



General Assembly

Distr.: General
18 November 2022

Original: English

Seventy-seventh session

Agenda item 73

Responsibility of States for internationally wrongful acts

Report of the Sixth Committee

Rapporteur: Ms. Sarah Zahirah **Ruhama** (Malaysia)

I. Introduction

1. The item entitled “Responsibility of States for internationally wrongful acts” was included in the provisional agenda of the seventy-seventh session of the General Assembly pursuant to Assembly resolution [74/180](#) of 18 December 2019.
2. At its 3rd plenary meeting, on 16 September 2022, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 13th, 14th, 35th and 36th meetings, on 13 October and on 10 and 18 November 2022. The views of the representatives who spoke during the Committee’s consideration of the item are reflected in the relevant summary records.¹
4. For its consideration of the item, the Committee had before it the following documents:
 - (a) Report of the Secretary-General transmitting comments and information received from Governments ([A/77/198](#));
 - (b) Report of the Secretary-General containing a compilation of decisions of international courts, tribunals and other bodies ([A/77/74](#)).
5. At its 1st meeting, on 3 October 2022, the Committee decided, pursuant to General Assembly resolution [74/180](#), to establish a working group on the responsibility of States for internationally wrongful acts, in order to fulfil the mandate conferred by the Assembly on the Committee, namely, to further examine, with a view to taking a decision, the question of a convention on the topic or other appropriate action on the basis of the articles drafted by the International Law Commission. At the same meeting, the Committee decided to open the working group to all States

¹ [A/C.6/77/SR.13](#), [A/C.6/77/SR.14](#), [A/C.6/77/SR.35](#) and [A/C.6/77/SR.36](#).



Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency. The working group, which was chaired by Vinícius Fox Drummond Cançado Trindade (Brazil), held three meetings, on 18 and 31 October and on 7 November 2022.

6. At its 35th meeting, on 10 November, the Committee heard and took note of the oral report of the Chair of the working group.

II. Consideration of draft resolution [A/C.6/77/L.17](#)

7. At the 36th meeting, on 18 November, the representative of Brazil, on behalf of the Bureau, introduced a draft resolution entitled “Responsibility of States for internationally wrongful acts” ([A/C.6/77/L.17](#)).

8. At the same meeting, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

9. Also at the same meeting, the Committee adopted draft resolution [A/C.6/77/L.17](#) without a vote (see para. 10).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Responsibility of States for internationally wrongful acts

The General Assembly,

Recalling its resolution [56/83](#) of 12 December 2001, the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts, recalling also the report of the International Law Commission on the work of its fifty-third session,¹ and recalling further its resolutions [59/35](#) of 2 December 2004, [62/61](#) of 6 December 2007, [65/19](#) of 6 December 2010, [68/104](#) of 16 December 2013, [71/133](#) of 13 December 2016 and [74/180](#) of 18 December 2019 commending the articles to the attention of Governments,

Noting that the International Law Commission decided to recommend that the General Assembly take note of the draft articles on responsibility of States for internationally wrongful acts in a resolution and annex the draft articles to that resolution, and consider at a later stage, in the light of the importance of the topic, the possibility of convening an international conference of plenipotentiaries to examine the draft articles with a view to concluding a convention on the topic,

Acknowledging that 12 December 2021 marked the twentieth anniversary of the adoption of its resolution [56/83](#), the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts, which were taken note of and commended to the attention of Governments without prejudice to the question of their future adoption or other appropriate action,

Acknowledging also, in this regard, the constructive dialogue in the context of successive working groups of the Sixth Committee on the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles, and all views expressed thereon,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the subject of responsibility of States for internationally wrongful acts is of major importance in relations between States,

Noting with appreciation the compilation of decisions of international courts, tribunals and other bodies referring to the articles, prepared by the Secretary-General,²

Noting the discussion on whether Member States should examine all procedural options regarding possible action on the basis of the articles,

Noting also the informal substantive dialogue among Member States during the period between the seventy-first and seventy-seventh sessions of the General Assembly,

¹ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 and corrigendum* ([A/56/10](#) and [A/56/10/Corr.1](#)).

² See [A/62/62](#), [A/62/62/Corr.1](#), [A/62/62/Add.1](#), [A/65/76](#), [A/68/72](#), [A/71/80](#), [A/71/80/Add.1](#), [A/74/83](#) and [A/77/74](#).

1. *Continues to acknowledge* the importance and usefulness of the articles on responsibility of States for internationally wrongful acts,³ and commends them once again to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;
2. *Requests* the Secretary-General to invite Governments to submit further written comments on any future action regarding the articles;
3. *Takes note* of the comments and observations of Governments⁴ and the discussions held in the Sixth Committee, at the fifty-sixth, fifty-ninth, sixty-second, sixty-fifth, sixty-eighth, seventy-first, seventy-fourth and seventy-seventh sessions of the General Assembly, on responsibility of States for internationally wrongful acts;
4. *Acknowledges* that a growing number of decisions of international courts, tribunals and other bodies refer to the articles;
5. *Requests* the Secretary-General to update the technical report listing, in a tabular format, the references to the articles contained in the compilation of decisions of international courts, tribunals and other bodies referring to the articles prepared since 2001, and further requests the Secretary-General to submit such material during its eightieth session;
6. *Also requests* the Secretary-General to provide the General Assembly, at its eightieth session, with a report on all procedural options based on precedents regarding action taken on other products of the International Law Commission, without prejudice to the question of whether such possible action is appropriate, and takes note of the discussions on procedural precedents for action on International Law Commission products and all views, comments and concerns expressed thereon;
7. *Further requests* the Secretary-General to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles and to invite Governments to submit information on their practice in this regard, and also requests the Secretary-General to submit such material well in advance of its eightieth session;
8. *Acknowledges* the constructive dialogue in the context of the working group of the Sixth Committee during the seventy-seventh session of the General Assembly, and encourages all Member States to continue the substantive dialogue on an informal basis during the period prior to the eightieth session of the Assembly, including on the basis of the information that will be provided in advance by the Secretary-General at the seventy-ninth session of the General Assembly, regarding the report requested in paragraph 6 of the present resolution;
9. *Decides* to include in the provisional agenda of its eightieth session the item entitled "Responsibility of States for internationally wrongful acts" and to further examine, within the framework of a working group of the Sixth Committee and with a view to taking a decision, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

³ Resolution 56/83, annex.

⁴ See A/62/63, A/62/63/Add.1, A/65/96, A/65/96/Add.1, A/68/69, A/68/69/Add.1, A/71/79, A/74/156 and A/77/198.