

Chapter III

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

33. The Commission considers as still relevant the requests for information contained in Chapter III of the report of its sixty-sixth session (2014) on the topics “Crimes against humanity”⁷ and “Protection of the atmosphere”⁸, as well as in Chapter III of the report of its sixty-seventh session (2015) on the topics “Provisional application of treaties”⁹ and “*Jus cogens*”¹⁰, and would welcome any additional information.

34. The Commission would welcome any information on the issues mentioned in the paragraph above, as well as the following issues, by 31 January 2017, in order for it to be taken into account in the respective reports of the Special Rapporteurs.

A. Immunity of State officials from foreign criminal jurisdiction

35. The Commission would appreciate being provided by States with information on their national legislation and practice, including judicial and executive practice, with reference to the following issues:

- (a) the invocation of immunity;
- (b) waivers of immunity;
- (c) the stage at which the national authorities take immunity into consideration (investigation, indictment, prosecution);
- (d) the instruments available to the executive for referring information, legal documents and opinions to

the national courts in relation to a case in which immunity is or may be considered;

(e) the mechanisms for international legal assistance, cooperation and consultation that State authorities may resort to in relation to a case in which immunity is or may be considered.

B. New topics

36. The Commission decided to include two new topics in its long-term programme of work: (a) Settlement of international disputes to which international organizations are parties; and (b) Succession of States in respect of State responsibility. In the selection of these topics, the Commission was guided by the following criteria that it had agreed upon at its fiftieth session (1998): (a) that the topic should reflect the needs of States in respect of the progressive development and codification of international law; (b) that it should be at a sufficiently advanced stage in terms of State practice to permit progressive development and codification; (c) that it should be concrete and feasible for progressive development and codification; and (d) that the Commission should not restrict itself to traditional topics, but could also consider those that reflect new developments in international law and pressing concerns of the international community as a whole.¹¹ The Commission would welcome the views of States on these new topics.

37. In addition, the Commission would welcome any proposals that States may wish to make concerning possible topics for inclusion in its long-term programme of work. It would be helpful if such proposals were accompanied by a statement of reasons in their support, taking into account the criteria, referred to above, for the selection of topics.

⁷ *Yearbook ... 2014*, vol. II (Part Two), p. 20, para. 34.

⁸ *Ibid.*, p. 19, para. 27.

⁹ *Yearbook ... 2015*, vol. II (Part Two), p. 14, para. 30.

¹⁰ *Ibid.*, p. 14, para. 31.

¹¹ *Yearbook ... 1998*, vol. II (Part Two), p. 110, para. 553.