

Chapter II

Summary of the work of the Commission at its seventy-fifth session

15. With respect to the topic “**Settlement of disputes to which international organizations are parties**”, the Commission had before it the second report of the Special Rapporteur on the topic (A/CN.4/766), which concentrated on “international disputes”. The second report provided an analysis of the practice of settling international disputes to which international organizations are parties, as well as of policy issues relevant to the Commission’s work on the topic. The Special Rapporteur also outlined his plans for the future work on the topic. The Special Rapporteur proposed four draft guidelines. The Commission also had before it a memorandum by the Secretariat (A/CN.4/764) providing information on the practice of States and international organizations which may be of relevance to the future work of the Commission on the topic, including both international disputes and disputes of a private law character, on the basis of the questionnaire prepared by the Special Rapporteur.

16. In his second report, the Special Rapporteur explained that the report focused on international disputes between international organizations as well as between international organizations and States or other subjects of international law arising under international law. The report did not address disputes of a non-international character, which would be covered in the third report. In analysing the practice of international organizations, all forms of dispute settlement were used in practice and with different frequency. The prevalence of negotiation, consultation or other amicable dispute settlement means seemed to be reflective of the fact that many dispute settlement provisions provided for this form of dispute settlement as a first step, and a result of the preference of international organizations and States to discreetly and diplomatically settle disputes in an informal manner. Mediation, conciliation, enquiry or fact-finding did not appear to be very frequently resorted to by international organizations. There was also only limited practice of arbitration as a means of settling international disputes to which international organizations were parties, mainly due to arbitration being specifically provided for only in a limited number of treaties and an apparent reluctance of international organizations and other parties to initiate arbitration. In terms of judicial dispute settlement, various international courts and tribunals had played an important role in the settlement of international disputes to which international organizations were parties, particularly in providing advisory opinions and in allowing judicial settlement of disputes between regional economic integration organizations and their members. The second report also addressed policy issues anchored in the rule of law as endorsed on the international level, notably three particular aspects: access to dispute settlement; adjudicatory independence and impartiality; and due process or a fair trial. The Special Rapporteur also explained that his third report in 2025 would analyse the practice of the settlement of non-international disputes to which international organizations were parties. This would enable the conclusion of the first reading of the topic and a second reading would take place based on the comments of States in 2027.

17. The Special Rapporteur proposed four draft guidelines on the topic. Draft guideline 3 set out what was meant by “international disputes” and draft guideline 4 addressed the practice of the settlement of disputes to which international organizations were parties. Draft guidelines 5 and 6 addressed the policy considerations and recommendations identified in the second report.

18. Members of the Commission welcomed the extensive and comprehensive analysis of dispute settlement practice contained in the second report of the Special Rapporteur. Members noted the challenge of distinguishing between international and non-international disputes. Different views were expressed on whether the distinction should be drawn on the basis of the parties to the dispute, or the applicable law, or both. In drawing on the dispute settlement practice of international organizations, members preferred a draft guideline with a normative content, rather than a description of that practice. It was noted that the description of dispute settlement practice proposed by the Special Rapporteur appeared to imply a certain hierarchy among the means of dispute settlement, with an emphasis placed on adjudicatory means for the settlement of disputes. Members considered that there were practical considerations such as cost, speed and preservation of relationships that would often seem to

make arbitration or judicial settlement less attractive than their non-adjudicatory counterparts. Similarly, members expressed caution over the desirability of recommending more use of arbitration and judicial dispute settlement, as compared with making these means more widely accessible. It was emphasized that depending on the type of dispute, different forms of dispute settlement might be appropriate to the circumstances. Members supported the basic policy recommendation that adjudicatory forms of dispute settlement should conform to rule of law requirements, but differed over how best to express this. Members also expressed appreciation for the “road map” outlined by the Special Rapporteur for the topic, although some members considered that it was rather ambitious.

19. Following the debate in plenary, the Commission decided to refer draft guidelines 3, 4, 5 and 6, as proposed in the second report, to the Drafting Committee, taking into account the comments and observations made in plenary. There was an extensive and thorough debate in the Drafting Committee on draft guideline 3, which focused on the use of the term “international disputes”; whether it was appropriate for the draft guideline to contain a reference to the parties to the dispute and to the applicable law; and the use of the term “other subjects of international law”. The Drafting Committee decided to arrange the draft guidelines into different parts, with draft guideline 3 clarifying the scope of Part Two. The reference to “arising under international law” was removed for reasons of clarity and on the understanding that the commentaries would explain the law applicable to the disputes that fell under draft guideline 3. Some members reserved their position on this removal. After an exchange of differing views, the reference to “other subjects of international law” was also deleted. Both draft guidelines 4 and 5 were revised to meet concerns of members, particularly over a perceived hierarchy of means of dispute settlement. The Drafting Committee also revised draft guideline 6 to remove the express reference to the rule of law and to emphasize the judicial guarantees of independence, impartiality and due process. Upon consideration of the report of the Drafting Committee (A/CN.4/L.998 and Add.1), the Commission provisionally adopted draft guidelines 3, 4, 5 and 6 and the commentaries thereto (chap. IV).

20. As regards the topic “**Subsidiary means for the determination of rules of international law**”, the Commission had before it the second report of the Special Rapporteur (A/CN.4/769), which addressed, *inter alia*, the work of the Commission on the topic thus far and the views of States in the Sixth Committee; the nature and function of subsidiary means, focusing on judicial decisions as subsidiary means for the determination of rules of international law; the general nature of precedent in domestic and international adjudication, including the relationship between Article 38, paragraph 1 (*d*), and Article 59 of the Statute of the International Court of Justice; and the future programme of work on the topic with the completion of the first reading scheduled for the seventy-sixth session (2025). The Commission also had before it a second memorandum by the Secretariat providing examples of judicial decisions and other materials found in the case law of international courts, tribunals and other bodies that might assist the Commission in its future work (A/CN.4/765).

21. In his second report, the Special Rapporteur explained the nature and general function of subsidiary means, recalling that they were subordinate to the sources of international law found in subparagraphs (*a*) through (*c*) of Article 38, paragraph 1, of the Statute of the International Court of Justice. They played an assistive role in relation to the sources of international law. This was supported by the drafting history of Article 38, paragraph 1 (*d*), of the Statute of the International Court of Justice and confirmed in the actual practice of the International Court of Justice and other international courts and tribunals, in the practice of some domestic courts and by the works of scholars. The Special Rapporteur also addressed the general nature of precedent in domestic and international adjudication. Although international law lacked a formal theory or doctrine of precedent within the narrow sense of the term, the International Court of Justice and other international courts and tribunals followed prior decisions and judgments where, *inter alia*, there was no reason to depart from previous legal reasoning that might still be regarded as sound. In this connection, he examined the relationship between Article 38, paragraph 1 (*d*), and Article 59 of the Statute of the International Court of Justice, which provided that the decisions of the Court were binding only on the parties to the case and qualified the use of the former; the link between Articles 59 and 61; and the practice of courts and tribunals, in particular the International Court of Justice and the International Tribunal for the Law of the Sea. He concluded that

although there is no *stare decisis* in international law, the legal effects of decisions were constraining not only on the parties, as the effects were also felt by third parties, due to the force of the decisions of the International Court of Justice as expressions of rules of international law, and followed for reasons of legal certainty and predictability and the persuasive and practical value of past decisions in helping resolve a later dispute.

22. The Special Rapporteur proposed three draft conclusions on the nature and function of subsidiary means (draft conclusion 6); the absence of a rule of precedent in international law (draft conclusion 7); and the persuasive value of decisions of courts or tribunals (draft conclusion 8).

23. Members of the Commission welcomed the Special Rapporteur's comprehensive report and its rich discussion of complex conceptual issues. They supported the Special Rapporteur's view that subsidiary means were not a source of international law, and the view that in general there was no system of binding precedent in international law, but that judicial decisions were followed, including for reasons of legal certainty and predictability, which was the essence of any legal system based on the rule of law. Hesitancy was expressed, however, over the reference to the "persuasive value" of judicial decisions. Some members sought clarification of the reference made by the Special Rapporteur in his second report not only to the general function of subsidiary means, but also to specific functions that one or other of the subsidiary means might have. Some members also suggested that the draft conclusions give guidance not just to courts and tribunals as users of judicial decisions, but to others including policymakers, legal advisers, agents and advocates.

24. Following the plenary debate, the Commission referred draft conclusions 6, 7 and 8, as presented in the second report, to the Drafting Committee. The Special Rapporteur introduced the conclusions and presented a series of working papers adjusting his proposed draft conclusions to take into account the views of members expressed during the debate. Concerning draft conclusion 6, the Drafting Committee favoured a negative phrasing that subsidiary means were not a source of international law; decided to address the nature and function in a single provision which referred to the assistive function of subsidiary means; and clarified that this was without prejudice to the use of the same materials for other purposes. The Special Rapporteur recommended that the question of the placement of draft conclusion 6 on function be revisited once the Commission had completed its first reading on the topic in 2025. Regarding draft conclusion 7 on the absence of legally binding precedent in international law, the Drafting Committee decided on a general rule in the first sentence that "[d]ecisions of international courts and tribunals may be followed on points of law where those decisions address the same or similar issues"; and in the second sentence a clear statement that "[s]uch decisions do not constitute legally binding precedent unless otherwise provided for in a specific instrument or rule of international law". As to draft conclusion 8, the Drafting Committee noted that the non-exhaustive criteria in draft conclusion 8 concerning the weight to be accorded to decisions of courts and tribunals were supplemental to draft conclusion 3, as envisaged by the Commission in the commentary to that conclusion adopted in 2023. Upon consideration of the report of the Drafting Committee (A/CN.4/L.999), the Commission provisionally adopted draft conclusions 6, 7 and 8 and commentaries thereto. The Commission had, earlier in the current session, also provisionally adopted draft conclusion 4 (Decisions of courts and tribunals) and draft conclusion 5 (Teachings), as orally revised, which had only been taken note of during the seventy-fourth session (A/CN.4/L.985/Add.1), and also adopted commentaries thereto (chap. V).

25. With regard to the topic "**Prevention and repression of piracy and armed robbery at sea**", the Commission had before it the second report of the Special Rapporteur (A/CN.4/770), which discussed the practice of international organizations involved in combating piracy and armed robbery at sea; reviewed the regional and subregional approaches to combating piracy and armed robbery at sea; described the practice of States in concluding bilateral agreements; and outlined the future work on the topic. The Commission also had before it a memorandum prepared by the Secretariat providing information on the treatment of the provision containing the definition of piracy in the 1956 draft articles concerning the law of the sea; views expressed by States at the First United Nations Conference on the Law of the Sea and at the Third United Nations Conference on the Law

of the Sea; and writings relevant to the definitions of piracy and of armed robbery at sea (A/CN.4/767).

26. In his second report, the Special Rapporteur first described the practice of international organizations involved in the fight against piracy and armed robbery at sea, in particular resolutions of the General Assembly, the Security Council and the International Maritime Organization (IMO), as well as the practice of the North Atlantic Treaty Organization with regard to naval interventions carried out pursuant to the authorization of the Security Council acting under Chapter VII of the Charter of the United Nations. He noted that criminalization and the establishment of the jurisdiction of national courts were two requirements consistently recalled by the Security Council, the General Assembly and IMO. He then focused on the practice of regional and subregional organizations in the prevention and repression of piracy and armed robbery at sea in Africa, Asia, Europe, the Americas and Oceania. This practice showed the different modalities of cooperation and gave substantive meaning and operational content to cooperation. The Special Rapporteur also examined bilateral agreements that sought to strengthen cooperation in the prevention and repression of piracy and armed robbery at sea and covered a range of legal issues. He explained that he proposed to study, in his third report, the doctrine or academic writings on aspects that raised legal questions concerning the prevention and repression of piracy and armed robbery at sea.

27. The Special Rapporteur proposed four draft articles, as contained in his second report. Draft articles 4 and 5 aimed to reflect and give material content to the general obligation of article 100 of the United Nations Convention on the Law of the Sea. Draft articles 6 and 7 concerned, respectively, the criminalization of piracy and armed robbery at sea under domestic law and the establishment of the jurisdiction of national courts, both of which were considered fundamental conditions for the repression of piracy and armed robbery at sea.

28. Members of the Commission generally welcomed the second report by the Special Rapporteur and the richness of the material it contained and highlighted the importance and complexity of the topic. Members raised a number of key points: the relevance of the United Nations Convention on the Law of the Sea as the starting point for the analysis; the importance of several other international conventions and the desirability of not duplicating existing legal frameworks; the need for a cautious approach when analysing the practice of the General Assembly and Security Council as this practice did not derogate from the norms of international law; and the importance of distinguishing between piracy and armed robbery at sea, given their different jurisdictions and applicable laws, when analysing practice. Members expressed support for the inclusion of a provision concerning the general obligation of States to cooperate in the prevention and repression of piracy and armed robbery at sea, and generally supported the promotion of harmonization of national laws for the criminalization of piracy and armed robbery at sea, as well as the establishment of national jurisdiction over these crimes. Members questioned some of the drafting of the proposed draft articles, including the obligation to repress piracy and armed robbery at sea; the reference to “armed conflict”; the treatment of armed robbery at sea as an international crime; the requirement for cooperation with non-State actors; the reference to crimes committed pursuant to an order of a Government or by a person performing an official function; whether the crimes should not be subject to any statute of limitations; and whether armed robbery at sea was subject to universal jurisdiction. Members also suggested that the Commission would benefit from a discussion on a “road map” or a general framework for the analysis of the topic.

29. Following the debate in plenary, the Commission decided to refer draft articles 4, 5, 6 and 7, as contained in the second report of the Special Rapporteur, to the Drafting Committee, taking into account the views expressed in the plenary debate. That included the understanding that the Committee would first hold a general discussion on the topic as a whole and its future direction. In this discussion, members of the Drafting Committee agreed that the United Nations Convention on the Law of the Sea was the starting point for the topic and the approach of the Commission was to not alter but to work within the normative limits of the Convention. As that Convention did not explicitly address armed robbery at sea, the Commission could clarify relevant rules, noting that matters not regulated by the United Nations Convention on the Law of the Sea were governed by general international law. The relevance of other instruments, particularly the Convention for the suppression of

unlawful acts against the safety of maritime navigation, the United Nations Convention against Transnational Organized Crime and their respective protocols, was highlighted. The Drafting Committee identified areas where there were gaps or legal issues that needed to be addressed. These included the definitions of piracy and armed robbery at sea (such as “illegal acts of violence or depredation” and “private ends”); new technologies (such as the use of drones and autonomous craft); modern piracy including acts committed on land; and further issues such as national legislation, jurisdiction, enforcement, pursuit of offenders, private security providers and the root causes of piracy. There was also a need to address the modalities of cooperation, such as sharing shipriders, mutual legal assistance and human rights considerations. The Drafting Committee recognized that the jurisdictional basis for piracy and armed robbery at sea were different. The legal basis for rules regarding armed robbery at sea were not as clear as the provisions on piracy in the United Nations Convention on the Law of the Sea, but they should be considered in a coordinated manner and dealt with together and separately where appropriate. Members of the Drafting Committee also identified several areas where the Commission could add value by proposing draft articles for a possible future convention.

30. The Drafting Committee considered the draft articles proposed by the Special Rapporteur and adopted draft article 4. This was based on a revised proposal of the Special Rapporteur that built on draft articles 4 and 5. It expressed a general obligation to prevent and to repress piracy and armed robbery at sea, in conformity with international law through, first, taking effective legislative, administrative, judicial or other appropriate measures; and second, cooperating to the fullest possible extent with other States and competent international organizations at the international, regional and subregional levels. The Commission heard an interim oral report of the Chair of the Drafting Committee. The report of the Drafting Committee on the topic ([A/CN.4/L.1000](#)) would be considered at a future session, as it had not been possible to prepare draft commentaries at the current session. Following the resignation of Mr. Yacouba Cissé as Special Rapporteur for the topic, the Commission appointed Mr. Louis Savadogo as Special Rapporteur at its 3701st meeting, on 2 August 2024 (chap. VI).

31. With respect to the topic “**Immunity of State officials from foreign criminal jurisdiction**”, the Commission had before it the first report of Special Rapporteur Claudio Grossman Guiloff ([A/CN.4/775](#)), which covered draft articles 1 to 6. The Special Rapporteur explained some of the challenges faced in completing the report. The presentation of State responses to draft articles 1 to 6 only was an approach that was in accordance with the wish expressed by some States to have more time to reflect on the topic and to allocate more than one session to complete the second reading. The report of the Special Rapporteur considering the comments and observations of Governments regarding draft articles 7 to 18 was to be presented and considered in 2025. The Commission also had before it a compilation of comments and observations received from Governments on the draft articles on immunity of State officials from foreign criminal jurisdiction, adopted on first reading by the Commission at its seventy-third session (2022) ([A/CN.4/771](#) and [Add.1–2](#)).

32. In his first report, the Special Rapporteur explained his approach to the consideration of the draft articles on second reading whereby he presented a summary of the comments and observations received from States, his analysis as Special Rapporteur and a set of recommendations for amending the draft articles to reflect States’ comments. In response to the views of States, he proposed further clarifying in the commentaries the distinction between the exercise of criminal jurisdiction and inviolability and explaining with examples what was meant by “State official” and “act performed in an official capacity”. He proposed an amendment to draft article 1, paragraph 3, to clarify the relationship with international courts and tribunals, including those established by the Security Council. He did not recommend any changes to draft article 3 on the limitation of immunity *ratione personae* to the troika. However, he proposed clarifying a few of the draft articles, including draft article 5, that some States had found problematic. The Special Rapporteur proposed that some other drafting proposals from States be considered in the Drafting Committee.

33. Members of the Commission welcomed the first report of the Special Rapporteur and were in general agreement with the decision to focus on draft articles 1 to 6. Members noted that the topic was of high importance and generally supported the approach of the Special

Rapporteur of concentrating on draft articles 1 to 6 and the progress that had been made on the topic to date. Some members of the Commission were in favour of defining the exercise of foreign criminal jurisdiction and inviolability, if not in the draft articles, in the commentaries. Various views were expressed on particular drafting suggestions. These were considered in the Drafting Committee. A number of members of the Commission responded to the Special Rapporteur's invitation to the Commission to consider possible recommendations for the General Assembly, to commend the draft articles to the attention of States in general or to use them as the basis to negotiate a treaty on the topic.

34. The Drafting Committee considered the draft articles proposed by the Special Rapporteur. The Drafting Committee proposed some adjustments to the draft articles in light of the views of States and the proposals of the Special Rapporteur. The Commission took note of draft articles 1, 3, 4 and 5 (chap. VII).

35. Concerning the topic “**Non-legally binding international agreements**”, the Commission had before it the first report of the Special Rapporteur (A/CN.4/772). The Special Rapporteur explained that his first report was of a preliminary nature and deliberately did not propose any draft provisions. It contained a general discussion of the topic and a first assessment of the relevant material and proposals for the scope of the topic and the questions to be examined. The objective of this preliminary assessment was to enable the Commission to be better prepared to undertake a drafting exercise in 2025 on the basis of the general orientations that would be collectively defined at the current session. He described certain issues on which it would be particularly useful to obtain views, including the reference to “agreements” in the title; the precise scope of the topic, such as the exclusion of acts adopted by international organizations as such, oral or tacit agreements, and inter-institutional agreements; the question of the (potential) legal effects of non-legally binding international agreements; and the final form of the outcome of the topic, currently proposed to be draft conclusions. He also placed great weight on the need for representativeness of State practice and would be seeking such practice from members of the Commission and States. He also emphasized the need to proceed as cautiously as possible on the topic, to avoid converting indirectly non-binding agreements into binding ones, which they were not, and to maintain flexibility in international cooperation.

36. Members of the Commission welcomed the first report of the Special Rapporteur and his approach of beginning with a general discussion on the topic. They agreed on the need to focus on the practical aspects of the topic and to ensure the representativeness of State practice. Differing views were expressed on the title of the topic, with a majority of members supporting the reference in the title to “agreements”, and others expressing support for other alternatives. Of the alternatives, “instruments” was considered by a number of members to be overly broad, including because it would mean that resolutions adopted by international organizations as such would have to be included within the scope of the topic. Some thought the term “arrangements” did not clearly express the scope of the topic and was difficult to translate into all official languages. With respect to the scope of the topic, members of the Commission generally agreed that the topic should exclude oral or tacit agreements, unilateral acts, non-binding provisions in treaties, and agreements stating exclusively factual matters and positions. Different views were expressed on the inclusion of agreements at the inter-institutional level and stemming from inter-governmental conferences, and it was suggested that there was a need for some flexibility. A few members suggested including agreements concluded with non-State actors, at least tangentially. Regarding the outcome of the topic, some members preferred draft conclusions, as proposed by the Special Rapporteur, while others preferred draft guidelines. Members agreed, however, that the outcome of the topic should not be prescriptive.

37. In light of the debate on the title of the topic, the Special Rapporteur indicated that the current title of the topic should be maintained, at least pending the debate in the Sixth Committee of the General Assembly. In any case, it would be expressly stated in the commentaries of the draft provisions to be adopted that the title was without prejudice to the nature of the agreements covered by the draft provisions and to the terminological choices made by States in their practice. With respect to the scope of the topic, the Special Rapporteur noted the general agreement on most areas and suggestions made in the first report, but also the need to be flexible in defining the contours of the topic and not take too categorical a

perspective, in particular with regard to inter-institutional agreements and acts adopted by international conferences. On the outcome of the topic, the Special Rapporteur indicated that as he had initially proposed draft conclusions and as this proposal had received the support of a slight majority of members, he would retain this pending receipt of the views of States and the drafting of provisions to begin at the following session. He noted that his second report in 2025 would focus on the object and scope of the topic and what were seen by the members as the most important issues to be addressed, such as the criteria for distinguishing between legally binding and non-legally binding agreements (chap. VIII).

38. Regarding the topic “**Succession of States in respect of State responsibility**”, the Commission re-established a Working Group on the topic, chaired by Mr. August Reinisch, with a view to making a recommendation on the way forward for the topic. The Working Group had before it a working paper prepared by the Chair of the Working Group. Issues discussed in the Working Group included the sufficiency of State practice and the representativeness of State practice; the extent to which negotiated solutions among the States concerned could be taken as evidence of rules of customary international law; the distinction between a transfer of responsibility as such and the transfer of rights and obligations arising from the responsibility of the predecessor State; the need to distinguish between codification and progressive development; policy justifications for and against automatic succession and the “clean slate” approach; whether a parallel between State responsibility and State debts was justified; and the relationship of the draft guidelines to the principle of unjust enrichment. The Working Group also noted several issues in the draft guidelines that merited clarification.

39. In light of the issues and difficulties, the Working Group considered various possible ways forward to complete the work of the Commission on the topic. After discussion of the options, the Chair of the Working Group observed that the prevailing view of its members was in favour of a summary report that would describe the difficulties faced in the work on the topic without going into its substance and that would be prepared with a view to concluding the work on the topic at the following session of the Commission. The Commission decided to establish a Working Group at the seventy-sixth session for the purpose of drafting a report that would bring the work of the Commission on the topic to an end and to appoint Mr. Bimal N. Patel as its Chair (chap. IX).

40. With respect to the topic “**Sea-level rise in relation to international law**”, the Commission reconstituted the Study Group on sea-level rise in relation to international law. The Study Group had before it the additional paper (A/CN.4/774) to the second issues paper, prepared by the Co-Chairs, Ms. Galvão Teles and Mr. Ruda Santolaria, which addressed two subtopics, namely statehood and the protection of persons affected by sea-level rise. A selected bibliography, prepared in consultation with members of the Study Group, was issued as an addendum (A/CN.4/774/Add.1) to the additional paper. The Study Group also had before it a memorandum by the Secretariat identifying elements in the previous work of the Commission that could be relevant for its future work on the topic (A/CN.4/768).

41. The Study Group had an extensive exchange of views on the additional paper. Members of the Study Group reiterated the topic’s importance and relevance to States, especially those that were directly affected by sea-level rise, and the need to demonstrate the practical value of the topic to States. The interrelationship between the three subtopics of the sea-level rise topic was also emphasized.

42. With respect to the subtopic of statehood, the Study Group generally supported the continuity of statehood and agreed that the criteria in article 1 of the 1933 Montevideo Convention on Rights and Duties of States, generally accepted as establishing the existence of a State as a subject of international law, did not address as such the question of the continuity of statehood. Indeed, State practice had revealed a degree of flexibility in the application of international law to the issues of statehood. The Pacific Islands Forum’s 2023 Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-Related Sea-Level Rise, which presumed the continuity of statehood regardless of the impact of sea-level rise, was particularly illustrative. Drawing on the additional paper, the Study Group discussed various bases for the continuity of statehood, including the right of States to preserve their existence; the role of recognition in the continuity of statehood; the right of each State to defend its territorial integrity; the right of self-determination of peoples; and consent on the part of the State facing a loss of habitable

territory. Reference was also made to security, stability, certainty and predictability; equity and justice; sovereign equality of States; permanent sovereignty of States over their natural resources; the maintenance of international peace and security; the stability of international relations; and international cooperation.

43. In discussing scenarios relating to statehood in the context of sea-level rise, the Study Group agreed that a distinction should be drawn between situations of partial submergence of land surface that would be uninhabitable and situations of total submergence of the land surface as a result of the phenomenon. States had a right to provide for their preservation, which could take many forms, including various adaptation measures to reduce the impacts of sea-level rise. International cooperation for such efforts was considered essential. While various possible future modalities were considered by the Study Group, reference was made to the need to consult and cooperate in good faith with the populations concerned, including indigenous peoples, and the need for international cooperation between affected States and other members of the international community based on the sovereign equality of States, as well as considerations of equity and fairness.

44. With respect to the subtopic of protection of persons affected by sea-level rise, the Study Group agreed with the conclusion contained in the additional paper that the current international legal frameworks that were potentially applicable to the protection of persons affected by sea-level rise were fragmented and mostly not specific to sea-level rise. The Study Group welcomed the analysis in the additional paper of possible elements for the legal protection of persons affected by sea-level rise based on such current international legal frameworks, such as human dignity as a guiding principle for any action to be taken in the context of sea-level rise; the need for combined needs-based and rights-based approaches as the basis for the protection of persons affected by sea-level rise; the need to delineate human rights obligations of different human rights duty bearers; the recognition of the importance of general human rights obligations in the context of the protection of persons affected by sea-level rise; the acknowledgement of the various tools that may be applicable to address the protection of persons; and the importance of the duty to cooperate for the protection of persons in the context of sea-level rise. The Study Group held a broad discussion of the 12 elements contained in the additional paper which could be either used for the interpretation and application of hard- and soft-law instruments applicable to the protection of persons affected by sea-level rise, and/or could be included in further such instruments concluded at the regional or international levels. It was noted that such elements could be further developed and specified, and could be restructured according to their varying legal relevance.

45. The Study Group also held a discussion on the future programme of work on the topic and confirmed the proposal that at the Commission's session in 2025, the Study Group would consider a joint final report on the topic as a whole to be prepared by the Co-Chairs, consolidating the work undertaken so far on the three subtopics, with a set of conclusions. The importance of taking into account the views of States and international developments was reaffirmed. The Commission adopted the report of the Study Group on its work at the current session (chap. X).

46. Concerning "**Other decisions and conclusions of the Commission**", the Commission re-established a Planning Group to consider its programme, procedures and working methods, which in turn decided to re-establish the Working Group on the long-term programme of work, chaired by Mr. Marcelo Vázquez-Bermúdez, and the Working Group on methods of work and procedures of the Commission, chaired by Mr. Charles Chernor Jalloh (chap. XI, sect. C). The Commission decided to include in its long-term programme of work the topic "Compensation for the damage caused by internationally wrongful acts" and the topic "Due diligence in international law" (chap. XI, sect. C and annexes).

47. Judge Nawaf Salam, President of the International Court of Justice, addressed the Commission on 17 July 2024. Due to the liquidity crisis at the United Nations, the Commission's session, as approved by General Assembly resolution 78/108 of 7 December 2023, was reduced from twelve to ten weeks. Therefore, the Commission was unable to have its traditional exchange of views with international and regional international legal bodies. Nevertheless, members of the Commission held an informal exchange of views with the International Committee of the Red Cross on 11 July 2024 (chap. XI, sect. D).

48. The Commission decided that its seventy-sixth session would be held in Geneva from 14 April to 30 May and from 30 June to 31 July 2025 (chap. XI, sect. C).

49. The Commission filled two casual vacancies during the session. Ms. Alina Orosan was elected on 1 May 2024 to fill the vacancy occasioned by the resignation of Mr. Bogdan Aurescu, who had been elected to the International Court of Justice. Mr. Xinmin Ma was elected on 31 July 2024 to fill the vacancy occasioned by the resignation of Mr. Huikang Huang (chap. I, sect. B).