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**STATEMENT BY THE REPUBLIC OF POLAND**

**78<sup>TH</sup> UNITED NATIONS GENERAL ASSEMBLY**

**SIXTH COMMITTEE**

**AGENDA ITEM 79:**

**“REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF  
ITS SEVENTY-THIRD AND SEVENTY-FOURTH SESSIONS”**

**CLUSTER 2**

**NEW YORK, 31<sup>ST</sup> OCTOBER 2023**

*Madame Chair,*

I wish to present the Republic of Poland's comments on Chapter V, "Settlement of disputes to which international organizations are parties", and Chapter VI, "Prevention and repression of piracy and armed robbery at sea" of the International Law Commission Report from its seventy-fourth session.

### **Settlement of disputes to which international organizations are parties**

*Madame Chair,*

With respect to "Settlement of disputes to which international organizations are parties", we would like to thank Special Rapporteur Mr. August Reinisch for his first report. We note the Commission's decision to change the topic title and its provisional adoption of draft guidelines 1 and 2 with the commentary.

As regards the change of topic's title, Poland understands the justification for this step based on the lack of a crystal-clear distinction between international disputes and non-international ones. Still, we would caution the Commission against overstepping its mandate, which is the promotion of the progressive development of international law and its codification. The commentary to draft guidelines 1 expressly indicates that "the most frequent types of disputes to which international organizations are parties (...) are often governed by a specific national law or general principles of contract law". Against this background, such a practice can only be considered as pertinent if it informs about the existing or purported state of international and not national law.

### **Prevention and repression of piracy and armed robbery at sea**

*Madame Chair,*

On the topic "Prevention and repression of piracy and armed robbery at sea", we thank Special Rapporteur Mr. Yacouba Cissé for his first report and the Secretariat for the memorandum. We notice that the Commission provisionally adopted three draft articles: on the scope of the draft articles, on the definition of piracy, and on the definition of armed robbery at sea. The two definitions are based, respectively, on Article 101 of the United Nations Convention on the Law of the Sea and the provisions of the Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships.

As those definitions are in principle uncontroversial and found broad support among states, we would like to concentrate in this part of my intervention on the potential outcome of the Commission's work on this topic. Already in 2019, when the topic syllabus was included in the ILC's report, its author, while not prejudging what form the outcome would take, indicated that work on this topic should not alter UNCLOS provisions and should rely also on other universal legal instruments and relevant resolutions. Such an approach clearly leaned towards work on preparing draft guidelines rather than a draft treaty.

Against this background, it is surprising that the Drafting Committee decided this year that it was premature at this stage to make a recommendation on the format of the Commission's work on the topic. This issue is of fundamental importance, and we regret that the Commission could not decide on, what type of legal instrument it is drafting. For reasons of transparency, we believe that the lack of decision in this respect should be clearly expressed in the ILC Report, since the choice of "draft articles" suggests that the process is one of preparing a draft treaty rather than guidelines.

Already in 2019, the Special Rapporteur drew attention to the extensive body of international, regional and national law concerning the prevention and repression of piracy and armed robbery at sea. In this context, the ILC's work on the topic could be of practical value for states through its interpretation of core international rules and preparation of guidelines on modes of their implementation in municipal law.

*Thank you, Madame Chair.*