



IRELAND

Sixth Committee

United Nations General Assembly 78th Session

Statement of Ireland on Agenda Item 79:

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

**Cluster II – Chps: V (Settlement of disputes to which international
organisations are parties) and VI (Prevention and repression of
piracy and armed robbery at sea)**

Delivered by James Kirk

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New York, 31 October 2023

– CHECK AGAINST DELIVERY –

Chair,

1. Thank you for the opportunity to speak on the second cluster of topics contained in the International Law Commission's Report. I will address both the settlement of disputes to which international organizations are parties, and the prevention and repression of piracy and armed robbery at sea.

Settlement of disputes to which international organisations are parties

2. First, settlement of disputes to which international organisations are parties. Ireland welcomes the decision of the Commission at its seventy-third session to include this topic in its programme of work as well as the work of the Commission on this important topic. Ireland expresses its appreciation to the Special Rapporteur, August Reinisch, for his first report, and looks forward to his future reports.
3. Ireland notes the scope of the draft guidelines set out in **guideline 1** and the decision of the Commission, earlier this year, *"to change the title of the topic by deleting the word "international" before "disputes" to make it clear that the draft guidelines would address all kinds of disputes to which international organizations are parties"*. We will give this careful consideration.
4. Ireland notes the definition of "dispute" provided in **draft guideline 2, subparagraph (b)**; namely, that it *"means a disagreement concerning a point of law or fact in which a claim or assertion is met with refusal or denial"*. This definition appears to combine aspects of different interpretations of the term 'dispute' by the International Court of Justice and by its predecessor, the Permanent Court of International Justice, in the *South West Africa* and *Mavrommatis Palestine Concessions* cases respectively. We wonder however whether this draft definition is sufficiently broad to capture circumstances in which one of the parties to a dispute simply fails to respond to the assertions of the other, as contemplated in the ICJ's recent judgment in *The Gambia v. Myanmar*. Ireland looks forward to considering the draft guidelines and commentary in greater detail as this work progresses.

Prevention and repression of piracy and armed robbery at sea

5. I turn now to the prevention and repression of piracy and armed robbery at sea. Ireland notes that the Commission has provisionally adopted three draft articles and commentaries thereto, setting out the scope of the draft articles, as well as definitions for piracy and for armed robbery at sea. Ireland thanks the Special Rapporteur, Yacouba Cissé, for his work to date.
6. As a general remark, we would welcome more information as to the purpose of these draft articles. Presumably there is an intention to present draft articles to states with a view to negotiating a convention. However, piracy is already defined comprehensively in the United Nations Convention on the Law of the Sea. Ireland's firm position, which we had the opportunity to confirm as a member of the Security Council this time last year at a briefing on piracy in the Gulf of Guinea, is that UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out. This includes countering piracy and armed robbery at sea.
7. We acknowledge that **draft article 2** defining piracy draws directly from UNCLOS. However, we question the desirability of presenting a draft definition of piracy for negotiation by states even if it is expressed in the same terms as the existing UNCLOS definition. At the very least this might create some legal uncertainty and could potentially undermine UNCLOS, the constitution of our oceans.
8. We therefore propose that any draft articles be limited to defining and addressing armed robbery at sea, which UNCLOS does not define. We welcome the definition proposed in **draft article 3**, drawn from the definition adopted by the Assembly of the International Maritime Organization in its Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships.
9. Piracy and armed robbery at sea remain a scourge on our oceans and seas to this day. As an island state, Ireland particularly appreciates the importance of maritime security. The consideration of this topic by the International Law Commission is, therefore, very welcome. We were pleased to provide information to the Commission on how piracy and armed robbery at sea are reflected in our domestic legal framework, and anticipate engaging in interesting and fruitful debates on this topic in this Committee over the next three years.

I thank you, Chair.