

## Chapter X

### PROTECTION OF THE ENVIRONMENT IN RELATION TO ARMED CONFLICTS

#### A. Introduction

253. At its sixty-fifth session (2013), the Commission decided to include the topic “Protection of the environment in relation to armed conflicts” in its programme of work, and appointed Ms. Marie G. Jacobsson as Special Rapporteur for the topic.<sup>804</sup>

254. The Commission received and considered three reports from the sixty-sixth session (2014) to the sixty-eighth session (2016).<sup>805</sup> At its sixty-sixth session (2014), the Commission considered the preliminary report of the Special Rapporteur.<sup>806</sup> At its sixty-seventh session (2015), the Commission considered the second report of the Special Rapporteur<sup>807</sup> and took note of the draft introductory provisions and draft principles, provisionally adopted by the Drafting Committee, which were subsequently renumbered and revised for technical reasons by the Drafting Committee at the sixty-eighth session.<sup>808</sup> Accordingly, the Commission provisionally adopted draft principles 1, 2, 5, 9, 10, 11, 12 and 13, and commentaries thereto, at that session.<sup>809</sup> At the sixty-eighth session, the Commission also considered the third report of the Special Rapporteur,<sup>810</sup> and took note of draft principles 4, 6 to 8, and 14 to 18 provisionally adopted by the Drafting Committee,<sup>811</sup> without provisionally adopting any commentaries.

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

255. At the present session, the Commission had no report on the topic, as the Special Rapporteur was no longer with the Commission. At its 3375th meeting, on 14 July 2017, the Commission decided to establish a Working Group on the topic and appointed Mr. Marcelo Vázquez-Bermúdez as Chairperson of the Working Group.

256. The Working Group held two meetings, on 26 and 27 July 2017. The Working Group had before it the draft commentaries prepared by the Special Rapporteur, even though she was no longer with the Commission, on draft principles 4, 6 to 8, and 14 to 18 provisionally adopted by the Drafting Committee at the sixty-eighth session, and taken note of by the Commission at the same session.

257. The Working Group focused its discussion on the consideration of the way forward in relation to the topic. The Working Group expressed its deep appreciation to the former Special Rapporteur for her outstanding contribution to the topic.

258. The Working Group stressed the importance of the topic, noting in particular the continuing interest of States, as well as other bodies, such as UNEP and ICRC. In that connection, the Working Group noted that substantial work had already been done on the topic and underlined the need for its completion, maintaining and building upon the work achieved so far. The Working Group underscored the need to maintain momentum in the work on the topic.

259. The Working Group noted that, in addition to aspects of the draft principles, such as streamlining, terminology, filling gaps, and overall structuring of the text, as well as completion of the draft commentaries, there were other areas that could be further addressed. In that regard, references were made, *inter alia*, to issues of complementarity with other relevant branches of international law, such as international environmental law, protection of the environment in situations of occupation, issues of responsibility and liability, the responsibility of non-State actors, and overall application of the draft principles to armed conflicts of a non-international character.

260. Accordingly, the Working Group considered it most appropriate to recommend to the Commission the appointment of a new Special Rapporteur for the topic, preferably at the current session, to assist it in the successful completion of its work on the topic.

261. At its 3385th meeting, on 2 August 2017, the Commission received the oral report of the Chairperson of the Working Group.

262. Following consultations within the Bureau and among members, the Commission decided, at its 3389th meeting, on 4 August 2017, to appoint Ms. Marja Lehto as Special Rapporteur.

<sup>804</sup> The decision was made at the 3171st meeting of the Commission, on 28 May 2013 (see *Yearbook ... 2013*, vol. II (Part Two), para. 167). For the syllabus of the topic, see *Yearbook ... 2011*, vol. II (Part Two), annex V.

<sup>805</sup> *Yearbook ... 2014*, vol. II (Part One), document A/CN.4/674 (preliminary report); *Yearbook ... 2015*, vol. II (Part One), document A/CN.4/685 (second report); and *Yearbook ... 2016*, vol. II (Part One), document A/CN.4/700 (third report).

<sup>806</sup> *Yearbook ... 2014*, vol. II (Part Two), paras. 187–222.

<sup>807</sup> *Yearbook ... 2015*, vol. II (Part Two), paras. 132–170.

<sup>808</sup> A/CN.4/L.870 and Rev.1 (available from the Commission’s website, documents of the sixty-seventh and sixty-eighth sessions).

<sup>809</sup> *Yearbook ... 2016*, vol. II (Part Two), para. 189.

<sup>810</sup> *Ibid.*, paras. 141–189.

<sup>811</sup> A/CN.4/L.876 (available from the Commission’s website, documents of the sixty-eighth session).