

DOCUMENT A/60/10*

Report of the International Law Commission on the work of its fifty-seventh session
(2 May–3 June and 11 July–5 August 2005)

CONTENTS

		<i>Page</i>
Abbreviations.....		5
Notes concerning quotations.....		5
Multilateral instruments cited in the present volume.....		6
<i>Chapter</i>	<i>Paragraphs</i>	
I. ORGANIZATION OF THE SESSION.....	1–11	9
A. Membership.....	2	9
B. Officers and the Enlarged Bureau.....	3–5	9
C. Drafting Committee.....	6–7	9
D. Working groups.....	8–9	10
E. Secretariat.....	10	10
F. Agenda.....	11	10
II. SUMMARY OF THE WORK OF THE COMMISSION AT ITS FIFTY-SEVENTH SESSION.....	12–23	11
III. SPECIFIC ISSUES ON WHICH COMMENTS WOULD BE OF PARTICULAR INTEREST TO THE COMMISSION.....	24–29	13
A. Shared natural resources.....	24	13
B. Effects of armed conflicts on treaties.....	25	13
C. Responsibility of international organizations.....	26	13
D. Expulsion of aliens.....	27	13
E. Unilateral acts of States.....	28	13
F. Reservations to treaties.....	29	14
IV. SHARED NATURAL RESOURCES.....	30–107	15
A. Introduction.....	30–31	15
B. Consideration of the topic at the present session.....	32–107	15
1. Introduction by the Special Rapporteur of his third report.....	34–47	15
2. Summary of the debate.....	48–98	19
(a) General comments.....	48–60	19
(b) Comments on specific draft articles.....	61–95	20
(c) Comments on form of instrument.....	96–98	25
3. Special Rapporteur's concluding remarks.....	99–107	25
V. EFFECTS OF ARMED CONFLICTS ON TREATIES.....	108–191	27
A. Introduction.....	108–109	27
B. Consideration of the topic at the present session.....	110–191	27
1. General remarks on the topic.....	113–127	27
(a) Introduction by the Special Rapporteur of his first report.....	113–116	27
(b) Summary of the debate.....	117–123	27
(c) Special Rapporteur's concluding remarks.....	124–127	28
2. Article 1. Scope.....	128–133	28
(a) Introduction by the Special Rapporteur.....	128	28
(b) Summary of the debate.....	129–131	29
(c) Special Rapporteur's concluding remarks.....	132–133	29
3. Article 2. Use of terms.....	134–141	29
(a) Introduction by the Special Rapporteur.....	134–135	29
(b) Summary of the debate.....	136–140	30
(c) Special Rapporteur's concluding remarks.....	141	30

* Initially distributed as *Official Records of the General Assembly, Sixtieth Session, Supplement No. 10*.

Chapter	Paragraphs	Page
4. Article 3. <i>Ipso facto</i> termination or suspension	142–148	30
(a) Introduction by the Special Rapporteur	142	30
(b) Summary of the debate	143–146	30
(c) Special Rapporteur's concluding remarks.....	147–148	31
5. Article 4. The indices of susceptibility to termination or suspension of treaties in the case of an armed conflict	149–156	31
(a) Introduction by the Special Rapporteur	149–150	31
(b) Summary of the debate	151–154	31
(c) Special Rapporteur's concluding remarks.....	155–156	32
6. Article 5. Express provisions on the operation of treaties	157–161	32
(a) Introduction by the Special Rapporteur	157	32
(b) Summary of the debate	158–160	32
(c) Special Rapporteur's concluding remarks.....	161	33
7. Article 6. Treaties relating to the occasion for resort to armed conflict	162–166	33
(a) Introduction by the Special Rapporteur	162	33
(b) Summary of the debate	163–164	33
(c) Special Rapporteur's concluding remarks.....	165–166	33
8. Article 7. The operation of treaties on the basis of necessary implication from their object and purpose.....	167–175	33
(a) Introduction by the Special Rapporteur	167–168	33
(b) Summary of the debate	169–173	34
(c) Special Rapporteur's concluding remarks.....	174–175	35
9. Article 8. Mode of suspension or termination	176–178	35
(a) Introduction by the Special Rapporteur	176	35
(b) Summary of the debate	177	35
(c) Special Rapporteur's concluding remarks.....	178	35
10. Article 9. The resumption of suspended treaties	179–181	35
(a) Introduction by the Special Rapporteur	179	35
(b) Summary of the debate	180	35
(c) Special Rapporteur's concluding remarks.....	181	35
11. Article 10. Legality of the conduct of the parties	182–187	36
(a) Introduction by the Special Rapporteur	182	36
(b) Summary of the debate	183–185	36
(c) Special Rapporteur's concluding remarks.....	186–187	36
12. Article 11. Decisions of the Security Council, Article 12. Status of third States as neutrals, Article 13. Cases of termination or suspension, and Article 14. The revival of terminated or suspended treaties	188–191	36
(a) Introduction by the Special Rapporteur	188	36
(b) Summary of the debate	189–190	37
(c) Special Rapporteur's concluding remarks.....	191	37
VI. RESPONSIBILITY OF INTERNATIONAL ORGANIZATIONS	192–206	38
A. Introduction	192–194	38
B. Consideration of the topic at the present session.....	195–204	38
C. Text of the draft articles on responsibility of international organizations provisionally adopted so far by the Commission.....	205–206	40
1. Text of the draft articles.....	205	42
2. Text of the draft articles with commentaries thereto adopted by the Commission at its fifty-seventh session.....	206	42
Chapter III. Breach of an international obligation.....		42
Article 8. Existence of a breach of an international obligation.....		42
Commentary		42
Article 9. International obligation in force for an international organization.....		43
Commentary		43
Article 10. Extension in time of the breach of an international obligation		44
Commentary		44
Article 11. Breach consisting of a composite act.....		44
Commentary		44
Article 12. Aid or assistance in the commission of an internationally wrongful act		45
Commentary		45
Article 13. Direction and control exercised over the commission of an internationally wrongful act.....		46
Commentary		46

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
Article 14. Coercion of a State or another international organization		46
Commentary		46
Article 15 [16]. Decisions, recommendations and authorizations addressed to member States and international organizations		47
Commentary		47
Article 16. Effect of this chapter		48
Commentary		48
VII. DIPLOMATIC PROTECTION	207–241	49
A. Introduction	207–224	49
B. Consideration of the topic at the present session	225–241	50
1. Clean hands doctrine	226–236	50
(a) Introduction by the Special Rapporteur	226–230	50
(b) Summary of the debate	231–235	51
(c) Special Rapporteur’s concluding remarks	236	52
2. Other issues	237–241	52
(a) Summary of the debate	237–238	52
(b) Special Rapporteur’s concluding remarks	239–241	52
VIII. EXPULSION OF ALIENS	242–274	54
A. Introduction	242–243	54
B. Consideration of the topic at the present session	244–274	54
1. Introduction by the Special Rapporteur	245–250	54
2. Summary of the debate	251–270	55
(a) General comments	251–252	55
(b) The concept of the expulsion of aliens (scope and definitions)	253–260	55
(c) The right to expel	261–262	56
(d) Grounds for expulsion	263–265	56
(e) Rights related to expulsion	266–268	57
(f) Methodological issues	269–270	57
3. Special Rapporteur’s concluding remarks	271–274	58
IX. UNILATERAL ACTS OF STATES	275–332	59
A. Introduction	275–293	59
B. Consideration of the topic at the present session	294–332	60
1. Introduction by the Special Rapporteur of his eighth report	295–300	60
2. Summary of the debate	301–316	60
3. Special Rapporteur’s concluding remarks	317–326	62
4. Conclusions of the Working Group	327–332	62
X. RESERVATIONS TO TREATIES	333–438	63
A. Introduction	333–342	63
B. Consideration of the topic at the present session	343–436	64
1. Introduction by the Special Rapporteur of his tenth report	350–388	64
2. Summary of the debate	389–426	68
3. Special Rapporteur’s concluding remarks	427–436	70
C. Text of the draft guidelines on reservations to treaties provisionally adopted so far by the Commission	437–438	71
1. Text of the draft guidelines	437	71
2. Text of the draft guidelines on reservations to treaties and the commentaries thereto provisionally adopted by the Commission at its fifty-seventh session	438	76
2.6 Formulation of objections to reservations		76
Commentary		76
2.6.1 Definition of objections to reservations		77
Commentary		77

Chapter	Paragraphs	Page
2.6.2 Definition of objections to the late formulation or widening of the scope of a reservation		82
Commentary		82
XI. FRAGMENTATION OF INTERNATIONAL LAW: DIFFICULTIES ARISING FROM THE DIVERSIFICATION AND EXPANSION OF INTERNATIONAL LAW	439–493	83
A. Introduction	439–441	83
B. Consideration of the topic at the present session	442–444	83
C. Report of the Study Group	445–493	83
1. General comments and the projected outcome of the work of the Study Group	445–448	83
2. Discussion of a memorandum on “regionalism” in the context of the Study on “the Function and scope of the <i>lex specialis</i> rule and the question of ‘self-contained regimes’”	449–466	84
3. Discussion on 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 1969 Vienna Convention), in the context of general developments in international law and concerns of the international community	467–479	86
4. Discussion of the Preliminary Report entitled “Hierarchy in international law: <i>jus cogens</i> , obligations <i>erga omnes</i> , Article 103 of the Charter of the United Nations, as conflict rules”	480–493	89
XII. OTHER DECISIONS AND CONCLUSIONS OF THE COMMISSION	494–524	92
A. Programme, procedures and working methods of the Commission, and its documentation	494–501	92
1. Cost-saving measures	497	92
2. Documentation	498	92
3. Working Group on the long-term programme of work	499	92
4. New topic for inclusion in the current programme of work of the Commission	500	92
5. Honorariums	501	92
B. Date and place of the fifty-eighth session of the Commission	502	92
C. Cooperation with other bodies	503–509	92
D. Representation at the sixtieth session of the General Assembly	510–511	93
E. International Law Seminar	512–524	93