

Mr. Chairman,

Israel wishes to express its appreciation of the International Law Commission for its work on the *Draft Articles on the Responsibility of International Organizations*, and thank the Secretary General for his valuable Reports. Israel also welcomes the opportunity to further engage in a dialogue on this topic.

Mr. Chairman,

Israel shares the desire, echoed by other States, to develop the field of responsibility of international organizations organically. We welcome the Report of the Secretary-General that includes a compilation of decisions of international courts and tribunals.

This Report notes that some decisions of certain international courts and tribunals, as well as those of national courts, refer to the Draft Articles. Yet, we wish to stress that decisions of such bodies may only serve subsidiary means for the identification of customary international law. Moreover, it should be noted that decisions cited by the Secretary-General in his Report, which refer to the Draft Articles, do not, in our view, reflect established customary international law nor do they seem likely, at this stage, to be codified as a treaty.

Practice demonstrates that the responsibility of international organizations is a relatively frequent question. This question arises mainly at the domestic level in the context of litigation filed by private actors, often with regard to contractual, commercial and employment disputes. It would have been useful if the Report of the Secretary General included cases that arise in this context.

Mr. Chairman,

As previously expressed by Israel and other States, the reliance of the present Draft Articles on the *ILC Draft Articles on the Responsibility of States for Internationally Wrongful Acts* raises concern.

We believe that such reliance does not sufficiently take into account the inherent differences between States and international organizations. Further study is required to consider the degree to which the application of State responsibility principles to situations involving the potential responsibility of international organizations- is appropriate.

It should also be taken into account that the *Draft Articles on the Responsibility of States for Internationally Wrongful Acts*, in and of themselves, raise various questions, including the extent to which they reflect customary international law.

Furthermore, we wish to address the question of whether the same Draft Articles could apply uniformly to different types of international organizations, given the fact that international organizations differ from one another substantially.

These differences may be evident, *inter alia*, in the founding documents of the international organizations. They may also be evident in the composition of their members and of their principal and subsidiary organs; in the legally-binding nature of their decisions; as well as in their very nature and purpose.

Additionally, Israel notes that the Draft Articles do not address the possible distinction that should be made between responsibilities owed by international organizations to their member States, and those owed to third parties. These include as non-member States, other international organizations, private actors and more.

This lack of distinction reflects the fact that the Draft Articles do not explicitly address the routine and usual cases relating to civil and commercial disputes between international organizations and private actors.

Mr. Chairman,

The Draft Articles raise additional concerns in our view relating to the circumstances precluding wrongfulness of acts of international organizations, as stipulated in

Chapter V of the Draft Articles, including self-defense, counter-measures and necessity. First and foremost, these principles are generally regarded as the exclusive domain of States, not of international organizations.

In addition, given the uncertainty regarding the responsibilities that international organizations owe their member States and third parties, one may question the relevance of counter-measures and of necessity as applicable exceptions to the scope of responsibility of international organizations.

We believe these and other questions require more careful consideration and analysis before taking further action with respect to these Draft Articles.

Thank you, Mr. Chairman.