

Chapter III

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

28. The Commission considers the requests for information on the topic “Protection of the atmosphere”,³ contained in chapter III of the report on the work of its sixty-sixth session (2014), and on the topics “Provisional application of treaties”⁴ and “*Jus cogens*”,⁵ contained in chapter III of the report on the work of its sixty-seventh session (2015), still to be relevant and would welcome any additional information.

29. The Commission would welcome the submission, by 15 January 2018, of any information on the issues mentioned in the preceding paragraph and on the following issues, 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

30. 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.

³ *Yearbook ... 2014*, vol. II (Part Two), para. 27.

⁴ *Yearbook ... 2015*, vol. II (Part Two), para. 30.

⁵ *Ibid.*, para. 31.

B. Succession of States in respect of State responsibility

31. It would assist the Commission if States could provide it with any relevant international agreements, national legislation or decisions of national courts related to succession to, or distribution of, rights and obligations arising from internationally wrongful acts of, or against, a predecessor State.

C. New topics

32. The Commission decided to include two new topics in its long-term programme of work: (a) “General principles of law”; and (b) “Evidence before international courts and tribunals”. In the selection of those topics, the Commission was guided by the following criteria that it had agreed upon at its fiftieth session (1998): (a) the topic should reflect the needs of States in respect of the progressive development and codification of international law; (b) the topic should be at a sufficiently advanced stage in terms of State practice to permit progressive development and codification; (c) the topic should be concrete and feasible for progressive development and codification; and (d) 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.⁶ The Commission would welcome the views of States on those new topics.

33. 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 could be accompanied by a statement of reasons in support of their inclusion, taking into account the above-mentioned criteria for the selection of topics.

34. The Commission notes that the commemoration of its seventieth anniversary, to be held in New York and Geneva during its seventieth session, will provide an opportunity for an exchange of views between States and members of the Commission on possible topics that could be considered by the Commission in the future.

⁶ *Yearbook ... 1998*, vol. II (Part Two), para. 553.