Statement on behalf of the European Union and its Member States

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and

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at the Sixth Committee

on the Agenda item 80:

Cluster I: Report of the ILC on the work of its 76th session

United Nations

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Déclaration introductive de l'Union européenne

(UNGA 6th Committee, 80th session, 2025)

1. M./Mme le/la Présidente, permettez-moi avant de commencer de dire que c'est avec une profonde tristesse que nous avons appris le décès de Concepción Escobar Hernández, professeur émérite et une juriste éminente que nous connaissions tous et dont l'engagement au service du droit international était indéfectible. Tout au long de sa carrière, que ce soit en particulier dans le cadre du Comité des conseillers juridiques sur le droit international public (CAHDI) ou en tant que membre de la Commission du droit international (CDI) et 1ère femme Rapporteure spéciale au sein de celle-ci, nous avons été les témoins directs de son apport à la réflexion juridique, de son humanisme et de son professionnalisme. Nous adressons nos plus sincères condoléances à sa famille, à ses proches ainsi qu'à tous ceux qui ont eu le privilège de travailler à ses côtés.

2. J'en viens à présent aux travaux de la CDI, et souhaiterais commencer par la question des restrictions budgétaires sévères qui pèsent actuellement sur les Nations Unies et qui ont conduit à réduire la session annuelle de la Commission à cinq semaines cette année. Cette situation est extrêmement préoccupante. Cette réduction drastique a des conséquences lourdes et tangibles sur les travaux en cours de la Commission et, par ricochet, de la Sixième Commission. Plusieurs sujets importants ne pourront être achevés dans les délais du quinquennat actuel, retardant la rédaction des projets de textes qui jouent un rôle crucial dans la codification et le développement progressif du droit international. Nous rappelons donc notre soutien à la CDI et à ses travaux et nous invitons le Secrétariat, en ligne avec l'appel de la Commission sur ce point, à rechercher les

moyens d'assurer un financement adéquat des sessions futures en vue de revenir à un calendrier de douze semaines. Ces moyens devraient inclure, comme le souligne la CDI dans son rapport, la séparation du budget-programme de la Commission de celui plus général du Bureau des affaires juridiques. Il est essentiel que la CDI dispose de suffisamment de temps pour délibérer afin de remplir son mandat.

3. Avant de présenter les commentaires de l'UE sur le 1er sujet inscrit à notre ordre du jour, l'UE souhaite également souligner ce qui a déjà été rappelé dans le rapport annuel de la CDI, à savoir que la réduction de la session annuelle de la Commission a eu pour conséquence que certains rapports présentés par des Rapporteurs spéciaux n'ont pas pu être discutés en plénière. C'est une situation inédite et regrettable pour l'organisation de nos travaux. Dans un souci d'efficacité, l'UE a toutefois fait le choix de proposer des commentaires liminaires sur ces rapports, tout en ayant à l'esprit que la Commission elle-même n'a pas encore pu se prononcer sur leur contenu.

Statement of the European Union and its Member States on Sea-Level Rise in Relation to International Law

(UNGA 6th Committee, 80th session, 2025)

Ms/Mr Chairperson,

1. The European Union and its Member States have the honour to address the 6th Committee on the topic of **Sea-Level rise in relation to International Law**, on which the International Law Commission (ILC) adopted the final report of the Study Group on sea-level rise in relation to international law.
2. The European Union and its Member States would like to congratulate the reconstituted Study Group on sea-level rise in relation to international law and the three Co-Chairs of the Study Group on the final consolidated report. The European Union and its Member States would also like to congratulate the ILC on the adoption of the final report of the Study Group and the conclusion of its consideration of the topic.
3. Based on the earlier issues papers and additional papers by the Co-Chairs, the final report of the Study Group sets out legal issues in relation to the law of the sea, statehood and the protection of persons affected by sea-level rise. The European Union and its Member States note that the final report consolidates and synthetises the results of the work of the Study Group, notably by highlighting cross-cutting issues and interlinkages between the afore-mentioned three subtopics and by presenting possible ways forward.
4. The final report is timely in that it provides for an analysis of sea-level rise in relation to international law at a moment in time when international courts and tribunals have been seized of requests for advisory opinions on States' obligations in relation to climate change, the associated harms of which include sea-level rise. We also note that the ICJ, in its Advisory Opinion on *Obligations of states in respect of climate change*, makes reference to it.

5. The European Union and its Member States would like to make five points which they consider to be particularly relevant in the framework of the present discussions.

6. First, in line with their statements in previous years, the European Union and its Member States welcome the recognition of the integrity of the United Nations Convention on the Law of the Sea (UNCLOS) which is widely recognised as the 'Constitution for the oceans' and the provisions of which generally reflect customary international law and are thus binding on all States. To this end, the final report records the views of States Parties stressing that UNCLOS is of fundamental importance, its integrity is to be preserved and any solution relating to climate change-related sea-level rise must be consistent with it.[1] This coincides with the general views of the members of the ILC regarding the applicability of the existing legal framework in the context of sea-level rise.[2]

7. As consistently reiterated in the annual General Assembly Resolutions on Oceans and the Law of the Sea, UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out. The European Union and its Member States recognise the need to apply existing instruments and rules of international law in a manner that addresses the impact of sea-level rise, as referred to in the final report,[3] and the importance of a stringent standard of due diligence when complying with obligations relating to activities that address the impact of sea-level rise. In relation to sea-level rise, ITLOS has held that the general obligation to protect and preserve the marine environment in Article 192 of UNCLOS provides for a broad obligation that can be invoked to combat any form of degradation of the marine environment, including climate change impacts such as sea-level rise, ocean warming and ocean acidification.[4] The ICJ

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1 Final report, paragraph 26.

2 2025 ILC Report, paragraph 54.

4 ITLOS, Case No. 31, *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, paragraph 388.

has in turn endorsed that interpretation in its Advisory Opinion on *Obligations of states in respect of climate change.*[5]

8. Second, with regard to the legal stability of baselines and the preservation of maritime zones, the European Union and its Member States note the observation of members of the ILC that States had largely considered the notion of fixed baselines[6] in the context of sea-level rise. We welcome the report's conclusion that there is no provision in UNCLOS that imposes an obligation on States to update baselines, geographical coordinates or the outer limits of maritime zones once duly deposited with the Secretary-General in accordance with the Convention.[7] In its Advisory Opinion on *Obligations of states in respect of climate change*, the ICJ, referring to the final report of the Study Group, noted a convergence of views among States across all regions in support of the absence of such updating obligation and considered that there is indeed no such obligation for States Parties to UNCLOS.[8]

9. On the other hand, the EU and its Member States note that under UNCLOS there is no obligation – or indeed provision – relating to the deposit of details of baselines that are not fixed, namely baselines measured from the low water line along the coast. However, we consider that there is no provision in UNCLOS that would prevent the preservation of existing and lawfully established baselines and maritime zones. Against this background, we look forward to exploring in more detail the options set out in the final report at paragraph 58. However, any exploration of the need for an interpretative statement or a subsequent agreement should take into account that the ICJ, in its Advisory Opinion on *Obligations of states in respect of climate change*, has already made pronouncements in this regard.

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5 ICJ, Advisory Opinion on *Obligations of states in respect of climate change*, paragraphs 342-343.
6 2025 ILC report, paragraph 55.
7 Final report, paragraph 29.
8 ICJ, Advisory Opinion on *Obligations of states in respect of climate change*, paragraphs 361-362.

10. Third, the European Union and its Member States welcome the identification by the ILC of certain foundational principles relevant to all three subtopics, namely legal stability, predictability and certainty.[9] In the absence of these foundational principles, there would be a risk of legal uncertainty to the detriment of coastal states affected by sea-level rise, which should be avoided. While the issue of the preservation of baselines and maritime zones is an expression of these foundational principles, it is also directly linked to the continuity of statehood[10]. In the given context, the European Union and its Member States recall that the ICJ has held that once a State is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood.[11]

11. Fourth, the European Union and its Member States note the emphasis on international cooperation[12]. The duty to cooperate has been accorded specific legal significance in various treaty regimes, including in the international climate regime. In this context, the European Union and its Member States recall that, in its Advisory Opinion on climate change and international law, ITLOS has held that under Article 202 of UNCLOS, States Parties to the Convention have the specific obligation to assist developing States, in particular vulnerable developing States, in their efforts to address marine pollution from anthropogenic GHG emissions. This includes providing appropriate assistance, directly or through competent international organizations, in terms of capacity-building, scientific expertise, technology transfer and other matters.[13] When addressing the States' duty to prevent significant harm to the environment by acting with due diligence, the ICJ noted that States need to pursue technical cooperation and

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9 2025 ILC Report, paragraph 41 ; Final report, paragraph 51.
10 Final report, paragraph 49.
11 ICJ, Advisory Opinion on *Obligations of states in respect of climate change*, paragraph 363.
12 Final report, paragraph 41, and 2025 ILC report, paragraph 71.
13 ITLOS, Case No. 31, *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, paragraph 339.

knowledge-sharing initiatives.[14] In this regard the European Union and its Member States have already undertaken various initiatives of capacity-building, sharing of scientific expertise and sharing technological knowledge to assist the States most affected by climate change. Moreover, the ICJ found that the duty to co-operate has particular significance in the context of sea-level rise, requiring States to take, in co-operation with one another, appropriate measures to address the adverse effects of this serious phenomenon.[15] In the given context, the European Union and its Member States take note of the ILC's observation that mechanisms to strengthen cooperation in addressing the adverse impact of climate change-related sea level rise may be developed at the appropriate level.

12. Fifth, the European Union and its Member States commend the identification of possible ways forward in developing practicable solutions to effectively address the international legal issues arising from climate change-induced sea-level rise discussed in the final report[16], subject to the need to explore in more detail the options set out in the final report in light of the pronouncements by the ICJ (see paragraph 9 above).

13. In conclusion, the European Union and its Member States once again congratulate the ILC and the reconstituted Study Group for their work on a matter that is of the greatest importance for the international community as a whole. The European Union and its Member States look forward to further discussions on all aspects of this issue, taking account of the crucial role vested in maintaining the integrity of the United Nations Convention on the Law of the Sea.

Thank you for your attention.

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14 ICJ, Advisory Opinion on *Obligations of states in respect of climate change*, paragraph 285.
15 ICJ, Advisory Opinion on *Obligations of states in respect of climate change*, paragraph 364.
16 Final report, paragraphs 58 and 59.

Statement of the European Union on General Principles of Law

(UNGA 6th Committee, 80th session, 2025)

Ms/Mr. President,

I have the honour to speak on behalf of the European Union.

Ms/Mr. President,

1. Let me first thank the Special Rapporteur, M. Marcelo Vázquez-Bermúdez, for his work on the topic on general principles of law. The quality of his three reports enabled the International Law Commission (ILC) to adopt 11 draft conclusions on the topic together with commentaries thereto on the first reading.

2. The EU welcomes the fourth Report submitted to the ILC by the Special Rapporteur with the bibliography thereto as well as comments and observations on draft conclusion received from Governments.

3. The EU takes note that the ILC has decided, after considering the fourth Report of the Special Rapporteur, to refer the draft conclusions to the Drafting Committee which adopted its report in its session in May 2025.

4. The EU congratulates the ILC for the significant progress made in the consideration of this important topic.

5. The EU has carefully reviewed the fourth Report of the Special Rapporteur on the 11 draft conclusions.

6. As a general remark, the EU notes that draft conclusions primarily build on the practice of States and international courts. The EU would like to reiterate that EU practice, which reflects the legal traditions of twenty-seven European States, may be an important reference point, when identifying principles recognized by the 'community of nations'. In the EU legal order, general principles that emanate from the legal systems of its Member States constitute principles of EU law and are considered to be an autonomous source of law[17].

7. The EU would now like to make specific remarks on some of the draft conclusions.

8. Firstly, the European Union notes that draft conclusion 2 *(Recognition)* refers to the recognition of the general principle of law by the "*community of nations*". The same reference appears in draft conclusion 7 (*Identification of general principles of law formed within the international legal system*). The term "*community of nations*" replaces the term "*civilized nations*" found in the Statute of the International Court of Justice (Article 38, paragraph 1 c)). While the European Union can agree that the term "*civilized nations*" used by the Statute of the International Court of Justice may appear anachronistic and outdated, it considers that the new term "*community of nations*" does not reflect the role which is played by international organizations as subjects of international law. The European Union notes that the commentary states that

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[17] Article 6(3) of the Treaty on European Union, which states that "*fundamental rights (...) as they result from the constitutional traditions common to the member States, shall constitute general principles of the Union's law*".

the term "*community of nations*" was found enough not to exclude the practice of international organizations. As already stressed above, the EU recognizes general principles of law as an autonomous part of its legal order. The EU practice which builds on the legal traditions of twenty-seven European States may contribute to the formation of general principles of law. In light of these considerations, the European Union expresses its preference for the use of the term "*the international community*". The European Union takes note of the suggestion of the Special Rapporteur to add an additional paragraph which indicates that "*in certain cases, the recognition by international organisations may also contribute to the formation of general principles of law*". While the European Union welcomes this additional paragraph, it would argue that the circumstances under which international organisations could contribute to the recognition need to be further elaborated.

9. Secondly, the European Union observes that draft conclusion 4 (*Identification of general principles of law derived from national legal systems*) and draft conclusion 5 (*Determination of the existence of a principle common to the various legal systems of the world*) require that the principles derived from national legal systems must be "*common to the various legal systems of the world*". The European Union attributes great importance to the fact that the principles must be common to the legal systems which are as numerous and as representative as possible. The European Union thus agrees with the view that the term "*common*" should not be understood as "*universal*" but rather as "*broad and representative*".

10. Thirdly, in relation to draft conclusion 8 (*Decision of courts and tribunals*), the EU welcomes that the ILC has clarified in the commentaries that the term "*international courts and tribunals*" is *"intended to cover any international body exercising judicial powers that is called upon to consider general principles of law"* (paragraph 7 of the commentaries to draft conclusion 8). In

the EU's view, the decisions of the Court of Justice of the European Union should undoubtedly be considered as subsidiary means for the determination of general principles of law and explicit mention to the jurisprudence of the Court of Justice of the European Union should appear in the commentaries.

11. Finally, concerning draft conclusion 10 (*Function of general principles of law*) and draft conclusion 11 (*Relationship between general principles of law and treaties and customary international law*), the European Union notes the recommendation of the Special Rapporteur that the wording and spirit of these conclusions should reflect the absence of any hierarchical relationship between the three sources of international law. The European Union agrees that, Article 38 of the Statute of the International Court of Justice does not create a hierarchy of the sources of the international law and the general principles of law are to be considered an autonomous source of international law.

Ms/Mr. President,

12. In conclusion, the European Union wishes to express once again its appreciation for the work done so far by the ILC on this topic, which is of particular importance for the European Union as an international organization which can contribute to the formation of the general principles of law. The European Union will thus continue to actively participate in the consideration of this topic and is looking forward to the completion of the debate next year.

Thank you for your attention.

Statement of the European Union on Due diligence in international law

(UNGA 6th Committee, 80th session, 2025)

Ms/Mr. President,

The European Union welcomes the inclusion of the topic “Due diligence in international law” in the ILC’s programme of work. This inclusion is both important and timely, especially in light of the growing prominence of due diligence in international law. . The European Union would also like to congratulate Ms. Penelope Ridings on her appointment as Special Rapporteur for this topic.

Statement of the European Union

on Compensation for the damage caused by internationally wrongful acts

(UNGA 6th Committee 80th session 2025)

Mr/Ms Chairperson,

1. The European Union has the honor to address the Sixth Committee on the work of the International Law Commission (ILC) relating to the topic of **compensation for the damage caused by internationally wrongful acts**.

2. The EU wishes to express its appreciation to the Commission for the outline of the proposed topic, welcome the inclusion of the topic in the programme of work[18] and congratulate Mr. Paparinskis for his appointment as Special Rapporteur. The EU wishes to share the following observations.

Mr/Ms Chairperson,

3. The European Union is of the opinion that Articles 31 and 36 of the Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) reflect customary international law.

4. However, without proper mechanisms to assess and disburse compensation amounts, the right to compensation risks remaining a dead letter. It is therefore important to develop such mechanisms, as appropriate, on a case-by-case basis. They may fall along a spectrum ranging from quasi-judicial bodies to purely administrative commissions. Any such mechanism must comply fully with the international law.

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[18] Mārtiņš Paparinskis, Compensation for the damage caused by internationally wrongful acts, Annex I to the Report of the International Law Commission, 75th Session, A/79/10; Report of the International Law Commission on its 76th Session, A/80/10, para 437.

5. The Iran-United States Claims Tribunal came into existence as one of the measures taken to resolve the crisis in relations between the two countries arising out of the November 1979 hostage crisis. It fell more on the judicial end of the spectrum of compensation mechanisms, conducting proceedings in accordance with the UNCITRAL arbitration rules. The United Nations Claims Commission, established in the wake of the Iraqi invasion of Kuwait, was rather administrative in nature and distributed compensation to victims of the war. Likewise, the Eritrea-Ethiopia Claims Commission granted the right of compensation to the victims of the inter-state conflict.

6. The European Union attaches particular importance to the creation of an international compensation mechanism for Ukraine following the war of aggression launched against it by the Russian Federation in 2022. These efforts were significantly advanced by the United Nations (UN) General Assembly Resolution ES-11/5, entitled 'Furtherance of remedy and reparation for aggression against Ukraine.'

7. The European Union welcomes the reference to the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine in the Commission' syllabus on this topic. The Register serves as a record, in documentary form, of evidence and claims information on damage arising from the internationally wrongful acts of the Russian Federation in or against Ukraine. The Register expects to receive six to eight million claims, across more than forty categories, ranging from claims submitted by natural persons for involuntary displacement to those advanced by legal entities for economic losses.

8. The European Union joined the Register as a founding Associate Member on 11 May 2023 and later changed its status to Participant on 22 July 2024, thereby committing itself to the payment of the mandatory annual contribution. On 29 February 2024, the European Parliament and the Council adopted Regulation (EU) 2024/792 (1), establishing the Ukraine Facility, which, inter alia, provided the legal basis for funding initiatives and bodies involved in supporting and enforcing

international justice in Ukraine, such as for the European Union's financial contribution to the Register.

9. The Register of Damage constitutes the first of three steps towards establishing a comprehensive compensation mechanism for Ukraine. The next step is the establishment of a Claims Commission, followed by the future creation of a compensation fund. The Intergovernmental Negotiating Committee on the international instrument for the establishment of the International Claims Commission for Ukraine decided during its third meeting in The Hague in July 2025 that such a mechanism shall be established within the institutional framework of the Council of Europe, and provisionally adopted the open Council of Europe convention in September 2025. The Claims Commission is envisaged to be "an administrative body to review, assess and decide eligible claims and determine the amount of compensation due in each case for damage, loss, or injury caused in the territory of Ukraine within its internationally recognised borders (…) by the Russian Federation's internationally wrongful acts in or against Ukraine, including its aggression in violation of the Charter of the United Nations, as well as any violations of international humanitarian law and international human rights law."[19] The Commission is envisaged to be composed of several bodies including: an Assembly of Parties, vested with authority over foundational questions; a Financial Committee entrusted with budgetary determinations; a Secretariat responsible for administrative matters and a Council mandated to adopt substantive decisions relating to the operation of the Commission. Panels of Commissioners appointed by the Council will make recommendations to the Council on the adjudication of claims. They will be independent in their assessment of the claims.

10. Upon the Russian Federation becoming a Member, it shall bear the costs of the Claims Commission. Only provisionally, until the Russian Federation fulfills its obligations, the Claims Commission is to be financed through the contributions of

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[19] Directives for the negotiations of the international instrument setting up the International Claims Commission for Ukraine, Council Decision (EU) 2025/702 of 17 March 2025, OJ L 8.4.2025, Annex I, para. 1.

its Members and voluntary contributions. Such contributions shall be recoverable from the Russian Federation.[20]

11. Also with respect to the financing of compensation awards and the modalities for their disbursement, the offender shall bear responsibility for funding the compensation if determined and awarded by the Commission. The Assembly may consider the mechanics for the payment of compensation awarded after funding has become available, including payment from any compensation fund that may be established or designated for this purpose at a point the Assembly agrees appropriate.

12. The European Union actively took part in these negotiations.[21]

13. On the basis of this practical experience, the European Union has identified certain questions of international law related to compensation to which it wishes to draw the ILC's attention.

14. The European Union encourages the ILC to further explore the question towhom compensation is owed. Specifically, the issue arises as to whether the right to reparation is vested exclusively in the injured State, or whether individual victims also enjoy a direct and enforceable right to compensation under international law. The role of the ARSIWA is limited by Article 33(2) in this regard, but the topic of research of the ILC should go beyond these limitations and should extend, as also proposed in the Commission' syllabus,[22] to broader considerations of contemporary international practice.

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[20] Directives for the negotiations of the international instrument setting up the International Claims Commission for Ukraine, Council Decision (EU) 2025/702 of 17 March 2025, OJ L 8.4.2025, Annex I, para. 6.

[21] Council Decision (EU) 2025/702 of 17 March 2025 authorising the European Commission to take part, on behalf of the Union, in the negotiations for an international instrument setting up an International Claims Commission for Ukraine, OJ L 8.4.2025.

[22] Mārtiņš Paparinskis, Compensation for the damage caused by internationally wrongful acts, Annex I to the Report of the International Law Commission, 75th Session, A/79/10, Annex I, para. 12.

15. The European Union further suggests that the ILC examine the question of the determination of the quantum of compensation owed to victims, particularly in situations characterized by the scarcity of resources. In mass claims commissions, both at the international and national levels, resources rarely suffice to allow for a detailed forensic examination of each case, or to ensure compensation strictly proportionate to the harm suffered, as would typically occur in judicial proceedings. Where proportionate compensation cannot be assured, the question arises as to the standards by which a claims commission should assess the amounts of compensation due. It is therefore necessary to examine what guidance international law provides for this assessment. In this context, it is also common practice among international claims commissions to establish categories of claims[23] and to award predetermined lump-sum compensation – in this regard, too, the European Union suggests that the ILC analyse the standards of international law applicable to such an approach.

Mr/Ms Chairperson,

16. In conclusion, the European Union wishes to express its appreciation once again for the proposal to introduce this important topic and is looking forward to contributing further to the debates on this matter in the 6th Committee.

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[23] See e.g. Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, Categories of Claims eligible for Recording, RD4U-Board(2024)07-final-EN, https://rd4u.coe.int/documents/358068/386726/RD4U-Board%282024%2907-final-EN+-+Categories+of+Claims.pdf/3f375b28-5466-0c2e-90b6-55d23c4f7a49?t=1711546048763.

Statement of the European Union

on the principle of non-intervention in international law

(UNGA 6th Committee 80th session 2025)

Mr/Ms Chairperson,

1. The European Union has the honour to address the 6th Committee on the principle of non-intervention in international law. It takes note of the decision of the ILC to recommend the inclusion of this topic in the ILC's long-term programme of work and wishes to express its appreciation to Ivon Mingashang for the thorough report on the matter.[24] Important issues noted by Mr. Mingashang, such as intervention in the field of elections, clearly deserve to be addressed.

2. That said, when it comes to the scope of the topic, the EU considers that it is for now too widely defined and that it lacks a clear distinction between intervention as such and other legal concepts.

3. The European Union considers that there are two cumulative legal elements to the principle of non-intervention: the "coercive" nature of the intervention and it being directed against internal or external affairs or "*domaine reservé*" of a State. This means that two categories of acts do not constitute violations of the principle of non-intervention: First, acts which relate to the reserved domain, but are not coercive in nature and thus do not meet the threshold of a prohibited

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[24] Ivon Mingashang, The principle of non-intervention in international law, Annex II to the Report of the International Law Commission, 76th Session, A/80/10.

intervention. Second, acts which, while meeting the coercion threshold, do not relate to the reserved domain.

Mr/Mrs Chairperson,

4. The prohibition of intervention flows from the principle of sovereign equality of States (*par in parem non habet imperium*).[25] Relying on the non-intervention principle of customary international law, the European Union has enacted in 2023 an "Anti-Coercion Instrument" as a piece of internal European Union legislation.[26] The practice of the Union as a subject of international law and its *opinio juris* may serve to clarify further the customary content of the principle of non-intervention. The instrument makes explicit reference to Article 2 of the UN Charter[27] and the principle of non-intervention as expressed in the Friendly Relations Declaration of the UN General Assembly.[28] It is a means for the European Union to "contribute to the creation, development and clarification of international frameworks for the prevention and elimination of situations of economic coercion."[29] The core idea of the EU Anti-Coercion instrument is to respond to a foreign State's unlawful intervention in the internal or external affairs of the European Union or of a Member State.

5. The regulation states that "coercion is prohibited and therefore a wrongful act under international law when a country deploys measures such as trade or investment restrictions in order to obtain from another country an action or inaction which that country is not obliged to perform under international law and

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25 The European Union is a non-State subject of international law, but it directly exercises, both internally vis-à-vis citizens and in its external relations, powers of governmental nature which the Member States of the European Union have transferred to it. Within the limit of those conferred powers the Member States of the European Union aimed to safeguard those areas of policy making from foreign interference, in the same way as they would for non-transferred competences. Thus, foreign interference is also prohibited as regards those areas of competence. This would not be the case if the non-intervention rule did not apply also to the European Union.

26 Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries, OJ L 7.12.2023 ('EU Anti-Coercion Instrument'), available at https://eur-lex.europa.eu/eli/reg/2023/2675/oj/eng.

27 EU Anti-Coercion Instrument, Recital 3.

28 EU Anti-Coercion Instrument, Recital 4.

29 EU Anti-Coercion Instrument, Recital 6.

which falls within its sovereignty, and when the coercion reaches a certain qualitative or quantitative threshold, depending both on the objectives pursued and the means used."[30]

6. Accordingly, in its Article 2(1), the regulation defines economic coercion (as the subtype of coercion which, alone, the EU Anti-Coercion Instrument regulates) as a situation "where a third country applies or threatens to apply a (…) measure affecting trade or investment in order to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State, thereby interfering in the legitimate sovereign choices of the Union or a Member State". Article 2(2) makes that definition subject to additional criteria. In that Article 2(2), the regulation lists among the relevant criteria for the determination of a prohibited intervention its intensity, severity, duration, and frequency. It also takes into account whether the third country is acting on behalf of a legitimate concern that is internationally recognized, such as "the maintenance of international peace and security, the protection of human rights, the protection of the environment, or the fight against climate change".[31] Finally, it lists as a relevant factor whether the third country, before imposing its measure, made serious attempts to settle the matter amicably.

7. These criteria require a holistic assessment of the third State's conduct.[32] This ensures "that only economic coercion with a sufficiently serious impact (…) falls under this Regulation,"[33] reflecting the Union's view that not every economic pressure constitutes an internationally wrongful act.[34] As the ICJ found in its *Nicaragua* judgment,[35] there is no obligation to conduct trade with another State

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30 EU Anti-Coercion Instrument, Recital 15.
31 EU Anti-Coercion Instrument, Article 2(2)(d) and Recital 15.
32 Frank Hoffmeister, Strategic Autonomy in the European Union's external relations law, 60 Common Market Law Review 3 (2023), 681.
33 EU Anti-Coercion Instrument, Recital 15.
34 EU Anti-Coercion Instrument, Recitals 13, 14, 15.
35 *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America).* Merits, Judgment. I.C.J. Reports 1986, p. 138, para. 276.

under general/customary international law. The threshold with regard to economic coercion to constitute illegal intervention carries a notion of severity which must be carefully calibrated to be neither too low nor excessively high. Certain economic measures will constitute merely unfriendly, but legal acts, not qualifying as coercion and prohibited intervention. On the other hand, the pressure on the targeted government need not be overwhelming or irresistible for constituting coercion that qualifies as prohibited intervention, but it must have the potential for compelling the target State to engage in an action that it would otherwise not take.

Mr/Ms Chairperson,

8. In conclusion, the European Union wishes to express its appreciation once again for the work done so far by Mr. Mingashang on this important topic. It recommends taking into account the important practice and *opinio juris* of the European Union and its Member States in the field, as outlined in this intervention.

Statement of the European Union

on the identification and legal consequences of obligations erga omnes in international law

(UNGA 6th Committee 80th session 2025)

Mr/Ms Chairperson,

1. The European Union has the honor to address the 6th Committee on the **identification and legal consequences of obligations *erga omnes* in international law**. It welcomes the proposal to include this topic in the ILC's long-term program of work and wishes to express its appreciation to Masahiko Asada for the thorough report.[36]

2. In the context of the identification of *erga omnes* obligations, the issue of their relationship to peremptory norms of international law was highlighted. In its draft conclusions on peremptory norms, the ILC alluded to an advisory opinion of the ITLOS to support the contention that obligations of States parties relating to preservation of the environment of the high seas and the deep seabed may be considered *erga omnes*, but not *jus cogens*.[37]

3. The European Union considers that there may be more examples of this kind. It invites the ILC to identify relevant State practice and *opinio juris* to this effect in particular in the areas of international environmental and economic law.

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[36] Masahiko Asada, The identification and legal consequences of obligations erga omnes in international law, Annex III to the Report of the International Law Commission, 75th Session, A/79/10.

[37] ILC, Draft Conclusions on peremptory norms, Conclusion 17, Commentary, para. 3; referring to ITLOS, *Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area,* Advisory Opinion of 1 February 2011, para. 180.

4. The European Union would like to address the two central topics proposed in the report, namely standing in judicial proceedings and countermeasures.

5. First, in this context, the European Union would like to highlight some of its own practice in contributing to the adjudication of *erga omnes* obligations before the ICJ: EU Member States regularly emphasized the *erga omnes* character of the prohibition of genocide and derived from it the particular importance of construing the convention in good faith.[38] Furthermore, during the advisory proceedings regarding *Obligations of States in respect of Climate Change*, the European Union, in its capacity as an international organisation submitting a Memorial pursuant to the relevant rules of the Court, also referred to *erga omnes* obligations at various points of its submission.[39]

6. Second, turning to the topic of countermeasures, the European Union takes note of the proposal of the rapporteur to exclude the topic of third-party countermeasures from this study on account of its "political dimension."[40] Against the backdrop, there may be scope for further studying the matter according to the current practice and *opinio juris*..

Mr/Mrs Chairperson,

7. In conclusion, the European Union wishes to express its appreciation once again for the work done so far. The EU is looking forward to contributing further to the debates on this matter in the 6th Committee.

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38 See e.g. ICJ, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation),* Declaration of Intervention under Article 63 of the Statute of the Court submitted by the Republic of Poland, 23 July 2024, para. 20; see also European Commission, Joint statement on supporting Ukraine in its proceeding at the International Court of Justice, 13 July 2022, https://ec.europa.eu/commission/presscorner/detail/pl/statement_22_4509.

39 ICJ, *Obligations of States in respect of Climate Change*, Written Statement of the European Union, paras. 223, 235, 277.

40 Masahiko Asada, The identification and legal consequences of obligations erga omnes in international law, Annex III to the Report of the International Law Commission, 75th Session, A/79/10, para. 53.