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**National Statement of Hungary
on the
'Report of the International Law Commission on the work of
its seventy-fifth session'**

Cluster II.

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Intervention by

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Mr. Chairperson,

At the outset, I would like to extend my gratitude to the International Law Commission and Special Rapporteur Charles C. Jalloh for presenting the second report on subsidiary means for the determination of rules of international law. Hungary commends the efforts undertaken to clarify the role of these means within the broader framework of international legal methodology.

Hungary also aligns itself with the statement of the European Union, and wishes to make a few observations in its national capacity. These remarks relate to draft conclusions 2, 5 and 8, respectively.

Concerning draft conclusion 2, which categorizes subsidiary means, we wish to express some reservations. The reference to '*any other means generally used to assist in determining rules of international law*' lacks sufficient elaboration. While the draft conclusions provide a clear distinction for decisions and teachings, this broader category remains unexplained in the conclusions. The lack of clarity regarding what may fall within this scope could undermine the legal certainty and coherence we seek to achieve in this important exercise.

Regarding draft conclusion 5, Hungary wishes to express its disagreement with the omission of the phrase "highly qualified" in reference to teachings. While it may sound archaic, the term "highly qualified" reflects an important quality distinction that should not be overlooked. Retaining this language would help ensure that the teachings considered in this context meet a standard of quality and authority that is essential in determining rules of international law.

Moreover, the language of draft conclusion 5 should be aligned with Article 38(d) of the Statute of the International Court of Justice, and other related ILC instruments, such as conclusion 14 on the "Identification of customary international law," conclusion 9 on "General principles of law," and conclusion 9 of the Conclusions on the identification and legal consequences of peremptory norms of general international law (*jus cogens*). Consistency across these instruments is vital for maintaining a coherent legal framework and reinforcing the authority of these conclusions.

Turning to draft conclusion 8 on the weight of decisions of courts and tribunals, we would suggest redrafting this conclusion. As currently formulated, the list of criteria appears conjunctive due to the use of "and," while the commentary clarifies that these criteria are merely

illustrative examples. We believe the illustrative nature of these criteria should be reflected more explicitly in the text of the conclusion itself.

Additionally, we see a potential contradiction between criterion (b), which refers to the extent to which a decision is part of a body of concurring decisions, and criterion (c), which emphasizes the relevance of reasoning in light of subsequent developments. We stress that it is essential to take subsequent developments into account, particularly in areas like environmental protection. For instance, in the *Gabcikovo-Nagymaros* case, the International Court of Justice in paragraph 140 acknowledged the evolving standards in environmental law, noting that new norms have been developed due to growing awareness of the risks to present and future generations. Such subsequent developments must be considered, even if the decision is not part of settled case law. This ensures that international law remains responsive to changing circumstances.

We look forward to the continued dialogue on this important topic and remain ready to contribute to its development.

Thank you for your kind attention.