

Statement to be delivered by H.E. Mohan Peiris, Permanent Representative of Sri Lanka to the United Nations in New York at the Sixth Committee on the topic Recommendation of the International Law Commission,

Cluster II- Settlement of disputes to which international organizations are parties

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Trusteeship Council Chamber, UNHQ

Mr. Chair, Special Rapporteur

Permit me to join all other speakers in extending, on behalf of my delegation, our warm appreciation to the **Chair [Name]**, for his comprehensive presentation of the Second Cluster of topics in the Commission's Report.

As we delve into the discussion on the **Draft Guidelines concerning the peaceful settlement of disputes**, Sri Lanka underscores the critical importance of preferring peaceful means over coercive measures. This aligns with the principles outlined in the United Nations Charter and paves the way for effective resolutions. We recognize that the complexity and nature of disputes often dictate the most appropriate resolution methods. Therefore, international engagement can provide neutral grounds and frameworks for negotiation and arbitration, promoting stability among nations.

Mr. Chair,

The peaceful settlement of disputes faces significant challenges, including power imbalances, enforcement difficulties, and varying interpretations of international law. Hence, to mediate these issues ongoing development of international legal frameworks is crucial, emphasizing mutual respect and adherence to norms and **adapting to dispute resolution practices to changing global dynamics**, such as cyber and environmental disputes, is essential.

The proposed framework can reinforce the importance of good faith negotiations and accessibility to dispute settlement mechanisms, while **adhering to principles of independence and impartiality in arbitration** and judicial processes. Moreover, the distinction between disputes related to collaborative projects and those linked to international law, need clarity in existing frameworks, particularly in environmental matters. Therefore, **developing clear guidelines** are urgently needed to effectively address the complex nature of disputes involving international organizations. To enhance global stability, it is essential to **build synergy between international courts in dispute resolution**, fostering stronger international cooperation and adherence to legal norms. Sri Lanka emphasizes the need for accessible, fair, and efficient **judicial processes** to resolve conflicts among states, which can promote peaceful resolutions and deter aggression. International courts should serve as reliable forums for conflict resolution, bolstering global peace and security.

Mr. Chair,

In reviewing international disputes for the Draft Guidelines, clarity is crucial. Defining an "international organization" as a treaty-established entity and a "dispute" as a disagreement over law or fact, creates a structured approach to conflict resolution. **The proposed framework in Guidelines 3, 4, 5, and 6** underscores the importance of good faith negotiations and impartiality in arbitration. Addressing the **distinction between disputes** from collaborative projects and those related to international law highlights the **urgent need for clear guidelines** to effectively manage complex disputes involving international organizations.

Mr. Chair,

We acknowledge the crucial role that regional economic organizations play in **creating legal mechanisms for dispute resolution**, enabling states to challenge actions taken by these organizations and providing specific frameworks for addressing conflicts arising from collective agreements. As international law evolves, it is increasingly important to recognize disputes involving private parties within this legal framework, necessitating a broader understanding of who qualifies as a subject of international law and the various contexts in which disputes can arise. Additionally, the

intersection of international and domestic law in dispute resolution offers essential support, particularly in cases where agreements involve states and international organizations.

Empirically assessing the trend towards peaceful dispute resolution, illustrates the nuanced **relationship between formal mechanisms and the nature of disputes**. While the mere existence of formal dispute mechanisms can incentivize quicker settlements, and for this the specific circumstances surrounding each case play a crucial role. **Parties often seek to avoid the costs**, delays, and uncertainties associated with litigation or arbitration, especially in the context of international organizations and trade disputes. This pattern reflects a common practice where negotiations aim to prevent escalation into formal litigation, which could adversely affect relationships. Thus, the **possibility of third-party adjudication serves as a valuable backstop**, encouraging consensus-driven resolutions.

Mr. Chair,

Guideline 4's emphasis on **international and regional dispute settlement methods** avoids prioritizing any specific mechanism, ensuring flexibility in choosing the appropriate resolution method based on the unique context of each dispute. This adaptability supports the principle that parties should select the **most suitable mechanism for their specific circumstances**. The guideline's framework allows for a tailored approach, recognizing that various methods may be more effective, depending on the dispute's nature. By promoting this flexible framework, we can encourage parties to engage in collaborative dialogue, enhancing the potential for peaceful resolutions.

Further supporting this adaptability, empirical studies underscore **the utility of different dispute resolution methods** depending on the dispute's characteristics. For instance, fact-finding may be particularly effective for disputes focused on factual disagreements, while arbitration or judicial settlement might be more suitable for questions involving legal obligations. The historical significance of fact-finding, as evidenced from its inception at the Hague Peace Conferences to its institutionalization by the United Nations, illustrates its vital role in maintaining international peace and security. However, careful consideration is needed to define the scope and limitations of fact-finding missions to ensure they remain impartial and do not inadvertently overlap with judicial processes, thus preserving their integrity in international dispute resolution.

Mr. Chair,

Draft Guideline 5 significantly enhances **accessibility to arbitration and judicial settlement** for international organizations by **introducing structured fee caps and hardship waivers**, addressing affordability concerns for financially constrained individuals and entities. These measures aim to create a **more equitable dispute resolution environment**, enabling consumers and lower-paid employees to pursue justice without prohibitive costs. The guideline also emphasizes transparency and the right to representation, empowering claimants and fostering inclusivity, particularly among lower-income individuals who may benefit from class arbitration. Ultimately, Draft Guideline 5 aims to strengthen access to justice, ensuring efficient, fair, and equitable dispute resolution that reflects diverse interests and upholds the rule of law.

Mr. Chair,

Draft Guideline 6 outlines the **essential elements of independence, impartiality, and due process**, which are crucial for the effectiveness of arbitration and judicial settlement. The independence of adjudicators is vital for **maintaining the integrity of the legal system**; however, it is frequently compromised by external pressures, such as political influences and institutional biases, which can undermine impartial decision-making. To combat these challenges, it is essential to **strengthen frameworks that support the autonomy of arbitrators and judges**. Additionally, a balanced approach to due process is necessary, as an excessive focus on procedural fairness may lead to "due process paranoia," ultimately hampering arbitration efficiency. Therefore, a **pragmatic understanding of due process** is essential to uphold fairness while ensuring the speed and cost-effectiveness of the process, benefiting both individual cases and the broader rule of law.

The implications of **Draft Guideline 6** extend to the **legitimacy and fairness of dispute resolution**. Legitimacy arises not only from compliance but also from the perceived fairness and effectiveness of legal processes. By ensuring the independence and impartiality of adjudicators, the guideline enhances perceptions of fairness, thereby **strengthening legitimacy**. Furthermore, it promotes

inclusivity and transparency in decision-making, critical for engaging the public and fostering collective ownership of international law. Addressing concerns about bias and selectivity enhances the credibility of international institutions, ultimately reinforcing accountability and cooperation in a complex global landscape.

Due process in dispute settlement plays a crucial role in the **administration of justice** within international legal frameworks, serving as mandatory principles to overcome barriers such as economic constraints, bureaucratic obstacles, and lack of legal knowledge. The global movement for enhanced access to justice emphasizes that **effective legal rights are essential for social justice** and democracy. For international organizations and states, adherence to these principles fosters legitimacy and accountability, encouraging compliance with judicial decisions. However, reliance on state consent and political dynamics can undermine the effectiveness of international courts like the ICJ in enforcing decisions.

Mr. Chair,

Draft Guideline 6 aims to **promote fairness and equity**, necessitating systemic reforms to ensure these principles translate into meaningful access to justice for all involved parties. By establishing foundational standards that enhance the legitimacy and effectiveness of international legal mechanisms, the guideline seeks to **ensure equitable access to justice**, particularly for individuals facing grievances within international organizations. Ultimately, it advocates for reforms that **address jurisdictional complexities** and enhance protections for all stakeholders within the international legal framework. We also believe that the guideline 6 profoundly influences essential principles that must be upheld in all legal proceedings enhancing the credibility and effectiveness of international legal frameworks, ensuring that disputes are resolved fairly and justly.

We also like to note the **urgent need for enhanced discussions on accountability mechanisms** within international organizations. Emphasizing transparency and robust procedures are essential for effectively addressing human rights violations. The **complexities of jurisdictional issues** require coordinated approaches between national and international legal systems to ensure meaningful access to justice. Reforms are necessary to improve accountability and streamline jurisdictional coordination, benefiting both international organizations and states. By prioritizing these discussions, we can develop more effective mechanisms to ensure accountability and protect human rights.

Thank you.