

Chapter II

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

12. As regards the topic “Shared Natural Resources”, the Commission considered the third report of the Special Rapporteur (A/CN.4/551 and Add.1), which contained a complete set of 25 draft articles on the law of transboundary aquifers. The Commission also established a Working Group on Transboundary Groundwaters chaired by Mr. Enrique Candioti to review the draft articles presented by the Special Rapporteur, taking into account the debate in the Commission on the topic. The Working Group had the benefit of advice and briefings from experts on groundwaters from UNESCO and IAH. It also held an informal briefing by the Franco-Swiss Geneva Aquifer Authority. The Working Group reviewed and revised eight draft articles and recommended that it be reconvened in 2006 to complete its work (see chapter IV).

13. Concerning the topic “Effects of armed conflicts on treaties”, the Commission considered the first report of the Special Rapporteur on the topic (A/CN.4/552), presenting an overview of the issues involved in the topic together with a set of 14 draft articles in order to assist the Commission and Governments with commenting, including providing State practice. The Commission endorsed the Special Rapporteur’s suggestion that a written request for information be circulated to member Governments (see chapter V).

14. As regards the topic “Responsibility of international organizations”, the Commission considered the Special Rapporteur’s third report (A/CN.4/553), proposing nine draft articles dealing with the existence of a breach of an international obligation by an international organization and the responsibility of an international organization in connection with the act of a State or another international organization. The Commission considered the third report and adopted nine draft articles together with commentaries (see chapter VI).

15. As regards the topic “Diplomatic protection”, the Commission considered the Special Rapporteur’s sixth report (A/CN.4/546) dealing with the clean hands doctrine (see chapter VII).

16. As regards the topic “Expulsion of aliens”, the Commission considered the Special Rapporteur’s preliminary report on the topic (A/CN.4/554), presenting an overview of some of the issues involved and a possible outline for further consideration of the topic (see chapter VIII).

17. With regard to the topic “Unilateral acts of States” the Commission considered the eighth report of the Special Rapporteur (A/CN.4/557) which contained an

analysis of 11 cases of State practice and the conclusions thereof. A Working Group on Unilateral Acts was reconstituted, its work focusing on the study of State practice and on the formulation of preliminary conclusions on the topic which the Commission should consider at its next session (see chapter IX).

18. Concerning the topic “Reservations to treaties”, the Commission considered part of the Special Rapporteur’s tenth report (A/CN.4/558 and Add.1–2) and referred to the Drafting Committee seven draft guidelines dealing with validity of reservations and definition of the object and purpose of the treaty. The Commission also adopted two draft guidelines dealing with the definition of objections to reservations and the definition of objection to the late formulation or widening of the scope of a reservation together with commentaries (see chapter X).

19. In relation to the topic “Fragmentation of international law: difficulties arising from the diversification and expansion of international law”, the Commission held an exchange of views on the topic on the basis of a briefing by the Chairperson of the Study Group on the status of work of the Study Group. The Study Group considered the memorandum on regionalism in the context of the study on the “Function and scope of the *lex specialis* rule and the question of ‘self-contained regimes’”, the Study on the interpretation of treaties in the light of “any relevant rules of international law applicable in the relations between the parties” (art. 31, para. 3 (c) of the Vienna Convention on the law of treaties (hereinafter the 1969 Vienna Convention)), and the final report on the Study on hierarchy in international law: *jus cogens*, obligations *erga omnes*, Article 103 of the Charter of the United Nations, as conflict rules. The Study Group also received the final report on the Study concerning the modification of multilateral treaties between certain of the parties only (art. 41 of the 1969 Vienna Convention) (see chapter XI). The Study Group envisaged that it would be in a position to submit a consolidated study, as well as a set of conclusions, guidelines or principles, to the fifty-eighth session of the Commission (2006).

20. The Commission set up a Planning Group to consider its programme, procedures and working methods (see chapter XII, sect. A). The Commission decided to include in its current programme of work one new topic, namely “The obligation to extradite or prosecute (*aut dedere aut judicare*)”. In this regard, the Commission decided to appoint Mr. Zdzislaw Galicki as Special Rapporteur for the topic.

21. The Commission continued traditional exchanges of information with ICJ, the Inter-American Juridical

Committee, the Asian-African Legal Consultative Organization, and the European Committee on Legal Cooperation and the Committee of Legal Advisers on Public International Law of the Council of Europe. Members of the Commission also held informal meetings with other bodies and associations on matters of mutual interest (see chapter XII, sect. C).

22. A training seminar was held with 24 participants of different nationalities (see chapter XII, sect. E).

23. The Commission decided that its next session would be held at the United Nations Office at Geneva in two parts, from 1 May to 9 June and 3 July to 11 August 2006 (see chapter XII, sect. B).