

Statement of the Republic of Korea

Item 79 - Report of the ILC on the work of the seventy-fourth session

Sixth Committee, 78th Session of the UNGA

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Settlement of Disputes to Which International Organizations are Parties

Madam Chair,

My delegation would like to express our appreciation for the efforts of the Special Rapporteur, Mr. August Reinisch, and all the members of the ILC on this topic of substantial practical significance.

My delegation would like to first take note of the change made to the title of the topic; from “Settlement of international disputes to which international organizations are parties” to “Settlement of disputes to which international organizations are parties”. This change in the title is essentially a change in the scope of disputes to be covered by the draft guidelines from “international disputes” to “disputes.”

My delegation would like to point out that this change may lead to a considerable expansion of the scope of disputes to be addressed under this topic. In this connection, my delegation notes the 2016 Syllabus on this topic prepared by Sir Michael Wood, concerning certain disputes of a private law character, “such as those arising under a contract or out of a tortious act by or against international organizations”, he suggested that the Commission’s work be restricted to those that “arise from a relationship governed by international law”. Given that not all disputes of a private law character to which international organizations are parties are disputes arising from a relationship governed by international law, the Commission may need to further clarify the scope of disputes covered by this topic.

In light of the fact that the outcome of the ILC’s work on this topic will take the form of guidelines, it would not be necessary for the Commission to address all the disputes to which international organizations may appear as parties. It would be more appropriate for the Commission to include certain categories of “disputes of a private law character” that carry substantial international law implications, that is, disputes arising from a relationship governed by international law. Such an approach would be instrumental in carrying out the Commission’s mandate on this topic.

We hope that the Commission will continue to make important contribution is to advancing the discussion on this important topic.

Prevention and Repression of Piracy and Armed Robbery at Sea

Madam Chair,

My delegation would like to extend its deep gratitude for the excellent work done by Special Rapporteur Mr. Yacouba Cissé and all the ILC members on this topic. The Korean government has been emphasizing the importance of a rules-based international order that includes the freedom of navigation and over-flight as its crucial component. Therefore, my government highly appreciates the applicability and practical significance of this topic and hopes that the Commission will bring its work on this important topic to a successful close.

In dealing with this topic, the Commission is required to maintain a delicate balance. On the one hand, its work should be based upon the 1982 UNCLOS, which is aptly called “a constitution for the oceans”. In this connection, my delegation welcomes the Commission’s decision to adopt *verbatim* the definition of piracy as found in Article 101 of UNCLOS, thereby preserving the integrity of that provision. On the other hand, in carrying out its mandate on this topic, the Commission needs to incorporate the post-1982 developments in order to update the UNCLOS regime on piracy in a way that can meet the contemporary needs of the international community. In this respect, my delegation appreciates that the comprehensive and in-depth discussion found in the commentaries to draft article 2 will help the international community implement the international regime on piracy in an evolutionary manner.

Turning to draft article 3, in contrast to the crime of piracy, there is no general multilateral treaty that provides for the definition of “armed robbery at sea”. The Commission’s work on “armed robbery at sea” is based on the practices of States and competent international organizations, in particular, the definition adopted by the Assembly of the International Maritime Organization (IMO) in its Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships. My delegation endorses this approach taken by the Commission. Having said that, in light of the fact that piracy and armed robbery at sea are distinguished based on the geographical space where the relevant crimes take place, there needs to be symmetry between the definitions of the respective crimes. In this connection, the Commission may need to pay attention to the fact that, while draft article 2 includes private aircrafts as an object of piratical acts, draft article 3 mentions ships only.

The Commission’s use of the phrase “the evolving nature of modern piracy” in para. 4 of the commentary to draft article 2 can be seen as a commendable attempt to encompass new forms of piracy and armed robbery at sea employing novel technological means. Although the Commission has decided not to deal with these problems in its definitional exercise, it may need to consider addressing them in its future work.