

Chapter III

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

24. The Commission considers the requests for information on the topics “Protection of the atmosphere”⁶, “Identification of customary international law”⁷ and “Crimes against humanity”⁸, contained in chapter III of its report on its sixty-sixth session, still to be relevant and would welcome any additional information.

25. The Commission would also welcome any information on the following issues, to be sent by 31 January 2016 in order to be taken into account in the respective reports of the Special Rapporteurs.

A. Subsequent agreements and subsequent practice in relation to the interpretation of treaties

26. It would assist the Commission if States and international organizations could provide it with:

(a) any examples of decisions of national courts in which a subsequent agreement or subsequent practice has contributed to the interpretation of a treaty; and

(b) any examples where pronouncements or other action by a treaty body consisting of independent experts have been considered as giving rise to subsequent agreements or subsequent practice relevant for the interpretation of a treaty.

B. Protection of the environment in relation to armed conflicts

27. The Commission would appreciate being provided by States with information on whether, in their practice, international or domestic environmental law has been interpreted as applicable in relation to international or non-international armed conflict. The Commission would particularly appreciate receiving examples of:

(a) treaties, including relevant regional or bilateral treaties;

(b) national legislation relevant to the topic, including legislation implementing regional or bilateral treaties; and

(c) case law in which international or domestic environmental law was applied to disputes in relation to armed conflict.

⁶ *Yearbook ... 2014*, vol. II (Part Two), para. 27.

⁷ *Ibid.*, paras. 29–30.

⁸ *Ibid.*, para. 34.

28. The Commission also invites information from States as to whether they have any instruments aimed at protecting the environment in relation to armed conflict, for example: national legislation and regulations; military manuals, standard operating procedures, rules of engagement or status of forces agreements applicable during international operations; or environmental management policies covering defence-related activities. The Commission would, in particular, be interested in instruments related to preventive and remedial measures.

C. Immunity of State officials from foreign criminal jurisdiction

29. The Commission would appreciate being provided by States with information on their legislation and practice, in particular judicial practice, relating to limits and exceptions to the immunity of State officials from foreign criminal jurisdiction.

D. Provisional application of treaties

30. The Commission would appreciate being provided by States with information on their practice concerning the provisional application of treaties, including domestic legislation pertaining thereto, with examples, particularly in relation to:

(a) the decision to apply a treaty provisionally;

(b) the termination of such provisional application; and

(c) the legal effects of provisional application.

E. *Jus cogens*

31. The Commission would appreciate being provided by States with information relating to their practice on the nature of *jus cogens*, the criteria for its formation and the consequences flowing therefrom, as expressed in:

(a) official statements, including official statements before legislatures, courts and international organizations; and

(b) decisions of national and regional courts and tribunals, including quasi-judicial bodies.