Chapter VII

UNILATERAL ACTS OF STATES

A. Introduction

232. In its report on the work of its forty-eighth session, in 1996, the Commission had proposed to the General Assembly that the law of unilateral acts of States should be included as a topic appropriate for the codification and progressive development of international law.[206]

233. The General Assembly, in paragraph 13 of resolution 51/160, *inter alia*, invited the Commission to further examine the topic "Unilateral acts of States" and to indicate its scope and content.

234. At its forty-ninth session, in 1997, the Commission established a working group on this topic which reported to the Commission on the admissibility and facility of a study on the topic, its possible scope and content and an outline for a study on the topic. At the same session, the Commission considered and endorsed the report of the Working Group.[207]

235. Also at its forty-ninth session, the Commission appointed Mr. Víctor Rodríguez Cedeño as Special Rapporteur on the topic.[208]

236. The General Assembly, in paragraph 8 of its resolution 52/156, endorsed the Commission's decision to include the topic in its work programme.

237. At its fiftieth session, in 1998, the Commission had before it and considered the Special Rapporteur's first report on the topic.[209] As a result of its discussion, the Commission decided to reconvene the Working Group on unilateral acts of States.

238. The Working Group reported to the Commission on issues related to the scope of the topic, its approach, the definition of a unilateral act and the future work of the Special Rapporteur. At the same session, the Commission considered and endorsed the report of the Working Group.[210]

239. At its fifty-first session, in 1999, the Commission had before it and considered the Special Rapporteur's second report on the topic.[211] As a result of its discussion, the Commission decided to reconvene the Working Group on unilateral acts of States.

240. The Working Group reported to the Commission on issues related to: (*a*) the basic elements of a workable definition of unilateral acts as a starting point for further work on the topic as well as for gathering relevant State practice; (*b*) the setting of general guidelines according to which the practice of States should be gathered; and (*c*) the direction that the work of the Special Rapporteur should take in the future. In connection with point (*b*) above, the Working Group set the guidelines for a questionnaire to be sent to States by the Secretariat in consultation with the Special Rapporteur, requesting materials and inquiring about their practice in the area of unilateral acts as well as their position on certain aspects of the Commission's study of the topic.

241. At its fifty-second session, in 2000, the Commission considered the third report of the Special Rapporteur on the topic,[212] along with the text of the replies received from States[213] to the questionnaire on the topic circulated on 30 September 1999. The Commission decided to refer revised draft articles 1 to 4 to the Drafting Committee and revised draft article 5 to the Working Group on the topic.

242. At its fifty-third session, in 2001, the Commission considered the fourth report of the Special Rapporteur[214] and established an open-ended working group. At the recommendation of the Working Group, the Commission requested that a questionnaire be circulated to Governments inviting them to provide further information regarding their practice of formulating and interpreting unilateral acts.[215]

243. At its fifty-fourth session, in 2002, the Commission considered the fifth report of the Special Rapporteur,[216] as well as the text of the replies[217] received from States to the questionnaire on the topic circulated on 31 August 2001.[218] The Commission also established an open-ended working group.

[206] *Yearbook ... 1996*, vol. II (Part Two), pp. 97–98, para. 248, and annex II, p. 133, para. 2 (e) (iii).

[207] *Yearbook ... 1997*, vol. II (Part Two), pp. 64–65, paras. 194 and 196–210.

[208] *Ibid.*, p. 66, para. 212, and p. 71, para. 234.

[209] *Yearbook ... 1998*, vol. II (Part One), p. 319, document A/CN.4/486.

[210] *Ibid.*, vol. II (Part Two), pp. 58–59, paras. 192–201.

[211] *Yearbook ... 1999*, vol. II (Part One), p. 195, document A/CN.4/500 and Add.1.

[212] *Yearbook ... 2000*, vol. II (Part One), p. 247, document A/CN.4/505.

[213] *Ibid.*, p. 265, A/CN.4/511.

[214] *Yearbook ... 2001*, vol. II (Part One), p. 115, document A/CN.4/519.

[215] *Ibid.*, vol. II (Part Two), p. 19, para. 29, and p. 205, para. 254. The text of the questionnaire can be consulted on http://untreaty.un.org/ilc/sessions/53/53sess.htm.

[216] *Yearbook ... 2002*, vol. II (Part One), p. 95, document A/CN.4/525 and Add.1–2.

[217] *Ibid.*, p. 90, A/CN.4/524.

[218] See footnote 215 above.

B. Consideration of the topic at the present session

244. At the present session, the Commission had before it the sixth report of the Special Rapporteur (A/CN.4/534). The Commission considered the sixth report at its 2770th–2774th meetings from 7 to 11 July 2003.

245. At its 2771st meeting, the Commission established an open-ended working group on unilateral acts of States chaired by Mr. Alain Pellet. The Working Group held six meetings (see paragraphs 303–308 below).

1. Introduction by the Special Rapporteur of his sixth report

246. The Special Rapporteur said that the sixth report dealt in a very preliminary and general manner with one type of unilateral act, recognition, with special emphasis on recognition of States, as some members of the Commission and some representatives in the Sixth Committee had suggested.

247. To define the nature of a unilateral legal act *sensu stricto* was not easy, but that in no way meant that it did not exist. There was no doubt that declarations that took the form of unilateral acts could have the effect of creating legal obligations, as ICJ indicated in its decisions in the *Nuclear Tests* cases.[219]

248. The Special Rapporteur recalled that the Commission had said at its forty-ninth session in 1997 that it was possible to engage in codification and progressive development, for which the topic was ripe.[220]

249. However, while Government opinions had not been numerous, they were fundamental to the consideration of the topic. The fact that practice had not been sufficiently analysed was one of the major obstacles the Special Rapporteur had encountered.

250. Unilateral acts were formulated frequently, but, without knowing the views of States, it was not easy to determine what the nature of the act was and whether the State that had formulated it had the intention of acquiring legal obligations and whether it considered that the act was binding or that it was simply like a policy statement, the result of diplomatic practice.

251. It was difficult to tell what final form the Commission's work might take. The Special Rapporteur indicated that, if it proved impossible to draft general or specific rules on unilateral acts, consideration might be given to the possibility of preparing guidelines based on general principles that would enable States to act and that would provide practice on the basis of which work of codification and progressive development could be carried out. Whatever the final product, the Special Rapporteur believed that rules applicable to unilateral acts in general could be established.

252. In the first place, a unilateral act in general and an act of recognition in particular must be formulated by persons authorized to act at the international level and to bind the State they represented. Moreover, the act must be freely expressed, and that made its validity subject to various conditions.

253. The binding nature of a unilateral act might be based on a specific rule, *acta sunt servanda,* taken from the *pacta sunt servanda* rule that governed the law of treaties. It might also be stated as a general principle that a unilateral act was binding on a State from the moment it was formulated or the moment specified in the statement by which the State expressed its will. The act would then be binding. Similarly, the act could not be modified, suspended or revoked unilaterally by its author and its interpretation must be based on a restrictive criterion.

254. The aim of the sixth report was to bring the definition and examination of a specific material act—recognition—into line with the Commission's work on unilateral acts in general.

255. Chapter I of the report dealt with the various forms of recognition and ended with an outline definition that could be aligned with the draft definition of unilateral acts in general. The Special Rapporteur attempted to show that the draft definition considered by the Commission could encompass the category of specific acts constituted by recognition. What was most important was to determine whether it was a unilateral act in the sense of a unilateral expression of will formulated with the intention of producing certain legal effects.

256. The Special Rapporteur said that the institution of recognition did not always coincide with the unilateral act of recognition. A State could recognize a situation or a legal claim by means of a whole range of acts or conduct. In his view, implicit recognition, which undoubtedly had legal effects, could be excluded from the study of the acts the Commission was seeking to define.

257. Silence, which had been interpreted as recognition, for example, in the cases concerning the *Temple of Preah Vihear*[221] or the *Right of Passage over Indian Territory*,[222] must, even though it produced legal effects, be excluded from unilateral acts proper.

258. Recognition based on a treaty, acts of recognition expressed through a United Nations resolution and acts emanating from international organizations should also be eliminated from the scope of the study.

259. In chapter I, the Special Rapporteur raised some questions that were crucial to the adoption of a draft definition of the unilateral act of recognition, especially with regard to the criteria for the formulation of such an act and its discretionary nature.

260. There were no criteria governing the formulation of an act of recognition. The recognition of States and the

[219] *Nuclear Tests (Australia* v. *France), Judgment, I.C.J. Reports 1974*, p. 253; and *(New Zealand* v. *France)*, *ibid.*, p. 457.

[220] *Yearbook ... 1997*, vol. II (Part Two), p. 64, paras. 194 and 196.

[221] *Temple of Preah Vihear, Merits, Judgment, I.C.J. Reports 1962*, p. 6.

[222] *Right of Passage over Indian Territory, Merits, Judgment, I.C.J. Reports 1960*, p. 6.

recognition of a state of belligerency, insurgency or neutrality also seemed not to be subject to specific criteria and the same seemed to apply also to situations of a territorial nature.

261. The Special Rapporteur referred to non-recognition. A State could be prohibited from recognizing *de facto* or *de jure* situations, but it was not obliged to take action or to formulate such non-recognition.

262. The report also generally discussed the possibility that the act of recognition, besides being declaratory, might be hedged around with conditions, something which might appear inconsistent with its unilateral nature.

263. The intention of the author State was an important element, since the legal nature of the act lay in the expression of intent to recognize and in the creation of an expectation.

264. The Special Rapporteur considered that the form taken by the act of recognition, which could be formulated in writing or orally, was, in itself, of no importance. The best approach was to retain the act of recognition expressly formulated for that purpose. A definition of the act of recognition was contained in paragraph 67 of the report.

265. Chapter II of the report dealt briefly with the validity of the unilateral act of recognition by following closely the precedent set with regard to the unilateral act in general: the capacity of the State and of persons; the expression of will of the addressee(s); the lawful object; and, more specifically, conformity with peremptory norms of international law.

266. Chapter III examined the question of the legal effects of the act of recognition, in particular, and the basis for its binding nature, referring once again to the precedent of the unilateral act in general. The Special Rapporteur pointed out first of all that, according to most legal writers, the act of recognition was declarative and not constitutive.

267. The recognizing State had to conduct itself in accordance with its statement, as in the case of estoppel. From the moment the statement was made or from the time specified therein, the State or other addressee could request the author State to act in accordance with its statement.

268. The binding nature of the unilateral act in general and of recognition in particular must be justified, whence the adoption of a rule based on *pacta sunt servanda* and called *acta sunt servanda*. Legal certainty must also prevail in the context of unilateral acts.

269. Chapter IV dealt in general with the application of the act of recognition with a view to drawing conclusions about the possibility whether, and conditions under which, a State might revoke a unilateral act. A brief reference was also made to the spatial and temporal application of the unilateral act in the case of the recognition of States in particular.

270. The modification, suspension and revocation of unilateral acts were also examined, namely, whether States could modify, suspend or revoke acts unilaterally, in the same way as they had formulated them. A general principle could be established whereby the author could not terminate the act unilaterally unless that possibility was provided for in the act or there had been some fundamental change in circumstances. The revocation of the act would thus depend on the conduct and attitude of the addressee.

271. In conclusion, the Special Rapporteur said that the sixth report was general in nature and that further consideration was required to see how the Commission should complete its work on the topic. It was worthwhile establishing some general principles and relevant practice should also be studied; some bibliographical research was being conducted.

2. Summary of the debate

272. Several members reiterated the importance of the topic since State practice showed that unilateral acts gave rise to international obligations and played a substantial role in State relations, as demonstrated by a number of cases considered by ICJ. It was therefore desirable to lay down some rules for such acts in the interests of legal security. It was useful for States to know when the unilateral expression of their will or intentions would, quite apart from any treaty-based link, constitute a commitment on their part. In particular, an explanation could be sought as to certain issues, such as the means by which a sovereign State trapped itself by expressing its will or how it could derive legal obligations from its sovereignty, even when it was not necessarily dealing with another State.

273. Attention was drawn to the fact that, in the introduction to his sixth report, the Special Rapporteur himself seemed to cast doubts as to the existence of unilateral acts. In this connection, the view was expressed that the topic was not ready for codification since it did not exist as a legal institution; according to this line of reasoning, unilateral acts only described a sociological reality of informal interaction among States which sometimes led them to be bound by their actions and it was therefore inappropriate to attempt to categorize such acts formally. Perhaps some rules or guidelines could be developed based on the practice regarding recognition of States and Governments, though these would certainly not be as precise nor as detailed as the norms in the area of treaty law.

274. However, another view stated that a possible dismissal of unilateral acts on grounds of absence of coherence and lack of legal character was weak since that position was contradicted by a vast array of evidence and the realities of international relations. Treaties themselves, it was said, could also be encompassed under the sociological reality of State interaction.

275. It was acknowledged that the topic was complex and that it posed some extremely difficult problems, such as the relationship of the topic to the law of treaties; the subject matter of unilateral acts being unusually susceptible to overlapping classifications; the issue of the

informality of the acts; the fact that the concept of unilateral acts was too restrictive; and the absence of a clear legal position on unilateral acts in domestic legislation.

276. The view was expressed that the primary objective for the endeavour should not be to describe every aspect of the institution of unilateral acts, but rather to determine what their legal effects were. Another matter to be decided was whether the Commission was going to codify unilateral acts alone or the behaviour of States as well. In this connection, it was noted that if the scope of the topic was interpreted broadly, so as to include the conduct of States, the Commission's already extremely difficult endeavour could be practically impossible.

277. As regards the attempt by the Special Rapporteur to comply with the Commission's request by providing an analysis of the main unilateral acts before adopting some general conclusions, it was stated that the sixth report had not yielded the desired results, that the report lacked the requisite clarity, was repetitive and inconsistent with its predecessors. It was noted that the report failed to provide any proposals for future action and seemed to suggest abandoning the approach of elaborating draft articles in favour of less rigid guidelines. The main aspects of recognition were dealt with in the report, but on the basis of very theoretical and abstract propositions; a reference to fundamental academic writings on the topic would have been helpful. Moreover, the examination of State practice was limited. The analysis should focus on relevant State practice for each unilateral act, with regard to its legal effects, requirements for its validity and questions such as revocability and termination; State practice needed to be assessed so as to decide whether it reflected only specific elements or could provide the basis for some more general principles relating to unilateral acts. In addition, the report failed to focus on acts of recognition that had a direct bearing on the rules governing unilateral acts. It was also stated that, although addressing stimulating issues, the report drew the Commission away from its final objective, which was to determine to what extent recognition produced legal effects.

278. Some doubts were expressed about the methodology used by the Special Rapporteur. From his prior global approach he had shifted to a case-by-case study in order to identify general rules applicable to all unilateral acts. It was not clear how his monographic studies would tie in with the ultimate objective of the exercise, namely the elaboration of draft articles enabling States to realize when they ran the risk of being ensnared by the formal expression of their will. In this regard, it was suggested that the use of a detailed table with, horizontally, the various categories of unilateral acts and, vertically, the legal issues that needed to be addressed could be helpful. If common elements were found in the various categories, then general rules applicable to unilateral acts could be developed as the very substance of the draft articles.

279. On the other hand, it was stated that the preparation of an analytical table on unilateral acts would entail a great deal of effort, possibly with rather disappointing results and that the question at issue was exactly which unilateral acts the Commission should study. Pursuant to the original criterion established by the Commission some years previously the objective was not the study of unilateral acts *per se*, but as a source of international law.

280. According to another view, the crux of the matter lay in defining the *instrumentum* or procedure whereby an act or declaration of will gave rise to State responsibility, an objective which could not be done by studying the contents of individual acts or categories of acts. However, it was also pointed out that finding an *instrumentum* for a unilateral act was far more difficult than for a treaty.

281. Some concern was expressed about the continued discussion regarding methodology, despite the fact that work on the topic had begun in 1996.

282. Divergent views were expressed as to the best means of proceeding with the topic. It was suggested that the attempt to formulate common rules for all unilateral acts should be resumed and completed, before embarking on the second stage of work, which would consist in drawing up different rules applicable to specific subjects. On the other hand, it was felt that, based on State practice, unilateral acts which created international obligations could be identified and a certain number of applicable rules developed. The view was also expressed that the development of general principles in the form of treaty-type articles did not seem to correspond to the nature of the subject matter of the topic. Doubts were also voiced about the possibility of going beyond discerning general principles. According to another view, it was still premature to discuss the possible outcome of the Commission's endeavour.

283. The view was expressed that it was not solely the responsibility of the Special Rapporteur to find a way of furthering the progress of work on the topic and that the Commission as a whole should endeavour to assist him to find a suitable approach for developing a set of rules on unilateral acts.

284. The view was expressed that the sixth report drew a false distinction between recognition as an institution and unilateral acts of recognition; it was considered impossible to examine one without the other. The concept of recognition and its relevance to unilateral acts needed to be more clearly defined. Doubts were expressed as to the proposition that a homogeneous unit called recognition existed.

285. Several limitations were pointed out as regards the attempt to apply the Vienna regime on treaties to unilateral acts. For example, in dealing with the conditions for recognition, the report adhered too rigidly to the practice followed in treaty-making.

286. Furthermore, it was said that the sixth report came close to examining recognition of States as an institution, a separate topic from the one the Commission had on its agenda.

287. The view was expressed that several issues raised in the report required further study, *inter alia*, whether

admission to the United Nations constituted a form of collective recognition, whether non-recognition was discretionary and whether the withdrawal of recognition was feasible in some circumstances. Although the Special Rapporteur had considered implied recognition as irrelevant to the study, it was noted that in the light of the fact that no form was required for the act of recognition, it surely followed that implied recognition could exist.

288. It was also stated that the focus of the sixth report on the category of recognition of States was a poor choice and possibly counterproductive since it involved too many specific problems to be used as a basis for drawing conclusions. The view was expressed that both recognition of States and Governments was discretionary and that legal criteria were not applicable to them.

289. The point was made that the examples of non-recognition given in the report were not truly unilateral acts, because the legal obligation not to grant recognition in such instances stemmed from the relevant resolutions of organizations.

290. It was noted that the debate on whether recognition was declaratory or constitutive usually related to the consequences of recognition, not to its nature, the Special Rapporteur having followed the latter approach. Although the majority of writers considered recognition to be declaratory, that interpretation did not cover all cases: an examination of State practice led to quite different conclusions. As a whole, the effects of recognition could be more constitutive than declaratory. Nonetheless, even if the recognition of States was declarative, what was true of recognition of States was not necessarily true of the recognition of other entities.

291. Some members highlighted the discretionary nature of recognition and the fact that it was increasingly accompanied by purely political criteria or conditions which went beyond traditional considerations.

292. It was pointed out that the effects of recognition could vary, depending on the specific type of recognition. For example, the effects of recognition of States were quite different from the recognition of the extension of a State's territorial jurisdiction. Besides the object of the recognition, the effects also depended on other parameters, such as the addressee's reaction. For example, if the addressee did not react, the State which had given the recognition was much freer to go back on that act. Therefore, different concepts could not be lumped together.

293. It was noted that distinctions between the various acts were not clear-cut. A discussion in the report on whether recognition was a form of acceptance or acquiescence or something else would have been useful. In this regard, reference was made to the fact that ICJ tended to understand "recognition" as being a form of acceptance or acquiescence; this did not provide adequate support for the existence of a specific consequence of recognition. Further research on the matter was thus required. Although the Special Rapporteur referred frequently to concepts similar to recognition, such as acquiescence and acceptance, they were by no means equivalent. The Special Rapporteur had also referred to acts of non-recognition, which, *a priori*, seemed to be more closely related to a different category, namely protest. Furthermore, silence and acquiescence were not synonymous, particularly in relation to territorial matters, and caution was required in dealing with such concepts when applied to the relationships between powerful and weaker States.

294. The point was also made that in discussing recognition of States, the Special Rapporteur had made no reference whatsoever to the classic distinction between *de jure* and *de facto* recognition, a distinction which posited various levels of the author State's capacity to go back on its recognition, *de jure* being definitive, whereas *de facto* was conditional.

295. Doubts were expressed over the assertion in the report that the modification, suspension or revocation of an act of recognition was feasible only if specific conditions were met.

296. As regards the effects of the establishment and suspension of diplomatic relations, the view was expressed that *de facto* recognition was not the same as implicit recognition, the former being provisional and without a binding legal act involved, whereas under a unilateral act a party signified its willingness to undertake certain obligations. The establishment of diplomatic relations might be considered as recognition equivalent to a legal act, but no more than that. It was stated that recognition through or as a result of the establishment of diplomatic relations or other agreements, as well as recognition resulting from decisions of an international organization, should be excluded from the report.

297. The view was expressed that the principle of *acta sunt servanda* adduced by the Special Rapporteur must be incorporated in the Commission's conclusions, but accompanied by a *rebus sic stantibus* clause, meaning that if a fundamental change of circumstance could affect the object of a unilateral act, then the unilateral act could also be affected. In addition, reference was made to the importance of the principle of good faith in the fulfilment of the obligations resulting from a unilateral act.

3. The Special Rapporteur's concluding remarks

298. The Special Rapporteur noted that the debate had once again highlighted the difficulties posed by the topic, not just as regards the substance but also in relation to the methodology to be applied.

299. The vast majority of the members shared the view that unilateral acts did indeed exist. Nonetheless, there were members who felt that the scope of the topic should go beyond unilateral acts *sensu stricto* and encompass certain types of conduct of States that could produce legal effects.

300. He indicated that his sixth report had focused on recognition because the Commission had requested him to proceed along those lines in 2002, but that he had

sought to expose the general characteristics of the unilateral act of recognition and not to present a study of the institution of recognition *per se*. The main purpose of the sixth report was to show that the definition of the act of recognition corresponded to the draft definition of unilateral act, *sensu stricto*, analysed by the Commission in previous years.

301. The Special Rapporteur was not certain that the study of distinct types of unilateral acts was the best means to proceed. There was clearly an important divergence of views in the Commission on several issues. One of the main areas of disagreement regarded the scope of the topic with some members suggesting its extension so as to encompass State conduct, a change that would certainly have a bearing on the work contained in his prior reports which had excluded such conduct.

302. Recognition, subject to certain conditions, was frequently found in practice and merited additional study. Collective recognition, he pointed out, had been accepted by some States. As regards the revocation of a unilateral act, it could be concluded that a restrictive approach was best; to do otherwise would call into question both the *acta sunt servanda* and the good faith principle.

C. Report of the Working Group

303. At its 2783rd meeting, on 31 July 2003, the Commission considered and adopted the recommendations contained in parts one and two of the report of the Working Group (A/CN.4/L.646), reproduced below:

1. Scope of the topic

304. As a result of fairly lengthy discussions, the Working Group agreed on the following compromise text, which it adopted by consensus. Like any compromise, this text was based on mutual concessions between the positions involved: it did not completely satisfy anyone, but was acceptable to all.

305. The Working Group strongly recommended that the Commission regard the compromise text as a guide both for the Special Rapporteur's future work and for its own discussions, which should avoid calling it into question because, otherwise, the work on the topic would become bogged down once more and the errors of the past would be committed again, since the contradictory instructions given to the Special Rapporteur were partly responsible for the current situation.

306. In the Working Group's opinion, the consensus reached struck a balance between the views which were expressed by its members and those which reflected the differences of opinion in the Commission as a whole on the scope of the topic.

Recommendation 1

For the purposes of the present study, a unilateral act of a State is a statement expressing the will or consent by which that State purports to create obligations or other legal effects under international law.

Recommendation 2

The study will also deal with the conduct of States which, in certain circumstances, may create obligations or other legal effects under international law similar to those of unilateral acts as described above.

Recommendation 3

In relation to unilateral acts as described in recommendation 1, the study will propose draft articles accompanied by commentaries. In relation to the conduct referred to in recommendation 2, the study will examine State practice and, if appropriate, may adopt guidelines/recommendations.

2. Method of work

307. The Working Group would have liked to be able to submit specific recommendations to the Commission on the method to be followed in achieving the objectives defined above. It had unfortunately not been able to do so within the time available to it and would simply make the following suggestions, which the Special Rapporteur might wish to take into account in his next report.

308. The Special Rapporteur, who was mainly responsible for the recommendations, informed the Working Group that, with the assistance of the University of Malaga and students from the International Law Seminar, he had already assembled a large amount of documentation on State practice.

Recommendation 4

The report which the Special Rapporteur will submit to the Commission at its next session will be exclusively as complete a presentation as possible of the practice of States in respect of unilateral acts. It should also include information originating with the author of the act or conduct and the reactions of the other States or other actors concerned.

Recommendation 5

The material assembled on an empirical basis should also include elements making it possible to identify not only the rules applicable to unilateral acts *sensu stricto*, with a view to the preparation of draft articles accompanied by commentaries, but also the rules which might apply to State conduct producing similar effects.

Recommendation 6

An orderly classification of State practice should, insofar as possible, provide answers to the following questions:

(*a*) What were the reasons for the unilateral act or conduct of the State?

(*b*) What are the criteria for the validity of the express or implied commitment of the State and, in particular, but not exclusively, the criteria relating to the competence of the organ responsible for the act or conduct?

(*c*) In which circumstances and under which conditions can the unilateral commitment be modified or withdrawn?

Recommendation 7

In his next report, the Special Rapporteur will not submit the legal rules which may be deduced from the material thus submitted. They will be dealt with in later reports so that specific draft articles or recommendations may be prepared.