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Agenda item 75

Responsibility of States for internationally wrongful acts

Report of the Sixth Committee

Rapporteur: Mr. Mohamed Hamad **Al-Thani** (Qatar)

I. Introduction

1. The item entitled “Responsibility of States for internationally wrongful acts” was included in the provisional agenda of the seventy-fourth session of the General Assembly pursuant to Assembly resolution [71/133](#) of 13 December 2016.
2. At its 2nd plenary meeting, on 20 September 2019, 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, 15th, 34th and 35th meetings, on 15 and 16 October and 11 and 20 November 2019. 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 containing a compilation of decisions of international courts, tribunals and other bodies ([A/74/83](#));
 - (b) Report of the Secretary-General transmitting comments and information received from Governments ([A/74/156](#)).
5. At its 1st meeting, on 7 October 2019, the Committee decided, pursuant to General Assembly resolution [71/133](#), 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 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 Members of the United Nations or

¹ [A/C.6/74/SR.13](#), [A/C.6/74/SR.15](#), [A/C.6/74/SR.34](#) and [A/C.6/74/SR.35](#).



members of specialized agencies or of the International Atomic Energy Agency. The Working Group, which was chaired by Maitê de Sousa Schmitz (Brazil), held three meetings, on 15 and 22 October and 7 November 2019.

6. At its 34th meeting, on 11 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.6/74/L.16](#)

7. At the 35th meeting, on 20 November, the representative of Brazil, on behalf of the Bureau, introduced a draft resolution entitled “Responsibility of States for internationally wrongful acts” ([A/C.6/74/L.16](#)).

8. At the same meeting, the Committee adopted draft resolution [A/C.6/74/L.16](#) without a vote (see para. 10).

9. The representative of Portugal, also on behalf of Argentina, Mexico and Sierra Leone, spoke in explanation of position after the adoption of the draft resolution.

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 and [71/133](#) of 13 December 2016 commending the articles to the attention of Governments,

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 the seventy-fourth sessions of the General Assembly,

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 and seventy-fourth 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;

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](#) and [A/74/83](#).

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](#) and [A/74/156](#).

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, as well as references to the articles made in submissions presented by Member States before international courts, tribunals and other bodies since 2001, and further requests the Secretary-General to submit such material during its seventy-seventh session;

6. *Acknowledges* the possibility of requesting, at its seventy-seventh session, the Secretary-General to provide the General Assembly with information on all procedural options regarding possible action on the basis of the articles, without prejudice to the question of whether such possible action is appropriate;

7. *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 seventy-seventh session;

8. *Acknowledges* the constructive dialogue in the context of the working group of the Sixth Committee during the seventy-fourth 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 seventy-seventh session of the Assembly;

9. *Decides* to include in the provisional agenda of its seventy-seventh 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.
