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DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS FIFTY-FIRST SESSION

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CHAPTER III

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

1. In response to paragraph 11 of General Assembly resolution 53/102 of 8 December 1998, the Commission would like to indicate the following specific issues for each topic on which expression of views by Governments [either] in the Sixth Committee [or in written form] would be of particular interest in providing effective guidance for the Commission on its further work.

A. State responsibility

2. The Commission would particularly welcome, especially from these Governments which have not yet provided them, comments on the draft articles in Part Two, dealing in particular with (a) the definition of "injured State" (article 40), and the legal consequences of that definition; (b) the articles dealing with cessation (article 41) and reparation (articles 42-46); (c) the articles dealing with countermeasures (articles 47-50); and (d) whether the

consequences of international crimes specified in articles 50-53 are (i) appropriate for that category, if it is to be retained; and (ii) equally appropriate for the category of obligations to the international community as a whole (erga omnes) and/or breaches of peremptory norms (jus cogens).

3. In addition, the Commission would appreciate comments from all Governments on the following suggestions which have been made:

(a) that a distinction should be drawn between a State and States specifically injured by an internationally wrongful act, and other States which have a legal interest in the performance of the relevant obligations;

(b) that the requirement of compensation (article 44) should be spelled out in more detail, especially so far as concerns the obligation to pay interest;

(c) that the link between the taking of countermeasures and compulsory arbitration (article 58 (2)) be avoided because it gives only one State (the State which has committed the internationally wrongful act) and not the other (the injured State) the right to initiate arbitration;

(d) that questions raised by the existence of a plurality of States involved in the breach of an international obligation or injured by an internationally wrongful act be dealt with in the framework of the draft articles.

B. Reservations to treaties

4. The Commission recalls that, in 1995, a questionnaire on the topic was sent to States and international organizations. The Commission, while thanking the States and organizations which have already answered, would like to reiterate its plea to those States and organizations which have not answered so far, to do so. Moreover, the Commission welcomes additional answers on the parts of the questionnaire which had not been covered by the States and organizations which answered, indicating that they would respond later on those parts.

C. Unilateral acts of States

5. The Commission would particularly welcome comments on the issues identified for inclusion in the questionnaire to be sent to Governments which are contained in paragraph ... below (paragraph 18 of document A/CN.4/L.585/Add.1).

D. International liability for injurious consequences arising out of acts non-prohibited by international law (prevention of transboundary damage from hazardous activities)

6. The Commission would like to draw attention to paragraphs 10 and 11 of chapter IX of its report and would welcome any comments that Governments may wish to make in that respect.

E. Protection of the environment

7. The Commission would welcome written comments by Governments and by relevant international organizations with respect to issues in the field of environment which they might consider to be the most suitable for further work by the Commission.
