

Chapter III

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

A. Shared natural resources

24. Under this topic, the Commission is now focusing for the time being on codification of the law on transboundary groundwaters (aquifers and aquifer systems). The work is progressing in the form of formulation of draft articles on the basis of the proposals by the Special Rapporteur contained in his third report (A/CN.4/551 and Add.1). In its report to the General Assembly on the work of its fifty-sixth session in 2004, the Commission requested States and relevant intergovernmental organizations to provide information in reply to the questionnaire prepared by the Special Rapporteur.³ The responses received from 23 States and three intergovernmental organizations (A/CN.4/555 and Add.1) were very useful to the Commission in its current work. Accordingly, the Commission requests those States and intergovernmental organizations that have not yet responded to submit detailed and precise information on the basis of the questionnaire prepared by the Special Rapporteur.

B. Effects of armed conflicts on treaties

25. The Commission would welcome any information Governments may wish to provide concerning their practice with regard to this topic, particularly more contemporary practice. Any further information that Governments consider relevant to the topic is also welcome.

C. Responsibility of international organizations

26. The next report of the Special Rapporteur will address questions relating to circumstances precluding wrongfulness, and responsibility of States for the internationally wrongful acts of international organizations. The Commission would welcome comments and observations relating to these questions, especially on the following points:

(a) Article 16 of the draft articles on responsibility of States for internationally wrongful acts adopted by the Commission at its fifty-third meeting only considers the case where a State aids or assists another State in the commission of an internationally wrongful act.⁴

³ *Yearbook ... 2004*, vol. II (Part Two), p. 55, para. 81.

⁴ Article 16 reads as follows:

Article 16. Aid or assistance in the commission of an internationally wrongful act

“A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

“(a) that State does so with knowledge of the circumstances of the internationally wrongful act; and

Should the Commission also include in the draft articles on responsibility of international organizations a provision concerning aid or assistance given by a State to an international organization in the commission of an internationally wrongful act? Should the answer given to the question above also apply to the case of direction and control⁵ or coercion⁶ exercised by a State over the commission by an international organization of an act that would be wrongful but for the coercion?

(b) Apart from the cases considered under (a), are there cases in which a State could be held responsible for the internationally wrongful act of an international organization of which it is a member?

D. Expulsion of aliens

27. The Commission would appreciate receiving any information concerning the practice of States on the subject, including national legislation.

E. Unilateral acts of States

28. The Commission would welcome comments and observations from Governments on the revocability and modification of unilateral acts. In particular, it would be interested to hear about practice relating to the revocation or modification of unilateral acts, any particular circumstances and conditions, the effects of a revocation or a

“(b) the act would be internationally wrongful if committed by that State.”

(*Yearbook ... 2001*, vol. II (Part Two) and corrigendum, p. 65)

⁵ See article 17 of the draft articles on responsibility of States for internationally wrongful acts, which reads as follows:

Article 17. Directives and control in the commission of an internationally wrongful act

“A State which directs and controls another State in the commission of an internationally wrongful act by the latter is internationally responsible for that act if:

“(a) that State does so with knowledge of the circumstances of the internationally wrongful act; and

“(b) the act would be internationally wrongful if committed by that State.”

(*Ibid.*, p. 67–68)

⁶ See article 18 of the draft articles on responsibility of States for internationally wrongful acts, which reads as follows:

Article 18. Coercion of another State

“A State which coerces another State to commit an act is internationally responsible for that act if:

“(a) the act would, but for the coercion, be an internationally wrongful act of the coerced State; and

“(b) the coercing State does so with knowledge of the circumstances of the act.”

(*Ibid.*, p. 69)

modification of a unilateral act and the scope of possible third-party reactions in that respect.

F. Reservations to treaties

29. States often object to a reservation that they consider incompatible with the object and purpose of the treaty, but without opposing the entry into force of the

treaty between themselves and the author of the reservation. The Commission would be particularly interested in Governments' comments on this practice. It would like to know, in particular, what effects the authors expect such objections to have, and how, in the view of Governments, this practice accords with article 19 (c) of the 1969 Vienna Convention.