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ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲಾ ಪಂಚಾಯತ್  
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ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲಾ ಪಂಚಾಯತ್

**ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲಾ ಪಂಚಾಯತ್**

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**Chapter IV: Subsequent agreements and subsequent practice in relation to the interpretation of treaties**

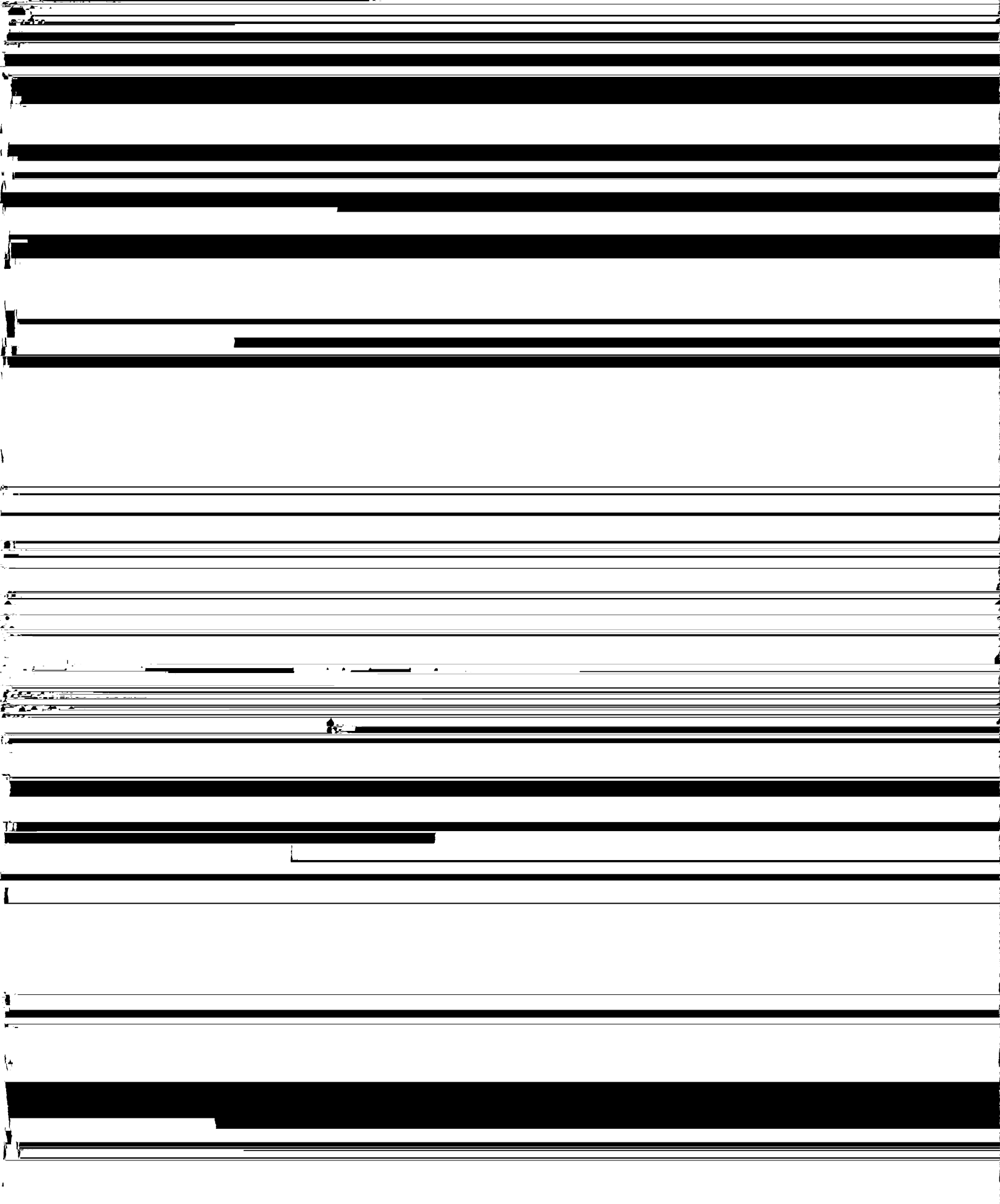
Mr. Chairman,

Let me first of all express our deep appreciation to the International Law Commission for the completion of its work on the topic of "Subsequent agreements and subsequent practice in

At the same time, the Commission, when borrowing language from its previous work in other fields, such as, in particular, the law on responsibility of States for international wrongful

the purpose of that body of law and might be limited in scope.

We further share the Commission's understanding of the process of treaty interpretation as a single combined operation which should place, in good faith, appropriate emphasis on the various means of interpretation indicated in articles 31 and 32 of the 1969 Vienna Convention



Paragraph 3 of conclusion 4 strikes the right balance on the delicate issue of the contribution of non-state actors to the identification of customary international law. In fact, in cases of

international law rules whose addressees are also non-State actors, one cannot easily argue that the behavior of the addressees of those norms is irrelevant for the formation of customary international law. In such cases, the non-State actor's abidance by some rules and principles, if accepted by the community of States as reflecting the law, may constitute a practice which

rule as there seem to be no eternal or decades lasting precedents of persistent objector to an established customary international law rule dating far back in time.

Turning to conclusion 16 on particular customary international law, as indicated in previous

16 that “the application of the two-element approach is stricter in the case of rules of particular customary law”, in the sense that a concurring practice and acceptance as law by *all* the States involved is required. However, the ILC could also have distinguished between novel particular customs, whose scope of application refers to State behavior not already regulated by specific rules of international law and derogatory particular customs, the latter derogating from a general rule of customary international law, by requiring a stricter standard of proof in the latter case.

criterion of “emerging State practice”, which is considered by it critical for the selection of new topics.

Although the concerns of many states about the rise of sea level are very real and legitimate we wonder what is this State practice with regard to the legal implications of the above phenomenon which is still in the process of developing and evolving continuously . A few sparse examples would not by any means constitute a conclusive body of established practices. For the ILC to include a topic in its agenda, the need for the provision of relevant regulatory guidance should go hand in hand with a minimum threshold of available state practice which would allow the Commission to associate according to its mandate progressive develop-

ment with codification. Failing this, the Commission risks to embark upon an exercise of a prevailing *lege ferenda* character. The above as well as the fact that ILA deals with this topic should advocate for a period of waiting before a body such as the ILC would eventually take it up.

For the above reasons we have some doubts about the feasibility of the topic at the present

Mr. Chairman,

At this point allow me to pay tribute on behalf of my country to the ILC for its outstanding

work and achievements from its commencement in the promotion of the "progressive devel-

opment of international law and its codification". The Commission's work had had a considerable impact not only on the development of international law, but also on peaceful international relations among states by providing legal certainty. We are aware of the new challenges facing the Commission today and we commend it for having adapted so far its work to these challenges. The Commission should however be more cautious in identifying its future priorities by focussing on existing topics of its agenda rather than expanding its work to new areas and new items which may not fit in its mandate. We stand ready to support the ILC in its future endeavours.

I thank you Mr. Chairman