connection with subparagraphs (a)) and (e). These subparagraphs concerned, respectively, futility, waiver and estoppel, voluntary link, territorial connection and undue delay (see chap. V).

16. Concerning the topic “Unilateral acts of States”, the Commission considered part of the fifth report of the Special Rapporteur (A/CN.4/525 and Add.1 and 2). In his report, the Special Rapporteur reviewed the progress made thus far on the topic and presented a revised version of articles 5 (a) to 5 (h) on the invalidity of a unilateral act, as well as articles (a) and (b) on interpretation. In chapter III of his report, which the Commission did not consider, he proposed draft article 7 on *acta sunt servanda*, draft article 8 on non-retroactivity, draft article 9 on territorial application, and a structure for the draft articles (see chap. VI).

17. With regard to the topic “International liability for injurious consequences arising out of acts not prohibited by international law (international liability in case of loss from transboundary harm arising out of hazardous activities)”, the Commission decided to resume the study of the second part of the topic and to establish a working group

to consider the conceptual outline of the topic. The report of the Working Group, which was adopted by the Commission, set out some initial understandings and presented views on the scope of the endeavour, as well as on the approaches which could be pursued. The Commission also appointed Mr. Pemmaraju Sreenivasa Rao Special Rapporteur for the topic (see chap. VII).

18. Concerning the topic “The responsibility of international organizations”, the Commission decided to include the topic in its programme of work and established a working group to consider, *inter alia*, the scope of the topic. It appointed Mr. Giorgio Gaja Special Rapporteur for the topic. The Commission subsequently adopted the report of the Working Group and approved its recommendation that the Secretariat approach international organizations with a view to collecting relevant materials on the topic (see chap. VIII).

19. With regard to the topic “The fragmentation of international law: difficulties arising from the diversification and expansion of international law”, the Commission decided to include the topic in its programme of work and established a study group. It subsequently adopted the report of the Study Group, thus, *inter alia*, approving the proposed change of the title of the topic from “Risks ensuing from fragmentation of international law” to the current title, as well as the recommendation that the first study to be undertaken be on the issue entitled “The function and scope of the *lex specialis* rule and the question of ‘self-contained regimes’” (see chap. IX).

20. The Commission also decided to include in its programme of work the topic “Shared natural resources” and appointed Mr. Chusei Yamada Special Rapporteur. The Commission further recommended the establishment of a working group on the topic.

21. The Commission set up a Planning Group to consider its programme, procedures and working methods. The Commission adopted a work programme for the current quinquennium to guide its consideration of topics on its agenda (see chap. X, sect. A).

22. The Commission continued traditional exchanges of information with the Inter-American Juridical Committee, the Asian-African Legal Consultative Organization, the International Court of Justice, the European Committee on Legal Cooperation and the Ad Hoc Committee of

³ *Yearbook ... 2001*, vol. II (Part One), document A/CN.4/514.

Legal Advisers on Public International Law of the Council of Europe (see chap. X, sect. C).

23. A training seminar was held with 24 participants of different nationalities (see chap. X, sect. E).

24. The Commission decided that its next session would be held at the United Nations Office in Geneva in two parts, from 5 May to 6 June and from 7 July to 8 August 2003 (see chap. X, sect. B).