



PERMANENT MISSION  
OF ESTONIA TO THE UN

**Statement of the Republic of Estonia  
by Ms Kristel Kaeval at the  
78th Session of the United Nations General Assembly Sixth  
Committee  
Report of the International Law Commission  
Cluster II  
31 October 2023**

Mr/Mrs Chairperson,

Today I will address two topics: settlement of disputes to which international organizations are parties and prevention and repression of piracy and armed robbery at sea.

Mr/Mrs Chairperson,

On the topic of **settlement of disputes to which international organizations are parties**, Estonia would like to thank the International Law Commission and its Special Rapporteur, Mr. August Reinisch, and the Drafting Committee for their excellent work. Estonia aligns itself with the statement made by the European Union.

Mr/Mrs Chairperson,

At its core, one of the purposes of international law is to provide international stability through the peaceful settlement of disputes. Therefore, Estonia very much appreciates the work on the topic considering the number and variety of international organizations in the world.

The function of a dispute settlement mechanism is to promote formal systemic justice, and hence to sustain basic values. The objective duty of good faith and fairness is an autonomous duty, which dictates to maintain a loyal and fair conduct in a relationship. Evidently, a dispute is a product of unresolved conflict that leads to deteriorate equilibrium between powers when dispute settlement mechanisms are not put in place for disagreements at international level.

Regarding the guidelines in general, Estonia is of the opinion that the clarification of the scope of the guidelines and definition of international organization is paramount. Each and every organization has its own nature and capacity and the

rights and obligations accorded to them by states and the work of the ILC should reflect that as much as possible. Therefore, we support keeping the document as a general guidepost for effective communication on minimum requirements for dispute settlement mechanisms. The scope proposed for the guidelines is very ambitious.

In conclusion, Estonia wishes to express its appreciation once again for the work done so far by the ILC and we are looking forward to future deliberations on the topic.

Mr/Mrs Chairperson,

Turning now to the topic of **prevention and repression of piracy and armed robbery at sea**. Estonia aligns itself with the statement made by the European Union.

Estonia would like to thank Special Rapporteur, Mr Yacouba Cissé, for his first report, the Drafting Committee for first Draft Articles and the Commission for the work done on this important topic. We thank also the Secretariat for preparing a comprehensive memorandum on relevant aspects of the topic.

What concerns the report of the Special Rapporteur, we appreciate that the report gives an impressive overview about national legislation and judicial practice of national courts of many UN Member States. Useful is also the overview of the historical and socioeconomic reasons for the piracy. In this way, it becomes very clear how differently States have approached and regulated the crime of piracy and armed robbery at sea in national law. This knowledge gives States food for thought on how to approach the issue in the national law in the future. We appreciate that the Special Rapporteur took the approach that the aim of the topic for the ILC is not to duplicate the existing frameworks and academic studies but to clarify and build upon them.

Mr/Mrs Chairperson,

We welcome that the definition of piracy is identical to the definition in the UNCLOS as UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out. At the same time, Estonia welcomes that the commentaries of the draft articles point out new developments concerning the modern piracy and explains elements of the definition with regard to modern developments of piracy. We appreciate that the commentaries mention the usage of drones, UAV (unmanned aerial vessel) and MAV (maritime autonomous vehicles) and point out the influences of cyberattacks in connection to piracy.

With regard to new developments we would welcome if the commentaries could mention some examples, if there are any, how cyber means have influenced the piratical acts and ships.

Mr/Mrs Chairperson,

Estonia finds it useful that draft Article 1 paragraph 2 states that according to the articles of the UNCLOS, piracy could also take place in the exclusive economic zone. However, we would appreciate if the commentaries would explain how the phrase of UNCLOS Article 58 paragraph 2 "*in so far as they are not incompatible with this Part*" would apply with regard to piracy. Explanation in the commentaries would be appreciated on what are the limitations of the application of Article 101 in the EEZ and which conditions need to be fulfilled for its application in the EEZ. In addition, it would be useful to elaborate in the commentaries how far other states have to respect the right of coastal states in issues of fighting piracy in the EEZ and have the obligation to cooperate with the coastal state.

Estonia would also like to comment on draft Article 2 paragraph 1 with regard to the referral to Article 102 of UNCLOS in situations when acts of warships, government ships or government aircrafts are assimilated to acts committed by a private ship or aircraft. Estonia is of the opinion that the meaning of mutiny needs to be more elaborated in order to cover situations where the flag state possibly remains passive or even encourages possible actions of the crew, which might be qualified as mutiny.

Estonia finds it also useful, that the report, draft Article 2 and the commentaries thereto include articles and explanations on armed robbery at sea. We also appreciate that the term "armed robbery at sea" is used instead of "armed robbery against ships" in draft articles, as it covers also the acts against aircraft, persons and property.

Mr/Mrs Chairperson,

These were our comments on the topic prevention and repression of piracy and armed robbery at sea. We wish to the Special Rapporteur and to the Commission success on this topic.

Thank you for your attention.