

**International Law Commission****Sixty-sixth session**

Geneva, 5 May–6 June and 7 July–8 August 2014

Draft report of the International Law Commission on the work of its sixty-sixth session*Rapporteur:* Mr. Dire D. Tladi**Chapter II
Summary of the work of the Commission at its sixty-sixth session**

1. With regard to the topic, “**Expulsion of aliens**”, the Commission adopted, on second reading, a set of 31 draft articles, together with commentaries thereto, on the expulsion of aliens, and, in accordance with article 23 of its statute, the Commission recommended ... (chap. IV).
2. Concerning the topic, “**Protection of persons in the event of disasters**”, the Commission had before it the seventh report of the Special Rapporteur (A/CN.4/668 and Corr.1 and Add.1) which dealt with the protection of relief personnel and their equipment and goods, as well as the relationship of the draft articles with other rules, and included a proposal for the use of terms.
3. As a result of its consideration of the topic at the present session, the Commission adopted on first reading a set of 21 draft articles, together with commentaries thereto, on the protection of persons in the event of disasters. The Commission decided, in accordance with articles 16 to 21 of its Statute, to transmit the draft articles, through the Secretary-General, to Governments, competent international organizations, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by 1 January 2016. The Commission also indicated that it would welcome comments and observations on the draft articles from the United Nations Office for the Coordination of Humanitarian Affairs and the United Nations Office for Disaster Risk Reduction, by the same date (chap. V).
4. In connection with the topic, “**The obligation to extradite or prosecute (*aut dedere aut judicare*)**”, the Commission re-constituted the Working Group on the topic. The Working Group continued to evaluate work on this topic, particularly in the light of comments made in the Sixth Committee at the sixty-eighth session of the General

GE.14-09520 (E) 280714



* 1 4 0 9 5 2 0 *

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



Assembly on the 2013 report of the of the Working Group. On basis of the work of the Working Group, the Commission adopted the final report on the topic, and decided to conclude its consideration of the topic (chap. VI).

5. As regards the topic, “**Subsequent agreements and subsequent practice in relation to the interpretation of treaties**”, the Commission had before it the second report of the Special Rapporteur (A/CN.4/671), which contained, *inter alia*, six draft conclusions relating to the identification of subsequent agreements and subsequent practice, the possible effects of subsequent agreements and subsequent practice in interpretation, the forms and value of subsequent practice under article 31, paragraph 3 (b), of the 1969 *Vienna Convention on the Law of Treaties*, agreement of the parties regarding the interpretation of a treaty, decisions adopted within the framework of a Conference of States Parties, and the scope for interpretation by subsequent agreements and subsequent practice. Following the debate in Plenary, the Commission decided to refer the six draft conclusions proposed by the Special Rapporteur to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted five draft conclusions, together with commentaries thereto (chap. VII).

6. With respect to the topic, “**Protection of the atmosphere**”, the Commission considered the first report of the Special Rapporteur (A/CN.4/667). The report addressed the general objective of the project, including providing the rationale for work on the topic, delineating its general scope, identifying the relevant basic concepts and offering perspectives and approaches to be taken with respect to the subject; and presented three draft guidelines concerning the (a) definition of the term “atmosphere; (b) the scope of the draft guidelines; and (c) the legal status of the atmosphere. Following the debate in plenary, the referral of the draft guidelines to the Drafting Committee was deferred, at the request of the Special Rapporteur, until next year (chap. VIII).

7. In relation to the topic, “**Immunity of State officials from foreign criminal jurisdiction**”, the Commission considered the third report of the Special Rapporteur (A/CN.4/673), in which, *inter alia*, draft article 2 (e), on the definition of State official, and draft article 5, on the Beneficiaries of immunity *ratione materiae*, were presented. Following the debate in plenary, the Commission decided to refer the two draft articles to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted article 2 (e), on the definition of State official, and draft article 5, on the Persons enjoying immunity *ratione materiae*, together with commentaries thereto (chap. IX).

8. As regards the topic “**Identification of customary international law**”, the Commission had before it the second report of the Special Rapporteur (A/CN.4/672), which contained, *inter alia*, eleven draft conclusions, following an analysis of: the scope of and outcome of the topic, the basic approach, and the two constituent elements of rules of customary international law, namely “a general practice” and “accepted as law”. Following the debate in Plenary, the Commission decided to refer the eleven draft conclusions proposed by the Special Rapporteur to the Drafting Committee. The Commission took note of the report of the Drafting Committee (chap. X).

9. Concerning the topic, “**Protection of the environment in relation to armed conflicts**”, the Commission had before it the preliminary report of the Special Rapporteur (A/CN.4/674), which, *inter alia*, presented an overview of views expressed by delegates in the Sixth Committee of the General Assembly, practice of States and international organizations, scope and methodology, use of terms, environmental principles, and issues relating to human and indigenous rights. The debate in the plenary addressed, among other issues, scope and methodology, use of terms, environmental principles, and human and indigenous rights (chap. XI).

-
10. In relation to the topic “**Provisional application of treaties**”, the Commission ... (chap. XII)
11. Concerning the topic, “**The Most-Favoured-Nation clause**”, the Commission reconstituted the Study Group on the topic. The Study Group began its consideration of the draft final report, prepared by its Chairman, based on the working papers and other informal documents that had been considered by the Study Group in the course of its work since it began deliberations in 2009. The Study Group envisages a revised draft final report to be presented for consideration at the sixty-seventh session of the Commission in 2015, taking into account comments made and amendments proposed by individual members of the Study Group during the present session (chap. XIII).
12. The Commission established a Planning Group to consider its programme, procedures and working methods (chap. XIV, sect. A). The Commission decided to include the topic “Crimes against humanity” in its programme of work, and to appoint Mr. Sean D. Murphy as Special Rapporteur for the topic (chap. XIV, sect. A.1). The Commission decided to include the topic “*Jus cogens*” in its long-term programme of work. The Commission endorsed the review and update of the list of possible topics, using the 1996 illustrative general scheme of topics¹ list as a starting point for that purpose. In this connection, it requested the Secretariat to review the 1996 list in the light of subsequent developments and prepare a list of potential topics (“survey”), accompanied by brief explanatory notes, by the end of the present quinquennium. It is understood that Working Group on the Long term Programme of Work would continue to consider any topics that members may propose (chap. XIV, sect. ...).
13. The Commission continued its exchange of information with the International Court of Justice, the Asian-African Legal Consultative Organization, the Inter-American Juridical Committee, the European Committee on Legal Cooperation and the Committee of Legal Advisers on Public International Law of the Council of Europe and the African Union Commission on International Law.
14. The Commission decided that its sixty-seventh session be held in Geneva from ... May to ... June and ... July to ... August 2015 (chap. XII, sect. ...).
-

¹ *Yearbook of the International Law Commission, 1996*, vol. II (Part Two), Annex II.