



**S L O V A K I A**

STATEMENT

by

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Sixth Committee

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Cluster III*

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*(check against delivery)*

Madam / Mr. Chair,

Today, I will address Chapters VII and IX of the ILC Report, namely the topics “Subsidiary means for the determination of rules of international law” and “Succession of States in respect of State responsibility”.

Let me turn first to the topic of “**Subsidiary means for the determination of rules of international law.**” At the outset, I would like to commend the Commission for the provisional adoption of Draft conclusions 1 to 3, with commentaries thereto. I would also like to thank Special Rapporteur Mr. Charles Chernor Jalloh for his thorough report. I specifically commend his intention to ground his work and findings in State practice. It is crucial that the views of Member States are heard and fully reflected on. We note with satisfaction the form of draft conclusions, which is in line with the practice on similar topics.

Madam / Mr. Chair,

Allow me to share some comments of Slovakia on draft conclusions 1-3 as provisionally adopted by the Commission.

Regarding draft conclusion 1, we welcome less imperative and more neutral approach to defining the scope of draft conclusions. However, we would suggest reconsidering the term “*the use of*”, since it may not be sufficient to capture all elements, which the Special Rapporteur intended to elaborate on, such as the aspects of origin or function of subsidiary means.

We welcome draft conclusion 2, as adopted by the Commission. The division of different subsidiary means into three categories helps to have a meaningful and structured discussion on this and allows to focus on each of them individually. Moreover, we commend the provision of a non-exhaustive list of subsidiary means.

With respect to draft conclusion 3, my delegation would appreciate clarification to what extent and how relevant is each criterion *vis-a-vis* each category of subsidiary means.

Similarly, we invite the Commission to elaborate on the assessment of the subsidiary means and clarify, if there is any hierarchical or other mutual interlink among the criteria. If so, my

delegation is of the view that the weight of a particular criteria should be reflected in the order of conclusions starting the list with “the quality of the reasoning”.

Madam / Mr. Chair,

Allow me to present some preliminary comments also on draft conclusions 4 and 5 proposed by the Special Rapporteur and provisionally adopted by the Drafting Committee.

As to the draft conclusion 4, it is without any doubt of great importance to refer to judicial decisions of International Court of Justice. However, we would urge for caution in setting different standards, relevance, or even hierarchy between judicial decisions of various judicial institutions. The authority of the International Court of Justice is undeniable; however, it is essential to point out that in certain cases, the decisions of other international courts and tribunals could be more relevant due to their expertise in particular areas.

Moreover, we would appreciate if the drafting on national jurisprudence were more precise. We tend to support the views of some members, who stressed the need for additional criteria specifically applicable to the decisions of national courts. In this regard, we specifically recall the need for differentiation of the criteria on assessment of judicial decisions.

Eventually, I will turn to the draft conclusion 5. We believe that to develop, interpret, and apply international law, in order for it to have strong foundation and thorough wide support, it is essential to listen to not only “*coinciding*” views of teachings, but equally to ensure that these coinciding views come from various legal systems and regions of the world. We note with satisfaction the progress made on this matter in the Drafting Committee.

My delegation will be closely following the progress on this topic and is looking forward to engaging in further discussions in the years to come.

Madam / Mr. Chair,

Moving to the topic of “**Succession of States in respect of State responsibility**” I would like to express our concerns about the way that the Commission approached the considerable work done so far on the topic. My delegation regrets that the work has not moved forward since the

last session of the ILC, despite being ready, in our view, for adoption on first reading. We reiterate our previous views, that draft articles would have been the most appropriate outcome, but we have been prepared to support also the form of draft guidelines. We believe that such change of product's form met with significant support in our last year's debate. Therefore, it is even more difficult to understand why these views of States were not taken into account. Instead, a working group without request or considerable support in this Committee, has been formed. Should the Commission not eventually proceed to appoint a Special Rapporteur, we expect the Working Group to steer the works on the topic towards the completion of first reading. We will follow the developments at the next session very closely.

I thank you.