

The Permanent Missions of Austria and Sweden to the United Nations
cordially invite you to the annual

Interactive Dialogue
between the Sixth Committee and the International Law Commission
23 October 2024, 4.30 pm – 6 pm
Trusteeship Council Chamber

With the presence of the following Members of the ILC:

Claudio Grossman Guiloff: *Immunity of State officials from foreign criminal jurisdiction*

Patrícia Galvão Teles: *Sea-level rise in relation to international law*

Penelope Ridings: *Due diligence in international law*

Mārtiņš Pāparinskis: *Compensation for the damage caused by internationally wrongful acts*

Moderated by **Ambassador Gregor Schusterschitz, Legal Adviser of the Austrian Ministry
for European and International Affairs**

The interactive dialogue aims to provide a platform for an informal exchange and discussions between Members of the International Law Commission (ILC) and the 6th Committee of the UN General Assembly, including visiting Legal Advisers from capitals. Members of the audience are encouraged to ask questions and make comments on topics under consideration by and products of the ILC, future topics for the ILC as well as on the working relationship with the 6th Committee.

In the addition to specific discussions on the following topics, this year's discussion will also provide an opportunity to exchange on the working relationship between the two institutions:

Immunity of State officials from foreign criminal jurisdiction:

The Commission had before it the first report of Special Rapporteur Claudio Grossman Guiloff (A/CN.4/775), on the consideration of draft articles 1 to 6 on second reading. The Drafting Committee proposed some adjustments in draft articles 1, 3, 4 and 5, which were noted by the Commission. In 2025, the report of the Special Rapporteur will consider the comments and observations of Governments regarding draft articles 7 to 18. Next step thereafter would be the adoption of the draft articles on second reading.

Sea-level rise in relation to international law:

The Commission reconstituted the Study Group on sea-level rise in relation to international law and had before it an additional paper, prepared by the Co-Chairs, Ms. Galvão Teles and Mr. Ruda Santolaria, addressing two subtopics, namely statehood and protection of persons affected by sea-level rise. The continuity of statehood was generally supported, but it was held that a distinction should be drawn between situations of partial and total submergence of the land surface. The current international legal frameworks potentially applicable to the protection of persons affected by sea-level rise are viewed to be fragmented and mostly not specific to sea-level rise. The Study Group will consider a joint final report with a set of conclusions on the topic as a whole to be prepared by the Co-Chairs in 2025.

Due diligence in international law:

The Commission, on the recommendation of the respective Working Group, decided to recommend the inclusion of this topic, outlined by Penelope Ridings, in its long-term programme of work. The duty of due diligence has featured in the past work of the Commission, but it has never comprehensively addressed the duty as a stand-alone duty with wider application than environmental harm. The current topic should seek to clarify the legal character, scope and content of the due diligence obligation. As a reasonable form of output, draft principles could be envisaged which could be used to assist States in their implementation of the due diligence requirement.

Compensation for the damage caused by internationally wrongful acts:

The Commission, on the recommendation of the respective Working Group, decided to recommend the inclusion of this topic, outlined by Mārtiņš Paparinskis, in its long-term programme of work. It is argued that compensation is addressed in a rich body of reasoned decisions by inter-State courts and tribunals as well as bodies considering claims brought by individuals and other non-State entities, which was not yet available when the Commission adopted the articles on the responsibility of States for internationally wrongful acts in 2001, and that the 2001 articles provide only limited guidance on the quantification of compensation. The topic would offer an important addition to the articles on the responsibility of States moving the focus and depth beyond what was possible in the earlier engagement of the Commission.

Guiding questions for general discussion:

- What is your expectation towards the 6th Committee / ILC (vice versa)?
- How do you assess the working relationship between the ILC and the 6th Committee?
- How can the exchange between ILC members and States be further enhanced? Do you see merit in organizing further in-person briefing possibilities for or discussions with delegations in New York?
- Do you think that referral by the 6th Committee back to the ILC (as foreseen in Art. 23 ILC statute) for redrafting of products could lead to greater acceptance of ILC products in certain cases?

We look forward to an interactive discussion!