

**PERMANENT MISSION OF THAILAND  
TO THE UNITED NATIONS**

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**Statement**

**by**

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**Third Secretary,**

**Representative of the Kingdom of Thailand**

**before the Sixth Committee**

**of the 78<sup>th</sup> Session of the United Nations General Assembly**

**Agenda Item 79**

**Report of the International Law Commission on the work of its seventy-third  
and seventy-fourth sessions (Cluster II)**

**New York, 31 October 2023**

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Mr. Chair,

1. Thailand is pleased to share our observations on Chapter V of the International Law Commission's report, Settlement of disputes to which international organizations are parties, and Chapter VI, Prevention and repression of piracy and armed robbery at sea.

**Chapter V (Settlement of disputes to which international organizations are parties)**

2. Thailand welcomes the Commission's work on the first topic, Settlement of disputes to which international organizations are parties, and wishes to commend Special Rapporteur, Mr. August Reinisch, for his well-researched and thorough first report. On this topic, we would like to make the following **three comments**.

3. **First**, it is our view that the Commission's work should be **as practically-oriented as possible**. Thus, Thailand supports, in principle, the elaboration of this topic, and is very much interested in the direction that the Commission will provide for greater clarity. In this context, the 2016 syllabus prepared by Sir Michael Wood may shed some light, especially regarding the limited access by international organizations to dispute settlement mechanisms available to States, capacity of international organizations to exercise functional protection on behalf of their staff members and, inadmissibility of cases due to immunity of the organizations.

4. In Thailand's view, **the above-mentioned issues are fundamental to this particular work of the Commission** as it will ascertain the direction that the Commission will take and legal clarity that it can provide. If the issue concerns access, for example, it may be appropriate to explore different means and methods of dispute settlement in which States and international organizations can utilize. If the issue concerns admissibility, then the law on diplomatic protection and the requirement to exhaust local remedies are perhaps to be considered. Or if it is an issue concerning privileges and immunities, it may be advisable to explore the regime on jurisdictional immunities and the obligation to provide appropriate means of dispute settlement.

5. **Second**, Thailand is pleased that **disputes of a private law nature** are not excluded from the scope of the Commission's work. As mentioned in *paragraph 5* of the commentary to draft guideline 1, a diametric distinction between disputes of a private and public nature is unfeasible. Moreover, as mentioned in *paragraph 24* of the Special Rapporteur's report, these disputes are highly important in practice and raises the most pressing questions and practical implications for States. Nor is every dispute entirely isolated from issues in national law.

6. **Third**, on **draft guideline 2(a) on the use of the term "international organization"**, Thailand notes that this definition differs from that in the 2011 draft articles on the responsibility of international organizations. Thailand appreciates a definition that is flexible and **grounded in State practice**.

7. Thailand also wishes to emphasize, from our experience, that the legal personality of international organizations may be granted in varying degrees by the host country, as recognized by

Thailand's **Act on the Privileges and Immunities of International Organizations and International Conferences**. Thailand looks forward to further elaboration of the Commission on the international legal personality of international organizations, including its possible implications on access to international courts and tribunals.

8. Furthermore, on the requirements that an international organization be “**established by a treaty or other instrument governed by international law**” and have “**at least one organ capable of expressing a will *distinct* from that of its members**”, Thailand queries whether these requirements will falter when mapped onto realities of current international practice. Indeed, some international organizations operate based on the collective will of Member States, and may not necessarily initially be established by an international legally binding instrument or other instrument governed by international law. For example, **the Association of Southeast Asian Nations (ASEAN)**, was established by a political declaration, the Bangkok Declaration, in 1967 before evolving into an international organization forty years later. An analogy could be drawn in the case of **the Organization for Security and Co-operation in Europe (OSCE)**. A definition of “international organization” that incorporates real situations will provide solutions that better fit to reality.

9. **As host to almost 50 international organizations, many of which are UN-affiliated agencies**, Thailand will follow this topic with great interest, and looks forward to the direction that the Commission will take.

## **Chapter VI (Prevention and repression of piracy and armed robbery at sea)**

Mr. Chair,

10. My delegation will now turn to Chapter VI, Prevention and repression of piracy and armed robbery at sea, which is another topic that Thailand follows with great interest. The scourge of piracy is a global threat, and Thailand welcomes all efforts to eradicate it. For its part, Thailand has enacted the **Act on Prevention and Suppression of Piracy, B.E. 2534 (1991)**.

11. We thank the Special Rapporteur, Mr. Yacouba Cissé, for his first report, comprising a detailed compendium on national practice of States in every region on the prevention and repression of piracy and armed robbery at sea. For future reports on this topic, Thailand would like to see the Commission **identify new and emerging issues of common concern to States** that are not previously addressed in the United Nations Convention on the Law of the Sea or myriad other international and regional instruments, as well as **practical solutions** to address them. Thailand is pleased to see some of these issues in Part II of the syllabus, prepared by the Special Rapporteur. Furthermore, it may also be beneficial to address how the draft articles will fit within the existing international legal landscape on piracy and armed robbery at sea.

12. Among issues of common concern that States may benefit from clarification is **humanitarian assistance for victims of piracy and armed robbery**, especially for hostages held captive for ransom. Thailand notes that the rights of victims are mentioned in *paragraph 27* of the syllabus as an element that the

Commission may address, and the issue of ransom was mentioned in passing in *paragraph 19* of the report. An effective anti-piracy regime should cover not only prevention and suppression, but also humanitarian aspects. In this regard, the Commission may wish to explore the application of international human rights law, international cooperation for rescue and repatriation, as well as compensation as the Commission proceeds further with this topic.

Mr. Chair,

13. Allow me to conclude by extending Thailand's appreciation to the Commission for undertaking this mammoth and complex challenge, as well as to the **Codification Division of the United Nations Office of Legal Affairs** for lending its invaluable assistance. As ever, Thailand stands in support of the Commission's work, and will continue to follow it with great interest.

Thank you, Mr. Chair.

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