

Chapter III

SPECIFIC ISSUES ON WHICH COMMENTS WOULD BE OF PARTICULAR INTEREST TO THE COMMISSION

22. In response to paragraph 13 of General Assembly resolution 54/111 of 9 December 1999, the Commission would like to indicate the following specific issues for each topic on which expressions of views by Governments either in the Sixth Committee or in written form would be of particular interest in providing effective guidance for the Commission on its further work.

A. State responsibility

23. The Commission would appreciate receiving from Governments comments and observations on the entire text of the draft articles provisionally adopted by the Drafting Committee on first reading, in particular on any aspect which it may need to consider further with a view to its completion of the second reading at its fifty-third session.

B. Diplomatic protection

24. The Commission would appreciate receiving from Governments comments and observations in answer to the following questions:

(a) May a State exercise diplomatic protection on behalf of a national, who has acquired nationality by birth, descent or bona fide naturalization, when there is no effective link between the national and the State?

(b) Is a State that wishes to exercise diplomatic protection on behalf of a national obliged to prove that there is an effective link between the individual and that State?

(c) May a State exercise diplomatic protection on behalf of a national who has an effective link with that State when that national is also a national of another State, with which it has a weak link?

(d) Is it permissible for a State to protect a dual national against a third State of which the injured individual is not a national without proving an effective link between it and the individual?

(e) Should the State in which a stateless person has lawful and habitual residence be permitted to protect such a person against another State along the lines of diplomatic protection?

(f) Should the State in which a refugee has lawful and habitual residence be permitted to protect such a refugee along the lines of diplomatic protection?

C. Unilateral acts of States

25. The Commission would particularly welcome comments on points (a), (b) and (c) mentioned in paragraph 621 below.

D. Reservations to treaties

26. The Commission would welcome any comments and observations by Governments on the 14 draft guidelines included in the part of the fifth report of the Special Rapporteur concerning formulation of reservations and interpretative declarations and on which the Commission decided to postpone the debate to the next session due to lack of time. Those draft guidelines are reproduced in footnote 199 below.

E. International liability for injurious consequences arising out of acts not prohibited by international law (prevention of transboundary damage from hazardous activities)

27. The Commission would like to draw attention to paragraphs 672 to 721 below and, in particular, to paragraph 721 containing the draft preamble and revised draft articles referred to the Drafting Committee. The Commission would welcome any comments that Governments may wish to make in that respect.