



**Statement by H.E. Archbishop Gabriele Caccia
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UNGA 78 – Sixth Committee
Agenda item 79: Report of the International Law Commission
Cluster II – Settlement of disputes to which international
organizations are parties and Prevention and repression of
piracy and armed robbery at sea**

New York, 31 October 2023

Mr. Chair,

The escalation of global challenges and conflicts, coupled with the expanding influence of international organizations, underscores the growing importance of the settlement of disputes to which International Organizations are parties. In this context, we express our appreciation for the Commission's work on this topic.

Regarding the Guideline 1, my Delegation is aware of the challenges of distinguishing, in practice, between disputes arising under international law and disputes under national law, as well as between disputes of a private law nature and disputes of a public law nature, particularly in the view of the potential for a dispute to evolve or to be transformed. My Delegation believes that clear and precise definitions are necessary to ensure the proper application of the guidelines and the effectiveness of the dispute settlement mechanisms.

We welcome the Commission's approach of basing its guidelines and recommendations on the existing practice of international organizations in the settlement of their disputes. Indeed, this approach is the most conducive to achieving consensus on this issue.

My Delegation notes that the Commission currently favors the adoption of guidelines rather than that of a treaty. However, we consider that the question should remain open for future consideration, in the light of the forthcoming discussions. We support the idea of the Commission to develop a set of detailed model clauses, including relevant procedural rules, which could be employed in the drafting of both national and international legal instruments. Such model clauses could also include provisions on alternative dispute resolution mechanisms, such as enquiry, mediation, and conciliation, while identifying best practices, and international minimum standards.

Mr. Chair,

My Delegation notes with concern the inaccurate characterization of the Holy See contained in paragraph 8 of the commentary to Guideline 2. As I explained last year when discussing ILC Report,¹ from the early Middle Ages and, therefore, well before the birth of the current Westphalian system, the Holy See has had an autonomous legal personality

¹ Holy See Mission, Statement before the Sixth Committee, Agenda Item 77, 1° November 2022.

and has been active in international affairs, concluding treaties and sending representatives to other sovereigns. The Holy See was in fact active far before most current States came into being. Moreover, the Holy See participates in the international community on equal basis with all other States. The Holy See is in fact an Observer State at the UN, a State party to the Vienna Convention on Law of Treaties and to the Vienna Convention on International Relations, which are open only to ratification by States, and a Member State of the International Atomic Energy Agency and of many other international organization. It enjoys sovereign immunity, as all States do. Therefore, at the international level, the Holy See is recognized as a *State*, not as a “*sui generis*” subject of international law. Consequently, we request that the ILC issue a correction of this part of its Report.

Mr. Chair,

My Delegation welcomes the Commission’s work on the prevention and repression of piracy and armed robbery at sea. Piracy, a *delictum iuris gentium*, was one of the earliest global issues to be addressed by the international community and to receive a common response. Indeed, pirates have long been considered *hostis humani generis*, enemies of the whole humanity. However, the analysis should not be limited to a historical review. In fact, traditional forms of piracy have continued to evolve, making its resurgence a pertinent issue today. In order to respond to the new strategies, methods and schemes used by pirates, new legal provisions and approaches are needed.

We appreciate the Commission’s efforts not to duplicate existing legal frameworks and academic studies, but to clarify and to build upon existing standards, drawing on State practice and current international law, and providing elements of *lex ferenda*. In particular, my Delegation welcomes the ILC’s proposal to include within the scope of the draft articles conducts not currently covered by the Convention on the Law of the Sea, such as armed robbery in a State’s internal waters, archipelagic waters or territorial sea.

Mr. Chair,

My Delegation would like to draw the Commission’s attention to other contemporary maritime challenges such as the unauthorized use of a State’s flag to commit illicit acts. This phenomenon, often linked to piracy, but also to trafficking in human beings and terrorism, is detrimental to international maritime security. In this regard, we recall the recent work of the Panel of Experts on Somalia pursuant to paragraph 44 of Security Council resolution 2662 (2022). Its findings underscore the urgent need for international cooperation and legal measures to effectively address these challenges.

As we navigate through the rough waters of contemporary maritime issues, it is essential that we continue to adapt the legal framework to the evolving landscape. The draft Articles can therefore be instrumental in ensuring the safety of seafarers and in addressing the emerging threats to maritime security.

Thank you, Mr. Chair.