



PERMANENT MISSION OF THE REPUBLIC OF BOTSWANA TO THE UNITED NATIONS

UN/BOT/83 (40) P4

The Permanent Mission of the Republic of Botswana to the United Nations presents its compliments to the Executive Office of the United Nations Secretary-General and with reference to Chapter III of the report of the International Law Commission for its 65th session (6 May – 7 June, 8 June-9 August 2013) has the honour to provide the following information obtained from authorities in Botswana:

(A) Immunity of State officials from foreign criminal jurisdiction

25. The Commission requests States to provide information, by 31 January 2014, on the practice of their institutions, and in particular, on judicial decisions, with reference to the meaning given to the phrases "official acts" and "acts performed in an official capacity" in the context of the immunity of State officials from foreign criminal jurisdiction.

Botswana courts have not dealt with any matter regarding immunity from foreign criminal jurisdiction and therefore has not had the opportunity to interpret the phrases.

(B) Formation and evidence of customary international law

26. The Commission requests States to provide information, by 31 January 2014, on their practice relating to the formation of customary international law and the types of evidence suitable for establishing such law in a given situation, as set out in:

- (a) official statements before legislatures, courts and international organizations; and*
- (b) decisions of national, regional and subregional courts.*

Botswana is unable to provide information on the practice relating to customary international law and the evidence needed for such formation as Botswana has not been at the forefront of the determination of appropriate rules of customary international law. There has not been opportunity and need to put forward the country's view on international practice leading to the formation of customary international law.

(C) Provisional application of treaties

27. The Commission requests States to provide information, by 31 January 2014, on their practice concerning the provisional application of treaties, with examples, in particular in relation to:

- (a) the decision to provisionally apply a treaty;
- (b) the termination of such provisional application; and
- (c) the legal effects of provisional application.

Botswana has not provisionally applied any treaty, but the Constitution of Botswana does not prohibit the provisional application of treaties. The process to be followed for provisional application of a treaty would be the same as the process followed when Botswana seeks to be party to a treaty.

(D) Protection of the environment in relation to armed conflicts

The Commission would like to have information from States 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, particularly relevant regional or bilateral treaties;*
- (b) national legislation relevant to the topic, including legislation implementing regional or bilateral treaties;*
- (c) case law in which international or domestic environmental law was applied to disputes arising from situations of armed conflict.*

Botswana is not party to treaties dealing with the protection of the environment in armed conflict. Botswana also does not have domestic legislation dealing with the protection of the environment in armed conflict. Further, the courts of Botswana have not dealt with any dispute arising from situations of armed conflict.

The Permanent Mission of the Republic of Botswana to the United Nations avails itself to renew to the Executive Office of the United Nations Secretary-General the assurances of its highest consideration.

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