

79th Session of the UN General Assembly, Sixth Committee
Statement on behalf of the Baltic States on non-legally binding
international agreements
Delivered by Elvira Cupika-Mavrina, Legal Advisor of Latvia
New York, 29th October

Mr Chair,

It is an honour to address the Sixth Committee today on behalf of the Baltic States: Estonia, Lithuania, and my own country, Latvia.

We would like to begin by expressing our sincere gratitude to the Special Rapporteur, Mr. Mathias Forteau, and the International Law Commission for their dedicated work on the topic of non-legally binding international agreements.

We align ourselves with the statement delivered by the European Union and would like to add the following remarks in our capacity.

Firstly, the Baltic States note the significant increase in non-legally binding agreements concluded at the international level and recognize the crucial role of such agreements in fostering international cooperation, particularly in addressing urgent global challenges. However, we also acknowledge the potential concerns about the lack of oversight of such agreements and the possible implications they might have on existing treaties. The Baltic States welcome the Commission's balanced approach in clarifying the nature and legal effects of non-binding international agreements, while respecting States' liberty to use them.

Moreover, while non-legally binding international agreements are not governed by the Vienna Convention on the Law of Treaties, this does not absolve states and international organizations from adhering to their international legal obligations when entering in such agreements.

Secondly, given the different views on whether the scope of the topic should include non-legally binding agreements concluded between international organisations, we would welcome a further clarification on which international agreements should be considered within that scope. Additionally, we do not share the perspective expressed by some, that inter-institutional agreements should be considered non-legally binding

per se. Such agreements should be included in the discussion and assessed on a case-by-case basis.

Thirdly, we support the view that the term “agreement” does not necessarily only include legally-binding instruments but can also encompass non-legally binding ones. In our practice, the terminology used—whether it be “agreement”, “memorandum of understanding”, or “joint declaration”—does not predetermine the legal nature of the instrument. Nevertheless, reaching agreement on terminology is crucial to ensure clarity and consistency—not only within the ILC’s work but also in the broader international context in general.

Furthermore, we believe that the title alone should not dictate whether an agreement is binding or non-binding. Instead, an essential criterion for determining its legal status should be the intention of the States involved, as articulated in the text of the agreement. However, it is also important to note that in practice, we would avoid labelling non-legally binding instruments as “agreement”.

Fourth, the Baltic States wish to emphasize that non-legally binding instruments are distinct in that they typically do not contain provisions related to applicable law, nor do they include references to registration with the United Nations or dispute settlement clauses. These instruments are crafted to facilitate cooperation and understanding and do not include the involvement of other parties or the imposition of legal obligations.

Lastly, we support the proposal of the International Law Commission to request information on the practice of States and international organizations. This could provide valuable insights into how such instruments are utilized across different contexts and serve as a useful mechanism for States to review their practice in concluding agreements. In this regard, the Baltic States stand ready to contribute by sharing our own practices and experiences.

We look forward to the International Law Commission’s future work on this topic and future discussions within the Sixth Committee.

I thank you!