

**Statement by Finland
on behalf of the Nordic countries
Denmark, Finland, Iceland, Norway and Sweden**

**80th Session of the United Nations General Assembly, Sixth Committee
New York, 31 October 2025**

**Agenda Item 80
Report of the International Law Commission on the work of its 76th session**

Cluster II

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**Statement by Ms. Kaija Suvanto
Director General for Legal Affairs
Ministry for Foreign Affairs of Finland**

New York, 31 October 2025

(check against delivery)

Mme./Mr. Chair,

I have the honour to deliver this statement on behalf of the five Nordic countries: Iceland, Denmark, Norway, Sweden, and my own country Finland. In the interest of time, I will now present the main points of our joint contribution. A more comprehensive version of our intervention will be sent to the secretariat.

I will start with the topic **immunity of State officials from foreign criminal jurisdiction**.

Let me first express our heartfelt condolences for the recent passing away of Ms. Concepción Escobar Hernández, who was the Special Rapporteur for this topic from 2012 to 2022. Her valuable contributions for international law in general and this topic in particular will remain.

Madam/Mr. Chair, the Nordic countries wish to express their deep appreciation for the work of the Commission on this important topic. We commend the dedicated work of the current Special Rapporteur, Mr. Claudio Grossman Guiloff, as well as the valuable contributions made by the previous Special Rapporteurs.

We think that the ILC has succeeded in drafting what is a broadly acceptable text reflecting the applicable customary law. The draft is both satisfactorily structured and adequately detailed, successfully striking a balance between the interests of the forum State and the State of the official.

In this regard, we think that the procedural provisions in part four are particularly important, as they ensure adequate safeguards for the State of the official, while also observing the interests of the forum State.

The Nordic countries emphasize that the part four not only aims to ensure fair trial safeguards for foreign State officials in the context of the exercise of criminal jurisdiction, but also contributes to optimal communication between States, respecting their sovereign equality. We would therefore not be in favour of transforming part four into non-binding guidelines or conclusions.

We would like to reiterate our consistent support for draft article 7. We also support the suggested additions to draft article 7 of the crime of aggression, slavery, and the slave trade, as provisionally adopted by the Drafting Committee. All these crimes have an established status as crimes under international law.

These proposed additions must be read in conjunction with the procedural safeguards in part four. As mentioned by the Special Rapporteur, the proposed Part Four will be crucial for avoiding politicization of draft article 7.

We have consistently underlined the importance of harmonizing the draft articles with legal developments that have occurred over the last decades. The commission of the most serious international crimes cannot today be considered to constitute acts performed in an official capacity giving rise to immunity and thereby providing a shield against accountability.

We have taken due note of the explanations of the Special Rapporteur that the purpose of the draft articles is to serve as the basis for a treaty. This means that States will have ample opportunity to express their views on the content of the possible future treaty. States will be well served in having before them a text as here suggested.

We recall our commitment to the Rome Statute of the ICC and the other treaties enumerated in the annex to the draft articles, underlining the importance of harmonizing the draft articles with legal developments reflected in said treaties.

We hold the view that progressive development and codification of international law should respect immunities considered under this topic, without this becoming a shield for impunity for the most serious international crimes. We are also of the view that respect for the sovereign equality of States should not hinder non coercive collection of important information and evidence. Moreover, certain conduct clearly does not qualify as an official act triggering immunity *ratione materiae*.

Immunity of State officials may give rise to challenging questions for prosecutorial and other domestic authorities, including judiciaries. This is why we firmly believe that the outcome in this topic will be of real practical assistance to States.

Next, regarding the topic **subsidiary means for the determination of rules of international law**, I would like to thank the Commission and the Special Rapporteur, Mr. Charles C. Jalloh, for the work done thus far on the topic.

We support the approach of working towards a set of draft conclusions.

We recall our support for the conceptual clarity and consistency in the application of the term “source of law” in the context of the Commission’s engagement with Article 38 of the ICJ Statute thus far. While there is no single operative definition of the term “source of law” in international legal practice or theory, it is clear that subsidiary means referred to in Article 38 (1) d are of a different nature than “sources of law” insofar as this term is applied as a reference to formal sources of law.

We are pleased that the draft conclusion on the nature and function of subsidiary means stipulates in clear language that subsidiary means are not a source of international law and that their function is to assist in the determination of the existence and content of rules of international law.

We welcome the focus on the work of private and public expert bodies, and the possible consideration of resolutions of international organizations and of intergovernmental conferences as subsidiary means for the determination of rules of international law. We agree that resolutions of international organizations and intergovernmental conferences may indeed carry analytical weight in the interpretation of legal norms. Further, we agree that they may serve as evidence of State practice or *opinio juris* and of general principles of law formed within the international legal system and as such, they might provide evidence for determining the existence and content of rules of international law, even if they cannot themselves create such rules.

We note with regret that it was impossible for the Commission to complete its first reading due to time constraints. We will continue to collaborate with the Commission on the topic with great interest.

Next, turning to the topic of **settlement of disputes to which international organizations are parties**. We express our appreciation to the Special Rapporteur, Mr. August Reinisch, for his third report and welcome the focus in this session on disputes between international organizations and private parties.

We encourage the Commission to work towards practical solutions for dealing with such disputes.

The Special Rapporteur proposed five new draft guidelines addressing the scope of the relevant part of the guidelines. As the Commission was not able to consider the third report in plenary, we appreciate the establishment of a Working Group to allow for a preliminary exchange of views.

As regards the scope of the work, the Nordic countries reiterate the position expressed in previous years, welcoming the broadening of the scope from “Settlement of international disputes to which organizations are parties” to “Settlement of disputes to which international organizations are parties”.

We take note of the view expressed by several members of the Working Group that distinguishing disputes based on the parties involved, rather than the subject matter or applicable law, may be a useful approach at the current stage of the Commission’s work.

We welcome the attention given to the notion of good faith and cooperation in the settlement of disputes. We take note of the views expressed in the Working Group regarding the need for the guidelines to reflect the diversity of dispute contexts and to support fair and equitable approaches.

Regarding jurisdictional immunity of international organizations and the right of access to justice, we support the further development of the relevant draft guidelines. We recognize the sensitivity of achieving the right balance between immunity and access to justice.

We welcome the attention given to procedural rule of law and applicable human rights in the context of disputes involving private parties. We note in particular the relevance of labour standards and other protections, as highlighted in the Working Group.

We take note of the discussions on practical tools, including model clauses and examples of alternative dispute settlement mechanisms.

Furthermore, Nordic countries take note the view that it would be most useful for states and international organizations to identify examples of effective and reasonable alternatives to judicial and arbitral dispute settlement. We believe that it could be beneficial for both individuals and international organizations to resort to alternative dispute resolutions such as mediation, conciliation, or perhaps the use of ombudsmen or complaint boards.

We look forward to the continued work and to the possible conclusion of the first reading of this topic at the seventy-seventh session.

On the topic of **non-legally binding international agreements**, the Nordic countries would like to thank the Special Rapporteur, Mr. Mathias Forteau, for his excellent work on this topic so far.

As regards the six draft conclusions proposed by the Special Rapporteur, we would like to present the following comments.

Firstly, concerning the purpose of the draft conclusions, we commend the approach taken in draft conclusion 1, from which it is clear that the draft conclusions are not meant to be prescriptive.

Secondly, regarding draft conclusion 2 on use of terms, we recall that the use of the term “agreement” has sparked discussion in the Sixth Committee. We are pleased that the Special Rapporteur has taken into account the diverse views expressed by States. We remain flexible on this point and agree with the Special Rapporteur in that the terminological choice should not become a sticking point. We could also support the use of the term “instrument,” should that be the preferred choice at a later stage, provided it is clarified that it refers to mutual commitments and not unilateral statements.

Thirdly, we support the scope of the topic proposed in draft conclusion 3 and welcome the inclusion of non-legally binding international agreements entered into by sub-State authorities. However, the Nordic countries would encourage clarifying more precisely what the term “sub-State authorities” refers to, and whether it is intended to refer to ministries as well. This could be clarified for example in the commentary.

Fourthly, we welcome the “without prejudice” clause in draft conclusion 4.

Fifthly, we believe that draft conclusions 5 and 6 provide a solid basis toward a more detailed work on identifying indicators that could be used to distinguish between treaties and non-legally binding international agreements. We welcome the emphasis placed on the intention of the parties as a key criterion and agree that the assessment on the nature of the instrument should be made on a case-by-case basis.

Regarding draft conclusion 6, we agree that the fact that all the parties to an agreement expressly indicate that it is or it is not legally binding under international law is sufficient to identify their intention. It should also be clarified, for example in the commentary, that the absence of such an express indication does not determine the nature of the agreement.

We look forward to continuing our engagement with the ILC on this important topic.

Turning to the **prevention and repression of piracy and armed robbery at sea**, let me begin with expressing our appreciation for the efforts of the Commission in this legally complex and practically important matter.

We would like to thank the Special Rapporteur, Mr. Louis Savadogo for his note in which he identified points of law which could constitute the major themes of the work of the Commission on the topic and outlined general areas of inquiry based on the main features of the topic.

The Nordics, as many other countries, are highly dependent on a secure global maritime domain. All States have an interest in protecting freedom of navigation and supporting maritime security. There are maritime security challenges all around the globe. We are particularly concerned about the continued high number of incidents of piracy and armed robbery at sea as well as hijackings, particularly in Malacca Strait and off the coast of Somalia.

We commend the Special Rapporteur for his focus on themes that are most important in practice and those that relate to the law of the sea.

We agree with the Special Rapporteur that in defining the dialectical terms “prevention” and “repression” attention should be paid to their meaning to ensure their proper use in the draft articles.

Prevention in many instances is more effective than repression, which is why we for example support different preventive efforts in the Gulf of Guinea and the Horn of Africa. It is important that any reference by the Commission to a legal framework for preventing piracy and armed robbery at sea is firmly grounded in international law.

With regard to the repression of piracy and armed robbery, the Nordic countries fully agree that it is essential that States take effective legislative, administrative, judicial or other appropriate measures to achieve this goal.

In this regard, we would like to stress that prevention and repression must go hand in hand. Effective and sustainable maritime security requires not only proactive measures to prevent acts of piracy and armed robbery but also robust enforcement mechanisms to repress such acts when they occur.

Furthermore, we commend the proposed schedule of work presented in the note which sets out a timeline for submitting the draft articles to the Commission for its consideration, and finally for adoption.

We look forward to continuing cooperation with the Commission on this topic.

Mme./Mr. Chair, this concludes my intervention on behalf of the Nordic countries, I thank you for your attention.