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Succession of States in respect of State responsibility

Text of draft guidelines 6, 7 *bis*, 10, 10 *bis*, 11, 12, 13, 13 *bis*, 14, 15 and 15 *bis* as provisionally adopted by the Drafting Committee at the seventy-third session

Draft guideline 6

No effect upon attribution

A succession of States has no effect upon the attribution to a State of an internationally wrongful act committed by that State before the date of succession.

Draft guideline 7 *bis*

Composite acts

1. When a predecessor State continues to exist, the breach of an international obligation by that State through a series of actions or omissions defined in aggregate as wrongful occurs when an action or omission of the predecessor State occurs after the date of succession which, taken with its other actions or omissions, is sufficient to constitute the wrongful act.
2. The breach of an international obligation by a successor State through a series of actions or omissions defined in aggregate as wrongful occurs when an action or omission of the successor State occurs after the date of succession which, taken with its other actions or omissions, is sufficient to constitute the wrongful act.
3. The provisions of paragraphs 1 and 2 are without prejudice to whether the breach of an international obligation by a successor State may occur through a series of actions or omissions defined in aggregate as wrongful that commences with the predecessor State and continues with the successor State.

Draft guideline 10

Uniting of States

When two or more States unite and so form one successor State, and an internationally wrongful act has been committed by any of the predecessor States, the injured State and the successor State should agree on how to address the injury.

Draft guideline 10 *bis*

Incorporation of a State into another State

1. When an internationally wrongful act has been committed by a State prior to its incorporation into another State, the injured State and the incorporating State should agree on how to address the injury.



2. When an internationally wrongful act has been committed by a State prior to incorporating another State, the responsibility of the State that committed the wrongful act is not affected by such incorporation.

Draft guideline 11
Dissolution of a State

When a State that has committed an internationally wrongful act dissolves and ceases to exist and the parts of the territory of the predecessor State form two or more successor States, the injured State and the relevant successor State or States should agree on how to address the injury arising from the internationally wrongful act. They should take into account any territorial link, any benefit derived, any equitable apportionment, and all other relevant circumstances.

Draft guideline 12
Cases of succession of States when the predecessor State continues to exist

1. When an internationally wrongful act has been committed against a predecessor State by another State before the date of succession of States, and the predecessor State continues to exist, the predecessor State continues to be entitled to invoke the responsibility of the other State even after the date of succession, if the injury to it has not been made good.
2. In addition to paragraph 1, a successor State may, in particular circumstances, be entitled to invoke the responsibility of the State that committed the internationally wrongful act.
3. Paragraphs 1 and 2 are without prejudice to any apportionment or other agreement between the predecessor State and the successor State.

Draft guideline 13
Uniting of States

When two or more States unite and so form one successor State, and any of the predecessor States was injured by an internationally wrongful act of another State, the successor State may invoke the responsibility of that other State.

Draft guideline 13 *bis*
Incorporation of a State into another State

1. When an internationally wrongful act has been committed against a State prior to its incorporation into another State, the incorporating State may invoke the responsibility of the wrongdoing State.
2. When an internationally wrongful act has been committed against a State prior to incorporating another State, the injured State continues to be entitled to invoke the responsibility of the wrongdoing State.

Draft guideline 14
Dissolution of a State

1. When a State that has been injured by an internationally wrongful act dissolves and ceases to exist and the parts of the territory of the predecessor State form two or more successor States, one or more of the successor States may, in particular circumstances, be entitled to invoke the responsibility of the wrongdoing State.
2. The wrongdoing State and the relevant successor State or States should endeavour to reach agreement for addressing the injury. They should take into account any territorial link, any loss or benefit derived for nationals of the successor State, any equitable proportion and all other relevant circumstances.

Draft guideline 15**Diplomatic protection**

The present draft guidelines do not address the application of the rules of diplomatic protection in situations of the succession of States.

Draft guideline 15 *bis***Cessation and non-repetition**

1. A predecessor State that is responsible for an internationally wrongful act that occurred before the date of succession of States, and that continues to exist after the date of succession, remains under an obligation:

- (a) to cease that act, if it is continuing;
- (b) to offer appropriate assurances and guarantees of non-repetition, if circumstances so require.

2. A State that is responsible for an internationally wrongful act in accordance with draft guideline 7 or with draft guideline 7 *bis*, paragraph 1 or paragraph 2, is under an obligation:

- (a) to cease that act, if it is continuing;
 - (b) to offer appropriate assurances and guarantees of non-repetition, if circumstances so require.
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