



SLOVENIA

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STATEMENT

BY

Dr Marko Rakovec, Director-General of the Directorate for International Law and Protection of Interests at the Ministry of Foreign and European Affairs of the Republic of Slovenia on

Report of the International Law Commission on the work of its seventy-fifth session

Cluster II:

Chapter IV Settlement of disputes to which international organizations are parties

Chapter V Subsidiary means for the determination of rules of international law

**79th Session of the General Assembly
Sixth Committee**

New York, 24 October 2024

Mr Chairman,

I have the honour to address the Sixth Committee in relation to the work of the International Law Commission on Cluster II, namely Chapter IV: Settlement of disputes to which international organizations are parties, and Chapter V: Subsidiary means for the determination of rules of international law.

With regard to the topic "Settlement of disputes to which international organizations are parties", which was first discussed by the ILC in 2023, when two draft guidelines were provisionally adopted, Slovenia aligns itself with the EU statement and would like to add the following in its national capacity:

Mr Chairman,

Slovenia would like to thank the Special Rapporteur, Mr August Reinisch, for the second report, which provided a comprehensive analysis of the practice of settling "international disputes". Such an overview has shown the practical nature of the issue and its various facets. The guidelines adopted represent a major step forward in the development of the subject and provide a comprehensive framework for the settlement of disputes involving international organizations.

On the question of the distinction between international and non-international disputes, we would argue that the decision on the nature of a specific dispute must be based on both of the proposed factors – the parties to the dispute and the applicable law. Taking into account only one of them does not allow for a comprehensive analysis.

We appreciate that the wording of draft guidelines 4 and 5 (and commentaries thereto) has been revised to make clear that there is no hierarchy between different means of dispute settlement. The objective should be to guide States, international organizations and users towards effective dispute management, emphasising appropriate methods of resolution to promote peaceful outcomes.

Despite the content of the commentary on draft guideline 6, for the sake of clarity, Slovenia would prefer a draft guideline that sets out requirements for all means of dispute resolution and includes a specific provision for arbitration and judicial settlement.

We look forward to and welcome further developments on this topic.

Mr Chairman,

Regarding the second topic, "Subsidiary means for the determination of rules of international law", Slovenia aligns itself with the EU statement and would like to add the following in its national capacity:

In particular, we would like to thank the Special Rapporteur, Mr Charles Chernor Jalloh, for his excellent and detailed work on this topic.

Mr Chairman,

Slovenia agrees with the negative formulation on the nature of subsidiary means adopted by the drafting committee in draft conclusion 6. The fact that subsidiary means are not a source of international law is supported by international and national judicial practice and academic works.

We also support the broad interpretation of the term "international courts and tribunals", as explained in the commentary to draft conclusion 4, which is intended to cover "any

international body exercising judicial powers” tasked with determining the existence and content of rules of international law. While the International Court of Justice certainly deserves special mention among such bodies, the decisions of more specialised, regional or ad hoc bodies should not be disregarded, as they too shape our understanding of international law.

We support the content of draft conclusion 8, which further elaborates on the way in which decisions of courts or tribunals should be evaluated. Given its close connection with draft conclusion 3, we believe it could be a part of that conclusion or, alternatively, draft conclusion 8 could be placed immediately after it. In addition, given that its text has been drafted in similar language to draft conclusion 3 for reasons of consistency, we suggest that the same be done with the titles. A possible title could therefore be "Criteria for the assessment of decisions of courts and tribunals for the determination of rules of international law".

Mr Chairman,

In conclusion, Slovenia would like to reiterate its appreciation for the Commission's work to date on this important topic.