



Mr/Madam Chairperson,

1. On

Special Rapporteur's agreement in his concluding remarks at this year's ILC session that this should be stated clearly at the outset of the general commentary to the draft articles and in the draft articles themselves.

5. Third, the United Kingdom is concerned that, despite the addition of a new paragraph 2 to draft article 1 which makes it clear that the draft articles would only apply in the absence of any agreement between the parties, the Special Rapporteur continues in his third report to propose draft articles on the back of examples of purported 'State practice' which in fact are arrangements underpinned by agreements or treaties and to which, as a result of paragraph 2 to draft article 1, the articles would not apply were these arrangements to take place today.
6. Finally

topic. The United Kingdom will reserve detailed comments until the work is further developed.

9. The United Kingdom remains of the view that questions concerning sources of international law are natural topics for consideration by the Commission and that a careful and well-documented study, focusing on this 'third' source of international law listed in Article 38, paragraph 1(c) of the ICJ Statute, could be of practical assistance to States and practitioners alike.
10. The United Kingdom is of the same view as the Special Rapporteur that the Commission should confine the parameters of this topic to explaining how to identify general principles of law and clarifying their nature, scope and functions. In particular, the United Kingdom agrees with the Special Rapporteur that the Commission should not address the substance of general principles of law in its work on this topic. The United Kingdom is therefore also in agreement with the Special Rapporteur that preparing an illustrative list of general principles of law would be impractical, necessarily incomplete and would divert attention away from the central aspects of the topic. References to examples of general principles of law in the course of the Commission's work should go in the commentaries and be for illustration only.
11. The United Kingdom welcomes the Special Rapporteur's statement in his first report that the Commission's work on this topic should be done "*in a pragmatic way based on current law and practice*". At the same time, the United Kingdom notes that there is little by way of State practice in this area from which to draw conclusions, particularly regarding some of the more detailed questions the Special Rapporteur hopes to answer. As the Special Rapporteur acknowledges in his report, what practice of States and international courts and tribunals there is has been described as "*unclear or ambiguous*". The United Kingdom therefore agrees with the Special Rapporteur that "*as the present topic is likely to touch upon certain fundamental aspects of the international legal system, a cautious and rigorous approach is*



Thank you, Mr/Madam Chairperson.