



STATEMENT BY MR. ARUNA KUMAR VUNDAVALLI, MEMBER OF PARLIAMENT  
AND MEMBER OF THE INDIAN DELEGATION, ON AGENDA ITEM 82: REPORT OF  
THE INTERNATIONAL LAW COMMISSION – CHAPTER IV: RESERVATIONS TO  
TREATIES, CHAPTER V: SHARED NATURAL RESOURCES, CHAPTER IX: THE  
OBLIGATION TO EXTRADITE OR PROSECUTE AT THE SIXTH COMMITTEE OF  
THE 62<sup>ND</sup> SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON  
NOVEMBER 01, 2007

Mr. Chairman,

I thank the Chairman of the International Law Commission, Mr. Ian Brownlie, for his comprehensive introduction of the Report of the 59th Session of the International Law Commission on the second cluster of topics.

Mr. Chairman,

On the topic "Reservations to treaties", we congratulate the Special Rapporteur, Professor Alain Pellet, for the presentation of his 11<sup>th</sup> and 12<sup>th</sup> reports on the formulation and withdrawal of acceptances and objections and on the procedure for acceptances of reservations, respectively. At this session substantial progress was made on this topic. Thirty-five draft guidelines on the above issues were referred to the Drafting Committee. Nine draft guidelines, dealing with the determination of the object and purpose of the treaty as well as the question of incompatibility of a reservation with the object and purpose of the treaty, together with commentaries, were adopted by the Commission.

The Special Rapporteur has proposed to complete his presentation of problems posed by the invalidity of reservations next year. Therefore, the Commission has sought information from States on several questions relating to their practice on these issues. We will be submitting our written responses to those questions separately.

However, we share the Commission's view that the "legal effects" of a reservation that is "invalid" in accordance with Article 19 of the Vienna Convention are not clear from Articles 19 – 23. In our view, the invalidity of a reservation cannot lead to the assumption that the treaty is fully binding on the State in question. Such an interpretation would affect the readiness of States to accept treaties.

Mr. Chairman,

Turning to the topic of "Shared natural resources", we appreciate the contribution of the Working Group on Shared Natural Resources under the Chairmanship of Mr. Enrique Candioti. I would also like to thank the Special Rapporteur, Ambassador Yamada, on the presentation of his fourth report. The Commission has completed the first reading of a set of 19 draft articles and commentaries on the law of trans-boundary aquifers. These are now before Governments for their comments, and we would be submitting our comments on the same separately.

The Fourth Report of Ambassador Yamada has dealt with the crucial aspect of how the Commission should proceed in its further consideration of the topic, in particular the relationship between the work on groundwaters, on the one hand, and the work on oil and natural gas, on the other hand. The Report makes a good case for the separate treatment of the law on trans-boundary groundwaters. We support the recommendation that the Commission should proceed with and complete the second reading of the law of trans-boundary aquifers independently from its future work on oil and natural gas, since the considerations for dealing with trans-boundary oil and gas resources are different from those relating to trans-boundary aquifers. While some of the regulations of the law of the non-recharging trans-boundary aquifers might be relevant to the question of oil and natural gas, the majority of regulations to be worked out for oil and natural gas would not be directly applicable to groundwater.

Mr. Chairman,

Turning to the topic "the obligation to extradite or prosecute", I thank the Special Rapporteur, Mr. Galicki, for his second report on the subject, which has recapitulated the main ideas and concepts presented in his preliminary report, and also presented one draft article on the scope of application. We welcome the plan for further development of the topic proposed by the Special Rapporteur and his ideas on articles to be drafted in the future, including his proposal for a draft article that would provide that: "Each State is obliged to extradite or to prosecute an alleged offender if such an obligation is provided for by a treaty to which such State is a party."

The United Nations Conventions against terrorism, the international conventions against drug trafficking, transnational organized crime, trafficking in persons, and on corruption, all provide for the obligation to extradite or prosecute.

The main objective of the obligation to extradite or prosecute is to ensure that persons accused of serious crimes are denied "safe havens" and can be brought to trial to face the consequences of their criminal acts. This provision serves as an important tool in global efforts in combating serious offences, including those arising out of terrorism.

We look forward to receiving further reports from the Special Rapporteur formulating draft rules on the concept, structure and operation of the obligation to extradite or prosecute.

Thank you, Mr. Chairman.

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