

CHAPTER NINE

PARALLEL WORLDS, PARALLEL CLAUSES: REMARKS ON THE RELATIONSHIP BETWEEN THE TWO SETS OF ILC ARTICLES ON INTERNATIONAL RESPONSIBILITY AND THE UN CHARTER

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1. INTRODUCTION

Much has already been written—and will be written in the future—about the parallelism existing between the articles on the responsibility of States for internationally wrongful acts and the articles on the responsibility of international organizations, adopted by the International Law Commission, respectively, in 2001 and 2011.¹ In particular, criticism has been voiced against the Commission's choice to draft most of the provisions of the articles on the responsibility of international organizations along the same lines of those on State responsibility,² following an approach called by some a 'copy and paste' technique.³

For its part, the Commission attempted to justify its approach in its general commentary to the 2011 articles, explaining that, '[w]hen in the study of the responsibility of international organizations the conclusion is reached that an identical or similar solution to the one expressed in the articles on State responsibility should apply with respect to international organizations, this is based on

¹ See Responsibility of States for Internationally Wrongful Acts (A/RES/56/83); Responsibility of International Organizations (A/RES/66/100). On the parallelism between the two sets of articles, see the reflections developed by Tullio Scovazzi and other contributors to this volume.

² See J. Alvarez, 'Revisiting the ILC's Draft Rules on International Organization Responsibility', 105 *ASIL Proceedings* (2011), 344–8 and, in greater detail, Id., 'International Organizations: Accountability or Responsibility?', Luncheon Address at 35th Annual Conference of the Canadian Council of International Law, Oct. 27, 2006, available at <www.asil.org>.

³ See C. Ahlborn, 'The Use of Analogies in Drafting the Articles on the Responsibility of International Organizations—An Appraisal of the "Copy-Paste Approach"', 9 *IOLR* (2012), 53–65.

appropriate reasons and not on a general presumption that the same principles apply.⁴ Leaving aside doubts on how convincing this explanation may sound from a methodological perspective, it is still the case that the standard of the 'appropriate reason' invoked by the Commission needs to be tested in the light of each single provision of the articles on the responsibility of international organizations. This may prove particularly difficult for the closing provision, article 67, entitled 'Charter of the United Nations' and reproducing the corresponding provision (article 59) on State responsibility:⁵ 'These [draft] articles are without prejudice to the Charter of the United Nations.'⁶ Adopted in 2009 in a rather cursory manner during the final stage of the first reading of the articles,⁷ the provision on the UN Charter received little attention in the subsequent comments and observations submitted by States and international organizations,⁸ and was confirmed by the International Law Commission during the second reading in 2011,⁹ when only slight changes were introduced in the commentary accompanying article 67.¹⁰ Given the extremely succinct character of the latter commentary, it seems useful to try and clarify some of the implications of this non-prejudice clause for the general regime of responsibility of international organizations. Insofar as such a provision may call into question the role of the UN system of collective security and may raise the problem of the submission of the UN Security Council to the

⁴ 'Draft articles on the Responsibility of International Organizations, with commentaries 2011', Report of the International Law Commission on the Work of its Sixty-third Session, *Gen. Ass. Off. Recs., Sixty-sixth Session*, Supp. No. 10 (A/66/10), 69–172, at 69, para. (4).

⁵ See the text of art. 59 on State responsibility, and the commentary, in 'Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 2001', Report of the International Law Commission on the Work of its Fifty-third Session (A/56/10), *YILC* (2001), vol. II, Part Two, 31–143, at 143.

⁶ The word 'draft', referred to in square brackets, is in fact the only textual difference between art. 67 on the responsibility of international organizations and art. 59 on State responsibility.

⁷ See G. Gaja, 'Seventh Report on Responsibility of International Organizations' (A/CN.4/610), 40–1, paras. 131–2; and the Report of the Drafting Committee to the ILC during the 3015th meeting of Jul. 6, 2009 (A/CN.4/SR.3015), 27.

⁸ With the exception of the short comment submitted by Portugal (Responsibility of international organizations. Comments and observations received from Governments (A/CN.4/636), 41) and the equally brief, but extremely interesting, observations submitted by the Secretariat of the United Nations (Responsibility of international organizations. Comments and observations received from international organizations (A/CN.4/637/Add.1), 35–6).

⁹ See the Report of the Drafting Committee to the ILC during the 3097th meeting of Jun. 3, 2011 (A/CN.4/SR.3097), 34.

¹⁰ For the commentary to art. 67, see 'Draft articles on the Responsibility of International Organizations, with commentaries 2011', 171–2.

international rule of law, the topic seems appropriate for a collection of essays devoted to the memory of Sir Ian Brownlie.¹¹

2. THE RATIONALE UNDERLYING THE NON-PREJUDICE CLAUSE TO THE CHARTER IN THE ARTICLES ON STATE RESPONSIBILITY

To understand the implications of the non-prejudice clause to the Charter codified in article 67, it seems useful to consider, albeit briefly, the origin and the scope of the corresponding provision in the 2001 articles on State responsibility.

Unlike what happened for article 67 on the responsibility of international organizations, the drafting of article 59 on State responsibility was the outcome of a lengthy and complicated process, starting in the early 1980s, when the International Law Commission approached the problem of the legal consequences arising from serious breaches of norms of international law of fundamental importance (at that time, the so-called 'crimes of State').¹² It was the then Special Rapporteur on State responsibility, Willem Riphagen, who first suggested the need to consider the UN system of collective security, and especially the powers and competences of the Security Council enshrined in chapter VII of the Charter, as an appropriate framework for dealing with the legal consequences of grave breaches of international law.¹³ Riphagen's suggestions eventually took the form of a draft article, which was provisionally adopted by the Commission in 1983, subjecting the legal consequences of an internationally wrongful act to the provisions and procedures of the UN Charter relating to the maintenance of international peace and security.¹⁴ In the following years, this provision encountered stark criticism, mainly due to its possible effect of subjugating the whole system of State responsibility to the decisions adopted by the political organs of the United Nations (mainly the Security Council) in the field of peace maintenance; notwithstanding

¹¹ See generally I. Brownlie, 'The Decisions of the Political Organs of the United Nations and the Rule of Law', R.St.J. Macdonald (ed.), *Essays in Honour of Wang Tieya* (Dordrecht/Boston/London, 1994), 91–102.

¹² For a more detailed account, see M. Arcari, 'Responsabilité de l'Etat pour violations graves du droit international et système de sécurité collective des Nations Unies', 21 *Anuario de Derecho Internacional* (2005), 415–47, at 419–32.

¹³ See W. Riphagen, 'Third report on the content, forms and degrees of international responsibility (part 2 of the draft articles)' (A/CN.4/354 and Add.1 and 2), *YILC* (1982), vol. II, Part One, 22–50, at 47–8.

¹⁴ 'The legal consequences of an internationally wrongful act of a State... are subject, as appropriate, to the provisions and procedures of the Charter of the United Nations relating to the maintenance of international peace and security.' (Draft art. 5 provisionally adopted by ILC during its 1983 session: Report of the International Law Commission on the Work of its Thirty-fifth Session (A/38/10), *YILC* (1982), vol. II, Part Two, 1–91, at 43.)

this, the text was confirmed and included as article 39 in the first reading of the draft articles on State responsibility adopted in 1996.¹⁵

The difficulties affecting the relationship between the UN system of collective security and the regime of the legal consequences of grave breaches of international law reemerged when the Commission entered the second and final reading of the draft on State responsibility. These difficulties were summarized in a telling statement made to the Commission in 1998 by the new Special Rapporteur on State responsibility, James Crawford, who frankly recognized that 'it was not possible to force on the Security Council a system of crimes which would, in important respects, qualify the existing provisions of the Charter of the United Nations'.¹⁶

Following the demise of the notion of international crime of State and the reconceptualization of the regime applicable to violations of obligations *erga omnes* and *jus cogens* norms proposed by Crawford, the Commission eventually retained a 'smoother' approach to the issue of the relationship between the rules on State responsibility and the provisions of the UN Charter. Far from sanctioning the formal submission of the former to the UN Charter provisions relating to collective security, the 'non-prejudice clause' retained in article 59 on State responsibility attempts to propose a separation between the two regimes. The new approach of the Commission is well captured in the following words of Vera Gowlland-Debbas:

The Articles in their final form have chosen a third track, which is to consider the Charter's collective security measures as wholly excluded from their scope, viewing these either as a separate but complementary regime of responsibility, or as a distinct regime of collective security existing in parallel with the Articles.¹⁷

If that was the goal pursued by the Commission, the outcome is far from being uncontroversial, especially if one considers the commentary accompanying the text of article 59. The commentary emphasizes the role of article 103 of the Charter in cases where decisions of the political organs of the United Nations may have a bearing on questions of State responsibility and may involve a conflict between obligations arising under the Charter and other treaty obligations of

¹⁵ See Report of the International Law Commission on the Work of its Forty-eighth Session (A/51/10), *YILC* (1996), vol. II, Part Two, 1–143, at 62. The unusually lengthy footnote to the text of draft art. 39 appearing in the report of the ILC to the General Assembly is revealing of the controversial character of that provision. For critical assessment, see G. Arangio-Ruiz, 'Article 39 of the ILC Draft Articles on State Responsibility', 83 *RDI* (2000), 747–69.

¹⁶ See Summary records of the meetings of the fiftieth session, *YILC* (1998), vol. I, 97, para. 2.

¹⁷ See V. Gowlland-Debbas, 'Responsibility and the United Nations Charter', J. Crawford *et al.* (eds.), *The Law of International Responsibility* (Oxford, 2010), 115–38, at 118.

member States (a situation well exemplified by the *Lockerbie* case).¹⁸ The priority of Charter obligations enshrined in article 103 of this instrument is further reinforced by the closing phrase of the commentary to article 59, which provides that the articles ‘are in all respects to be interpreted in conformity with the Charter of the United Nations’.¹⁹ Indeed, to assert that a principle of ‘consistent interpretation’ with the Charter must be observed in the application of the rules governing international responsibility apparently amounts to a true petition of principle, which can hardly be sustained except on the assumption of the higher ranking accorded to the former instrument.

The least that can be said is that, in its effort to strike a balance between the articles on State responsibility and the Charter provisions relating to collective security—based on the separation of the two sets of rules—the International Law Commission was not completely successful in dismissing the idea of the inherent priority of the Charter.

3. THE IMPLICATIONS OF THE NON-PREJUDICE CLAUSE IN THE ARTICLES ON THE RESPONSIBILITY OF INTERNATIONAL ORGANIZATIONS AND THE UN’S SELF-PERCEPTION OF THE PROBLEM

Not surprisingly, article 103 of the Charter and its overriding effect come to the forefront in the commentary to article 67 on the responsibility of international organizations, which emphasizes that the non-prejudice clause applies not only to obligations that are directly provided for in the Charter itself, but also to ‘those flowing from binding decisions of the Security Council, which according to the International Court of Justice similarly prevail over other obligations under international law on the basis of article 103 of the United Nations Charter’.²⁰ The Commission rightly recognizes that, insofar as issues of State responsibility are covered by the articles on the responsibility of international organizations, there is no reason to query the applicability of the same ‘without prejudice’ principle enshrined in article 59 of the Commission’s 2001 articles on State responsibility.²¹ However, one may well wonder whether the same principle must

¹⁸ See para. 1 of the commentary to art. 59, ‘Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 2001’, 143.

¹⁹ *Ibid.*, para. 2 of the commentary to art. 59.

²⁰ See ‘Draft articles on the Responsibility of International Organizations, with commentaries 2011’, 171 (para. 1 of the commentary to art. 67).

²¹ *Ibid.*, 172 (para. 2 of the commentary to art. 67). However, the question may be posed whether it is appropriate for a set of non-binding rules, to refer to a provision—namely art. 103 of the Charter—that is aimed at resolving the case of conflicting treaty obligations. This is of course a question that concerns both sets of the Commission’s articles.

come into play in cases involving the responsibility of international organizations, and especially whether article 103 of the Charter is at all pertinent in such instances. To illustrate this point, Special Rapporteur Giorgio Gaja referred to the example of a resolution adopted by the Security Council under chapter VII of the Charter excluding the adoption of countermeasures against a certain State, the effect of which would be to prevent both States and international organizations to lawfully resort to countermeasures.²²

Despite this example, the fact remains that international organizations are not UN members or parties to the Charter, and therefore cannot be bound by the priority rule set forth in article 103 of the Charter. The effort made by the International Law Commission in the commentary to article 67 on the responsibility of international organizations to envisage some alternative legal basis for the Charter's prevalence with regard to international organizations is nothing but a confirmation of the complexity of the problem.²³ To overcome existing hurdles, it is of little or no avail to refer to Security Council practice, which does not differentiate the position of States from that of international organizations as addressees of chapter VII decisions;²⁴ or to suggest that article 103 of the Charter prevails over the constituent treaties of international organizations.²⁵ On the one hand, a closer look at the relevant practice shows that in some extreme cases the legal effects of Charter obligations or of Security Council decisions vis-à-vis non-members of the UN (whether States or international organizations) may still be open to discussion.²⁶ On the other hand, practice also reveals that international organizations are inclined to find in their own constitutive instruments the appropriate legal basis for implementing the measures adopted by the Security Council.²⁷

²² G. Gaja, 'Seventh Report on Responsibility of International Organizations' (A/CN.4/610), 41, para. 132.

²³ Rather elusively, the ILC commentary points out that, 'even if the prevailing effect of obligations under the Charter may have a legal basis for international organization that differs from the legal basis applicable to States, [footnote 375, referred to below] one may reach the conclusion that the Charter has a prevailing effect also with regard to international organizations.' ('Draft articles on the Responsibility of International Organizations, with commentaries 2011', 172, para. 2 of the commentary to art. 67.)

²⁴ Ibid., where the ILC commentary points out: 'For instance, when establishing an arms embargo which requires all its addressees not to comply with an obligation to supply arms that they may have accepted under a treaty, the Security Council does not distinguish between States and international organizations.'

²⁵ Ibid., note 375.

²⁶ See, for instance, *Prosecutor v. Milutinović et al.* (Trial Chamber, International Criminal Tribunal for the Former Yugoslavia, case No. IT-99-37-PT), Decision on Motion Challenging Jurisdiction, May 6, 2003, <www.icty.org>. On this problem see generally M. Forteau, 'Le dépassement de l'effet relative de la Charte', R. Chemain and A. Pellet (eds.), *La Charte des Nations Unies, Constitution Mondiale?* (Paris, 2006), 121–59.

²⁷ A case in point here is the well-known *Kadi* 'affaire' before the Court of Justice of the European Union. In this case, the Court of Justice refrained from making any reference

There is, however, another facet of the problem, which pertains less to the effects of Charter obligations and Security Council decisions on 'third' international organizations through article 103 of the Charter, and concerns more directly the position and the obligations of the UN itself vis-à-vis the general principles codified in the articles on the responsibility of international organizations. The latter perspective seems to underlie the observations provided by the UN Secretariat to the then draft article 66 during the first reading, and later adopted as article 67. Not surprisingly, the UN Secretariat endorses the conclusion that 'Article 103 of the Charter of the United Nations affects the responsibility of the Organization in the same way that it affects the responsibility of States and other international organization'.²⁸ This appears to be an intriguing statement, insofar as it brings into play the question of the impact that article 103 of the Charter may have on obligations binding the UN under general international law.²⁹

Moreover, it is of interest to note the subsequent passage from the observations by the UN Secretariat, where the prevailing effect of article 103 of the Charter is closely associated to the exceptional status of the constituent instrument of the UN. At this point, it must be recalled that constituent instruments of international organizations are included among those 'rules of the organization' which can have an important weight in the application of the rules codified in the Commission's 2011 articles; and that, at the same time, a specific provision in the articles asserts that international organizations cannot rely on their rules to justify non-compliance with their international obligations and to escape international responsibility.³⁰ Having pointed out that the Charter constitutes the 'rules of the Organization' within the meaning of the articles, the UN Secretariat concludes:

to the prevailing effect of art. 103 of the Charter, and took pains to find in the EU constituent treaties the legal bases for the EU implementation of anti-terrorist targeted measures adopted under relevant Security Council resolutions. See *Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities*, Judgment of Sep. 3, 2008, especially paras. 207–26.

²⁸ UN Secretariat observations, Responsibility of international organizations. Comments and observations received from international organizations (A/CN.4/637/Add.1), 35–6, para. 2.

²⁹ See in this respect L. Gradoni, 'Making Sense of "Solanging" in International Law: the *Kadi* Case before the EC Court of First Instance', W.J.M. van Genugten *et al.* (eds.), *Criminal Jurisdiction 100 Years after the 1907 Hague Peace Conference* (The Hague, 2009), 139–153, at 151: 'Article 103 of the UN Charter exclusively concerns obligations of Member States. It is not a trump card that UN may play in order to break free from its own obligations'.

³⁰ See art. 2(b) on the 'use of terms', for the definition of 'rules of organization', and art. 32 on the 'relevance of the rules of the organization', with accompanying commentaries: 'Draft articles on the Responsibility of International Organizations, with commentaries 2011', 73–80 and 125–6. On this question, see generally C. Ahlborn, 'The Rules of

Unlike other organizations, however, which . . . may not rely on their rules as a justification for failure to comply with their international obligations, the United Nations could invoke the Charter of the United Nations and Security Council resolutions—to the extent that they reflect an international law obligation—to justify what might otherwise be regarded as non-compliance.³¹

This reasoning echoes the rhetoric of the peculiar, quasi-constitutional, status of the Charter within the system of international law, and of the higher ranking that should be granted to Charter obligations (and related Security Council decisions). In this vein, in the concluding paragraph of its observations, the UN Secretariat resumed the constitutional-flavored argument that was ambiguously introduced in the commentary to article 59 on State responsibility, and recommended that a statement to the effect that the Commission's articles had to be interpreted in conformity with the Charter be also included in the commentary to article 67 on the responsibility of international organizations.³² It can just be added that the International Law Commission, perhaps aware of the different implications that such a terse statement could have had in the context of the 2011 articles, eventually (and rightly) refrained from following the recommendation of the UN Secretariat.³³

Be that as it may, the perspective evoked by the observations of the UN Secretariat seems to go well beyond the scope and effects of article 103 of the Charter and to involve the very problem of the application of the articles on the responsibility of international organizations to the UN and its organs, and especially to the Security Council. In a recent presentation to the American Society of International Law,³⁴ Vera Gowlland-Debbas identified three different facets

International Organizations and the Law of International Responsibility', 8 *IOLR* (2011), 397–482.

³¹ UN Secretariat observations, Responsibility of international organizations. Comments and observations received from international organizations (A/CN.4/637/Add.1), 36, para. 3. In the same sense, see also the comment to draft art. 31 on first reading, concerning the irrelevance of the rules of the organization: 'The Secretariat also notes that, in the case of the United Nations, whose "rules" include the Charter of the United Nations, reliance on the latter would be a justification for failure to comply, within the meaning of draft article 31, paragraph 1.' *Ibid.*, 30, para. 1.

³² *Ibid.*, 36, para. 4.

³³ See Report of the Drafting Committee to the ILC during the 3097th meeting of Jun. 3, 2011 (A/CN.4/SR.3097, at 34): 'The Committee had also considered a proposal to indicate that the draft articles had to be interpreted in conformity of the Charter, as had been done in the commentary to the equivalent provision in the articles on State responsibility. It had decided against such a clarification in either the provision itself or in the commentary, however, because it felt that such an assertion could be more easily sustained in the context of State responsibility than in that of the responsibility of international organizations.'

³⁴ V. Gowlland-Debbas, 'The Security Council and Issues of Responsibility', 105 *ASIL Proceedings* (2011), 348–51.

of this problem, concerning, respectively, the utilization of the criteria set forth in the Commission's 2011 articles for the purposes of attribution of the wrongful conduct of member States (or other international organizations) that have placed their organs or agents at the disposal of the UN under a Security Council resolution based on chapter VII,³⁵ the possibility that UN responsibility may arise under the relevant provisions of the Commission's articles when the Security Council through its resolutions provides aid and assistance, assures direction and control, or otherwise coerces a State or an international organization in committing a wrongful act;³⁶ and, finally, the pertinence of the Commission's provisions concerning issues of dual attribution of conduct and parallel responsibility of international organizations and their member States, especially for the purposes of establishing the responsibility of UN member States that take advantage of Security Council decisions authorizing 'all necessary means' to circumvent their international obligations.³⁷ To these, one may add another issue that in recent times has received growing attention by scholars, namely whether the provisions of the Commission's 2011 articles on countermeasures³⁸ are fit to regulate cases in which States or other international organizations intend to react to allegedly unlawful Security Council resolutions.³⁹

Of course, each of these headings would demand a close scrutiny of the pertinent provisions of the Commission's articles as well as an assessment of the adequacy of the solutions provided in them, which are evidently beyond the purposes of this short essay. What matters here is that the non-prejudice clause could render irrelevant, as a whole, the Commission's articles on the responsibility of international organizations in any case involving the international responsibility of the UN, in particular when acting through the Security Council.

Unsurprisingly, in the very final paragraph of its commentary to article 67, the International Law Commission has cautioned against this unwanted consequence, by stating that article 67 'is not intended to exclude the applicability of the principles and rules set forth in the preceding articles to the international

³⁵ See arts. 6 to 9: 'Draft articles on the Responsibility of International Organizations, with commentaries 2011', 83–98.

³⁶ See arts. 14 to 19, *ibid.*, 102–11.

³⁷ See art. 58 to 63, *ibid.*, 157–68, and especially art. 61 devoted to the 'Circumvention of international obligations of a State member of an international organization', at 161–3.

³⁸ See art. 22 (devoted to countermeasures as circumstances precluding wrongfulness) and arts. 51 to 57 (devoted to countermeasures as means of implementation of responsibility), *ibid.*, 114–16 and 149–57.

³⁹ See L. Gradoni, 'Making Sense', 149–52 and, more extensively, A. Tzanakopoulos, *Disobeying the Security Council: Countermeasures against Wrongful Sanctions* (Oxford, 2011), especially at 154–200.

responsibility of the United Nations'.⁴⁰ Taking into account the very broad interpretations to which article 67 may be subjected, one cannot however exclude that the ultimate effect of the non-prejudice clause to UN Charter may end up being quite the opposite.

4. CONCLUSION

The above review reveals that the issues arising from the relationship between the UN system of collective security and the system of international responsibility may vary, depending on the different actors involved. In the context of the articles on State responsibility, the main concern was to control the impact of decisions adopted by the Security Council under chapter VII of the Charter on questions of State responsibility and on the determination of legal rights and secondary obligations of States. While these problems may also be relevant in the context of the articles on the responsibility of international organizations, the scope of this latter regime is necessarily wider, encompassing as it does the need to establish under which conditions the Security Council may be held accountable for the breach of its own international obligations and which consequences derive from such a breach. Of course, in both regimes of State and international organizations' responsibility, the need to guarantee the efficacy of Security Council action concerning the maintenance of international peace and security can be prominent. Nevertheless, while in the context of the articles on State responsibility that purpose can be served by a non-prejudice clause to the UN Charter premised on the separation between the regime of State responsibility and the regime of collective security, the outcome can be more problematic in the field of responsibility of international organizations. In this domain, the same non-prejudice clause to the Charter may put into question the very principle of the subjection of UN organs to the rules codified in the Commission's 2011 articles.

Obviously, this different outcome may in part be due to some ambiguities in the relevant commentaries on the articles on State responsibility, concerning in particular the role to be accorded to the Charter in the system of international responsibility, which have unsurprisingly resurfaced in the process of drafting the later articles on the responsibility of international organizations. It is in any case a failure of the International Law Commission not to have adequately considered that the same non-prejudice clause may entail different implications in two parallel, but still conceptually diverse, bodies of rules on the law of international responsibility.

State responsibility and the responsibility of international organizations may as well appear as parallel worlds, where parallel problems should invite the

⁴⁰ 'Draft articles on the Responsibility of International Organizations, with commentaries 2011', 172, para. 3 of the commentary to art. 67.

search for parallel solutions. However, in the legal field the transposition of identical clauses from one ambit to another does not necessarily guarantee coherent legal effects. In this case, as the theory of many-worlds interpretation of quantum mechanics suggests,⁴¹ very different and unintended legal consequences may develop in the parallel worlds of international responsibility.

⁴¹ See J.A. Barret and P. Byrne (eds.), *The Everett Interpretation of Quantum Mechanics. Collected Works 1955–1980 with Commentary* (Princeton and Oxford, 2012). The title of the present article is deliberately borrowed from the movie inspired to the life and theory of the American physicist Hugh Everett III, 'Parallel Worlds, Parallel Lives', featured by his son Mark Oliver Everett.