Responsibility of international organizations

A. Mandate

- 2000 recommendation of the Working-Group on the long-term programme of work
- 2002 decision to include the topic in its programme of work

B. Studies undertaken by the Secretariat and Reports of the Secretary-General

None

C. Reports of the Working Group or Sub-Committee

1. 54th session of the International Law Commission (2002)
   - Report of the Working Group

   - Report of the Working Group: text of article 2

D. Reports of the Special Rapporteur

1. Surveyed the previous work of the Commission relating to the responsibility of international organizations beginning with the work of the Commission on the topic of relations between States and international organizations in which the question of responsibility of international organizations was identified as early as 1963. The report further discussed the scope of the work and general principles concerning responsibility of international organizations, dealing with issues that corresponded to those that were considered in chapter one ("General principles", arts. 1 to 3) of the draft articles on "Responsibility of States for internationally wrongful acts". The following three draft articles were proposed: article 1 "Scope of the present draft articles", article 2 "Use of terms" and article 3 "General principles".
   - First Report of the Special Rapporteur, Giorgio Gaja (55th session of the ILC (2003))

2. Attribution of conduct to international organizations for which he proposed four draft articles: article 4 "General rule on attribution of conduct to an international organization", article 6 "Conduct of organs placed at the disposal of an international organization by a State or another international organization", article 8 "Excess of authority or contravention of instructions", and article 7 "Conduct acknowledged and adopted by an international organization as its own".
   - Second Report of the Special Rapporteur, Giorgio Gaja (56th session of the ILC (2004))

3. Dealt with the existence of a breach of an international obligation on the part of an international organization and with the responsibility of an international organization in connection with the act of a State or another international organization. The Special Rapporteur proposed draft articles 9 to 16: article 9 "Existence of a breach of an international obligation", article 10 "International obligation in force for an international organization", article 11 "Extension in time of the breach of an international obligation", article 12 "Breach consisting of a composite act", article 13 "Aid or assistance in the commission of an internationally wrongful act", article 14 "Direction and control exercise over the commission of an internationally wrongful act", article 15 "Coordination of a State or another international organization", article 17 "Effects of the preceding articles", and


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article 16 "Decisions, recommendations and authorizations addressed to member States and international organizations"
- Third Report of the Special Rapporteur, Giorgio Gaja (57th session of the ILC (2006))

4. Circumstances precluding wrongfulness (consent, self-defence, countermeasures in respect of an internationally wrongful act, force majeure, distress, necessity, compliance with peremptory norms, and consequences of invoking a circumstance precluding wrongfulness, as well as aid or assistance, direction and control, and coercion by a State in the commission of an internationally wrongful act of an international organization, and use by a State that is a member of an international organization of the separate personality of that organization). Included a consideration of the question of the responsibility of members of an international organization when that organization is responsible.

5. Consideration of the content of the international responsibility of an international organization (general principles, the legal consequences of an internationally wrongful act, the continued duty of performance, cessation and non-repetition, reparation, interference of the rules of the organization, and scope of international obligations set out in this Part), reparation for injury (forms of reparation, restitution, compensation, satisfaction, interest, and contribution to the injury) as well as serious breaches of obligations under peremptory norms of general international law (Application of the chapter, and particular consequences of a serious breach of an obligation under the chapter).
- Fifth Report of the Special Rapporteur, Giorgio Gaja (59th session of the ILC (2007))

6. Discussion of the invocation of the responsibility of an international organization (invocation of responsibility by an injured State or international organization, notice of claim by an injured State or international organization, loss of the right to invoke responsibility, plurality of injured entities, plurality of responsible entities, invocation of responsibility by an entity other than an injured State or international organization) and countermeasures (object and limits of countermeasures, obligations not affected by countermeasures, proportionality, conditions relating to resort to countermeasures, termination of countermeasures, measures taken by an entity other than an injured State or international organization)
- Sixth Report of the Special Rapporteur, Giorgio Gaja (60th session of the ILC (2008))

7. Discussion on scope of the articles, use of terms and general principle, attribution of conduct, breach of an international obligation, responsibility of an international organization in connection with the act of a State or another international organization, circumstances precluding wrongfulness, responsibility of a State in connection with the act of an international organization, content of international responsibility, implementation of international responsibility, and general provisions.
- Seventh Report of the Special Rapporteur, Giorgio Gaja (61st session of the ILC (2009))

E. Reports of the Drafting Committee

   - Titles and texts of draft articles 1, 2 and 3 adopted by the Drafting Committee
   - Statement of the Chairman of the Drafting Committee

   - Titles and texts of the draft articles 4, 5, 6, and 7 adopted by the Drafting Committee

   - Titles and texts of the draft articles adopted by the Drafting Committee on 27 May 2005
   - Statement of the Chairman of the Drafting Committee

   - Titles and texts of the draft articles adopted by the Drafting Committee on 31 May 2006 and 19 July 2006
   - Statement of the Chairman of the Drafting Committee (1st part) (2nd part)
5. 59th session of the International Law Commission (2007)
- Titles and texts of draft articles 31 to 45 [44] adopted by the Drafting Committee on 18, 19, 20 and 25 July 2007
- Statement of the Chairman of the Drafting Committee

6. 60th session of the International Law Commission (2008)
- Titles and texts of articles 46, 47, 48, 49 [48], 50 [49], 51 [50], 52 [51] and 53, provisionally adopted by the Drafting Committee on 21, 22, 23, 24 and 25 May 2008
- Statement of the Chairman of the Drafting Committee
- Titles and texts of Part Three, Chapter I, Chapter II and draft articles 54, 55, 56, 57, 58, 59 and 60 provisionally adopted by the Drafting Committee on 16 July 2008
- Statement of the Chairman of the Drafting Committee

6. 61st session of the International Law Commission (2009)
- Restructuring of the draft articles and text of draft articles 2, 4, 8, 15, paragraph 2, (b), 16 bis, 18, 19 and 65, adopted by the Drafting Committee on 26, 27 May and 2 June 2008 (statement of the Chairman of the Drafting Committee)
- Text of draft articles 3, 3 bis, 29, paragraph 1, 61, 62, 63 and 64 adopted by the Drafting Committee on 2 June 2009 (statement of the Chairman of the Drafting Committee)

F. Comments by Governments/International Organizations

- Comments and observations received from international organizations

2. 57th session of the International Law Commission (2005)
- Comments and observations received from Governments
- Comments and observations received from Governments and international organizations

- Comments and observations received from international organizations

- Comments and observations received from international organizations

5. 60th session of the International Law Commission (2008)
- Comments and observations received from international organizations

6. 61st session of the International Law Commission (2009)
- Comments and observations received from international organizations

G. Other
None

H. Reports of the International Law Commission

1. Report of the International Law Commission on the work of its fifty-fourth session, 29 April to 7 June and 22 July to 16 August 2002
   - Decided to include the topic in its programme of work, Appointed Giorgio Galo as Special Rapporteur and established a Working Group, and subsequently considered and adopted an oral report of the Working Group.
   - Discussion in Plenary: 2717th (F) mtg (8 May 2002) and 2742nd (F) mtg (2 August 2002)

2. Report of the International Law Commission on the work of its fifty-fifth session, 5
   - ILC Report, A/58/10, 2003, chp. IV

May to 6 June and 7 July to 8 August 2003
- Considered the first report of the Special Rapporteur, referred draft articles 1 and 2 to the Drafting Committee. The Commission subsequently established a Working Group to consider draft article 2, and subsequently referred the new text for that article, as proposed by the Working Group, to the Drafting Committee. The Commission subsequently considered and adopted the report of the Drafting Committee on draft articles 1 (Scope of the present draft articles), 2 (Use of terms) and 3 (General principles), and adopted commentaries on those articles. A Working Group was subsequently established to assist the Special Rapporteur with his next report.
- Discussion In Plenary: 27251st (F), 27252nd (F), 27253rd (F), 27254th (F), 27255th (F), 27256th (F), 27257th (F) mtgs (6 to 9, 13 and 27 May 2003) and 27258th (F) and 27259th (F) mtgs (16 July and 4 August 2003)

3. Report of the International Law Commission on the work of its fifty-sixth session, 3
May to 4 June and 5 July to 6 August 2004
- The Commission had before it the second report of the Special Rapporteur. After considering the report, the Commission referred draft articles 4 to 7 to the Drafting Committee. The Commission subsequently considered and adopted the report of the Drafting Committee on draft articles 4 (General rule on attribution of conduct to an international organization), 5 (Conduct of organs or agents placed at the disposal of an international organization by a State or another international organization), 6 (Excess of authority or contravention of instructions), and 7 (Conduct acknowledged and adopted by an international organization as its own), and adopted commentaries on those articles.
- Discussion In Plenary: 28000th (E), 28001st (E), 28002nd (E), 28003rd (E) (18 to 25 May 2004), 28006th (E) (4 June 2004) and 28007th (E) and 28008th (E) mtgs (3 August 2004)

4. Report of the International Law Commission on the work of its fifty-seventh session, 2
May to 3 June and 11 July to 5 August 2005
- The Commission considered the third report of the Special Rapporteur, and subsequently established a Working Group to consider draft articles 8 and 16. The Commission referred draft articles 9 to 15, and 8 and 16 (on the basis of the oral report of the Working Group) to the Drafting Committee. The Commission, subsequently considered and adopted the report of the Drafting Committee on draft articles 8 (Existence of a breach of an international obligation), 9 (International obligation in force for an international organization), 10 (Extension in time of the breach of an international obligation), 11 (Breach consisting of a composite act), 12 (Aid or assistance in the commission of an internationally wrongful act), 13 (Direction and control exercised over the commission of an internationally wrongful act), 14 (Coercion of a State or another international organization) and 15 (Effects of the preceding articles), and 16 (Decisions, recommendations and authorizations addressed to member States and international organizations), and adopted commentaries on those articles.
- Discussion In Plenary: 28359th (F), 28406th (F), 28411st (F), 2842nd (F), 2843rd (F), 2844th (F) (17 to 25 May 2005), 2845th (F) (3 June 2005), 2862nd (F) and 2863rd (F) (2 and 3 August 2005) mtgs

5. Report of the International Law Commission on the work of its fifty-eighth session, 1
May to 9 June and 3 July to 11 August 2006
- The Commission had before it the fourth report of the Special Rapporteur, containing proposals for draft articles 17 to 25, as well as written comments received from international organizations and from governments. The Commission referred the proposed draft articles to the Drafting Committee and subsequently considered and adopted the report of the Drafting Committee on draft articles 17 (Compel), 18 (Self-defence), 19 (Countermeasures), 20 (Force majeure), 21 (Distress), 22 (Necessity), 23 (Compliance with customary norms), 24 (Consequences of invoking a circumstance precluding wrongfulness) and draft articles 25 (Aid or assistance by a State in the commission of an internationally wrongful act by an international organization), 26 (Direction and control exercised by a State over the commission of an internationally wrongful act by an international organization), 27 (Coercion of an international organization by a State), 28 (International responsibility in case of provision of competence to an international organization), 29 (Responsibility of a State member of an international organization for the internationally wrongful act of that organization) and 30 (Effect of this chapter), with commentaries thereto.
- Discussion In Plenary: 28769th (F), 28777th (F), 28776th, 28769th (F) and 28711st (F), 2892nd (F), 2893rd (F), 2894th (F) and 2895th mtgs, held from 16 to 19 May and from 11 to 14 and 16 July 2006, respectively, and 2894th (F) mtg on 9 June 2006 and 2892nd (F) mtg, held on 28 July 2006, and 28910th (F) meeting, held on 8 August 2006.

May to 5 June and 9 July to 10 August 2007
- The Commission had before it the fifth report of the Special Rapporteur

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(A/CN.4/583), as well as written comments received from international organizations.
- At its 2007th meeting, on 12 July 2007, the Commission referred draft articles 31 to 44 to the Drafting Committee. At the same meeting, a supplementary draft article was proposed by a member of the Commission. The Special Rapporteur proposed a different supplementary article on the same issue. At the 2098th meeting, on 19 July 2007, the Commission referred the draft article proposed by the Special Rapporteur to the Drafting Committee.
- Discussion in Plenary: 2932nd (F), 2933rd (F), 2934th (F), 2935th (F), and 2936th meetings from 9 to 12 July 2007 and 18 July 2007.

7. Report of the International Law Commission on the work of its Sixtieth session, 5 May to 6 June and 7 July to 8 August 2008

- The Commission had before it the sixth report of the Special Rapporteur (A/CN.4/587), as well as written comments received from international organizations.
- At the 2964th meeting, on 16 May 2008, the Commission established a Working Group under the chairmanship of Mr. Enrique Candioti for the purpose of considering the issue of countermeasures as well as the advisability of including in the draft articles a provision relating to admissibility of claims.
- At its 2973th meeting, on 15 July 2008, the Commission received the oral report of the Working Group, which was delivered by the Chairman of the Working Group. The Commission referred draft articles 52 to 57, paragraph 1, to the Drafting Committee, together with the recommendations of the Working Group.
- The Commission considered and adopted the report of the Drafting Committee on draft articles 46 to 53 at its 2971st meeting, on 4 June 2008. At its 2980th meeting on 4 August 2008, the Commission adopted the title of Chapter I of Part Three of the draft articles. At its 2983rd meeting, on 6 August 2008, the Commission adopted the commentary to the said draft articles.
- At its 2996th meeting, on 4 August 2008, the Commission received the report of the Drafting Committee and took note of draft articles 54 to 60 on countermeasures, as provisionally adopted by the Drafting Committee.
- Discussion in Plenary: 2996th (F), 2996th (F), 2996th (F), 2996th (F), 2996th (F), 2996th (F) mtgs., from 9 to 16 May 2008, 2998th (F) mtg., on 28 May 2008, 2997th (F), on 4 June 2008, 2998th (F) mtg., on 13 May 2008, 2998th (F) mtg., on 4 August 2008, 2993rd (F) mtg., on 6 August 2008.

8. Report of the International Law Commission on the work of its Sixtieth session, 4 May to 5 June and 6 July to 7 August 2009

- The Commission had before it the seventh report of the Special Rapporteur (A/CN.4/610), as well as written comments received from international organizations. The seventh report addressed certain outstanding issues such as the general provisions of the draft articles and the place of the chapter concerning the responsibility of a State in connexion with the act of an international organization. The seventh report also contained a review of comments made by States and international organizations on the draft articles provisionally adopted by the Commission and, as necessary, proposed certain amendments thereto.
- The Commission considered the seventh report of the Special Rapporteur at its 2998th to 3002nd, and 3006th to 3009th meetings from 4 to 8 May, and from 15 to 22 May 2006. At its 3006th meeting, on 22 May 2006, the Commission referred draft articles 2, 4 (2), 8, 15 (2) (b), 15 bis, 18, 19, 20 (1), 55, 58, 61, 62, 63 and 64 to the Drafting Committee.
- The Commission considered and adopted the report of the Drafting Committee on draft articles 2, 4, 8, 15 bis, 18, 19 and 55 at its 3014th meeting, on 5 June 2009. At the same meeting, it also adopted draft articles 54, and 55 to 60, which had been taken note of at the sixteenth session. At its 3015th meeting, on 6 July 2009, the Commission considered and adopted the report of the Drafting Committee on draft articles 3, 3 bis, 28, paragraphs 1, 51, 62, 63 and 64. It thus adopted a set of 66 draft articles on the responsibility of international organizations on first reading. At its 3030th to 3032nd meetings, on 3, 4 and 5 August 2009, the Commission adopted the commentary to the draft articles on the responsibility of international organizations as adopted on first reading.
- At the 3030th meeting, on 3 August 2009, the Commission decided, in accordance with articles 16 to 21 of its Statute to transmit the draft articles, through the Secretary-General, to Governments and international organizations for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by 1 January 2011.
- Discussion in Plenary: 3095th (F), 3096th (F), 3098th (F), 3099th (F), 30101st (F), 3002nd (F), and 3006th (F), 3007th (F), 3008th (F), 3009th (F), 3010th (F) meetings from 4 to 8 May, and from 15 to 22 May 2009, and 3030th (F), 3031st (F) and 3032nd (F) mtgs on 3, 4 and 5 August 2009.
I. General Assembly Action

Res. 55/152 of 12 December 2000 (E, F, S, R, C, A)
- Took note of the Commission's report concerning its long-term programme of work.

Res. 58/82 of 12 December 2001 (E, F, S, R, C, A)
- Requested the Commission to begin its work on the topic "Responsibility of international organizations".

Res. 57/21 of 19 November 2002 (E, F, S, R, C, A)
- Took note of the decision of the Commission to include the topic in its programme of work.

Res. 58/77 of 9 December 2003 (E, F, S, R, C, A)
- Requested the Secretary-General to invite States and international organizations to submit information concerning their practice relevant to the topic "Responsibility of international organizations", including cases in which States members of an international organization may be regarded as responsible for acts of the organization.

Res. 60/22 of 23 November 2005 (E, F, S, R, C, A)
- Invited Governments to provide information to the International Law Commission on the topic.

Res. 62/56 of 6 December 2007 (E, F, S, R, C, A)
- Invited Governments to provide information to the International Law Commission on the topic.

Res. 63/123 of 11 December 2008 (E, F, S, R, C, A)
- Drew the attention of Governments to the importance for the International Law Commission of having their views regarding practice with regard to the topic.

Res. 64/114 of 16 December 2009 (E, F, S, R, C, A)
- Expressed its appreciation to the International Law Commission for the completion, on first reading, of the draft articles on the topic "Responsibility of international organizations".
- Drew the attention of Governments to the importance for the International Law Commission of having their comments and observations by 1 January 2011 on the draft articles and commentaries on the topic "Responsibility of international organizations" adopted on first reading by the Commission at its sixty-first session.

J. Final Outcome

Work in progress

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