



PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE  
UNITED NATIONS | NEW YORK

**STATEMENT BY MR NATHANIEL KHNG,  
MINISTER-COUNSELLOR (LEGAL), PERMANENT MISSION OF THE  
REPUBLIC OF SINGAPORE TO THE UNITED NATIONS, ON AGENDA  
ITEM 79, REPORT OF THE INTERNATIONAL LAW COMMISSION ON  
THE WORK OF ITS SEVENTY-FIFTH SESSION (CLUSTER II:  
CHAPTERS IV AND V OF A/79/10), SIXTH COMMITTEE,  
25 OCTOBER 2024**

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Mr Chair,

1 With regard to Chapter IV on “**Settlement of disputes to which international organizations are parties**”, which is a topic of considerable relevance and significance, my delegation congratulates the Commission on provisionally adopting draft Guidelines 3 to 6 and the accompanying commentaries. My delegation thanks the Special Rapporteur, Professor August Reinisch, for his contributions to this topic. As set out in Singapore’s previous statement on this topic, Singapore continues to strongly support the Commission’s work on this topic. As a small State, it is Singapore’s longstanding position to support the peaceful resolution of disputes as enshrined in the Charter of the United Nations. Singapore is a host and venue for the settlement of international disputes under the auspices of various intergovernmental organisations, such as the Permanent Court of Arbitration, the International Centre for Settlement of Investment Disputes and the International Tribunal for the Law of the Sea. As an international dispute resolution hub, Singapore is continually engaged in efforts to update dispute resolution rules to take into account latest developments in the field of international dispute resolution.

2 My delegation’s comments on the proposed Guidelines 3 to 6, in addition to our comments on the proposed Guidelines 1 and 2 made last year, are thus made in light of Singapore’s strong interest in the peaceful settlement of international disputes. In particular, Singapore would like to share our comments on draft Guidelines 5 and 6.

3 Singapore supports the spirit of draft Guideline 5. We agree that the full range of dispute settlement means listed in draft Guideline 2, subparagraph (c), should be made more widely accessible for the settlement of disputes between international organisations or between international organisations and States. Singapore notes that different means of dispute settlement may be appropriate for the settlement of different disputes, depending on considerations like cost, speed, and the need to preserve relationships.

4 In its commentary to draft Guideline 5, the Commission has stated that it does not intend to create a hierarchy of the different means of dispute settlement. However, we consider that draft Guideline 5 as drafted, does appear to be emphasising “arbitration and judicial settlement” which has been specifically referred to, even though the term “means of dispute settlement” referred to in draft Guideline 2, subparagraph (c) already includes these two means. It may appear to suggest that adjudicatory means of dispute settlement are preferred. We note that there is value to non-adjudicatory means of dispute settlement, such as mediation, which is efficient and affordable, preserves the relationship between the disputing parties, and encourages non-zero-sum outcomes.

5 In respect of draft Guideline 6, Singapore strongly supports the independence and impartiality of adjudicators and due process as core tenets of third-party dispute settlement. These concepts apply to *all* dispute settlement proceedings and are not limited to dispute settlement proceedings involving an international organisation. We note that the most effective way to ensure the independence and impartiality of adjudicators and due process is to reflect these elements in the relevant statutes, rules of procedure, or guidance material of international courts and tribunals which would apply to its users. To this end, Singapore regularly participates in intergovernmental efforts to clarify the requirements of independence and impartiality.

6 These are my delegation’s initial observations on draft Guidelines 3 to 6. We note that the draft Guidelines and commentaries will continue to be developed by the Commission, and Singapore stands ready to engage the Commission as and when further Guidelines and commentaries are developed.

7 With regard to Chapter V on “**Subsidiary means for the determination of rules of international law**”, Singapore commends the Commission and Special Rapporteur Professor Charles Jalloh for their work on this topic and congratulates the Commission on its provisional adoption of draft conclusions 4, 5, 6, 7 and 8 and their commentaries.

8           Turning now to the provisionally adopted draft conclusions and commentaries, my delegation agrees that the highlighting of the International Court of Justice in paragraph 1 of draft conclusion 4 is warranted, given its unique role as the “World Court” with general subject matter jurisdiction. While the decisions of other international courts and tribunals exercising specific competencies should be taken into account on matters related to their competencies, we agree with the commentary on draft conclusion 4 that the legal weight to be ultimately placed on such decisions will vary from case to case, depending on the context and the quality of the reasoning.

9           As for the reference in paragraph 2 of draft conclusion 4 to decisions of national courts as subsidiary means, Singapore supports representativeness in the use of such decisions. In this respect, our national courts have had occasion in the past to examine and expound on issues of international law, and we hope that they can continue to play their part in contributing to the development of international law. Having said that, and in the interests of clarity, we invite the Commission to consider elaborating guidance on what would constitute the “certain circumstances” in which decisions of national courts may be used as subsidiary means.

10           In addition to the representativeness (in terms of legal systems, regions and languages of the world) of decisions of national courts, my delegation also supports representativeness in the use of teachings, and notes with appreciation that gender and linguistic diversity are but illustrations of the forms of diversity that inform the representativeness of teachings. However, we would like to invite the Commission to elaborate on the reason why representativeness was expressly included in draft conclusion 5 but not in draft conclusion 4, where it was mentioned only in the commentary thereto.

11           In relation to paragraph 2 of draft conclusion 6, my delegation notes with interest that the use of materials as subsidiary means is without prejudice to their use for other purposes, which, according to paragraph (8) of the commentary thereto, is additionally important because such materials could fall within the category of “any other means generally used to assist in determining rules of international law” in subparagraph (c) of draft conclusion 2. In this context, we reiterate our previous comments that the Commission should explain how it identified such any other means, and that the Commission should be cautious to avoid an undue expansion of the categories of subsidiary means beyond what are currently widely accepted. We look forward to the Commission’s consideration of the best placement of this draft conclusion.

12            Finally, my delegation observes that the chapeau of draft conclusion 8 is analogous to the chapeau of draft conclusion 3, and that paragraph (5) of the commentary to draft conclusion 8 states that the three specific factors are meant as a guideline instead of being mandatory elements. Accordingly, we are similarly of the view that it would be clearer if “should” be replaced by “may” instead, such that the chapeau reads as follows: “When assessing the weight of decisions of courts or tribunals, regard may be had to, in addition to the criteria set out in draft conclusion 3, inter alia ...” The use of “may” would make it clearer that the factors to which regard should be had would ultimately depend on the relevant circumstances.

13            Thank you very much for your kind attention.

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