

## **Responsibility of International Organizations –**

### **Portugal**

Mr. Chairman,

Portugal would like, first of all, to congratulate once more the Commission on the completion in 2011 of the draft articles on the Responsibility of International Organizations, which was indeed a significant moment, and to praise again Mr. Gaja for his commitment to the topic.

Mr. Chairman,

During its first session, in 1949, the Commission selected for codification the topic “State Responsibility”, embarking on what is certainly one of its most important assignments: the codification of international responsibility. Sixty two years later, and after the adoption of the draft articles on State Responsibility in 2001, the Commission fulfilled its mission by adopting the draft articles on the Responsibility of International Organizations.

Mr. Chairman,

Having already conveyed our detailed comments to the Commission for its consideration, Portugal would like to underline some of its views, which diverge from the Commission’s approach to the subject and are also shared by other states.

The Codification of the Responsibility of International Organizations is the logical counterpart of that of State Responsibility. However, this does not necessarily mean that the first is required to derive from the latter. In fact, in our view, the draft articles still follow those on State Responsibility too closely.

As stated in previous opportunities, Portugal considers that the principles of State Responsibility generally apply to the responsibility of International Organizations, as was demonstrated by the work of the Special Rapporteur. It would, therefore, seem preferable to focus on a specific set of draft articles dealing with issues that are specific to the Responsibility of International Organizations. Such an exercise entails trying to find general and abstract rules that fit the “typical” International Organization.

Additionally, we consider that the analysis undertaken should more appropriately reflect not only the existing differences between States and International Organizations, but also the fact that, unlike States, the competences and powers of International Organizations, as well as their relations with member States, can vary considerably from organization to organization.

Having said this, we have to recognize that, over the years, the Commission has increasingly made efforts to deal with the specific problems raised by the issue of Responsibility of International Organizations.

Mr. Chairman,

The General Assembly is now called to adopt a position on the draft articles. We concur that, for the time being, the General Assembly may again take note of the draft articles in a resolution. It is not logical to think about convening a diplomatic conference to adopt a convention on the Responsibility of International Organizations while further developments on the subject of the draft articles on State Responsibility remain non-existent.

Only at a later stage should the General Assembly consider adopting a convention based on the 2011 draft articles. Portugal would, therefore, not favor any proposal towards the removal of this topic from the General Assembly's agenda. We suggest that this topic be included in the agenda of the 72<sup>nd</sup> session of the General Assembly, in 2017, after the consideration of the draft articles on State Responsibility in its 71<sup>st</sup> session.

Mr. Chairman,

We have a duty to contribute towards the stability and strength of the draft articles on both State Responsibility and Responsibility of International Organizations. Otherwise the work initiated by the Commission on international responsibility risks becoming a never ending story. We cannot simply let the ghosts of fragmentation take over a work that, as a whole, has taken more than sixty year to accomplish.

Thank you, Mr. Chairman.