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79th Session of the General Assembly of the United Nations
Sixth Committee

Agenda item 79

Report of the International Law Commission
(75th Session, A/75/10)

Chapter VI Prevention and repression of piracy and armed robbery at sea

Chapter VIII Non-legally binding international agreements

Chapter IX Succession of States in respect of State responsibility

Statement delivered by Mr. Mihai B ,

Department for Legal Affairs

Ministry of Foreign Affairs of Romania

Chapter VI - Prevention and repression of piracy and armed robbery at sea

1. Romania has received with great interest the Second Report on the topic of the Prevention and repression of piracy and armed robbery at sea, for which would like to thank the Special Rapporteur, Mr. Yacouba Cissé. We would equally wish to congratulate, the new Special Rapporteur, Mr. Louis Savadogo, on the assumption of this function, and to wish him every success.
2. The Second Report gives a very useful survey and analysis of the various initiatives and operations designed by States and international organization in order to prevent and fight piracy and armed robbery at sea, including at regional level. It is obvious from the Report that global collaboration remains essential in addressing these criminal activities, which transcend national borders.
3. As a member of both NATO and the European Union, pean n, hisnt otheth

3. We fully support the *practical, neutral and non-prescriptive* **approach** towards this subject. We are of the opinion that there is no need to dwell on theoretical discussions; we also believe that the role of this study is neither to encourage nor to discourage States to conclude such documents; it is our view that it should not seek to be prescriptive in nature.
4. As regards the thorny issue of **terminology**, in our view, the *Special Rapporteur* provided persuasive arguments in paragraph 94 of his first Report to continue using the term "*agreements*" in the title of the topic. In the face of such consolidated argumentation and given the need of coherence in the work of the ILC, we do not object to the using of this terminology in the consideration of the topic.
5. On the matter of the **scope** of the study, we agree with the proposal to restrict the study to those non-binding written agreements concluded between States, between States and international organizations, or between international organizations. The topic should therefore not cover the non-binding provisions found in treaties, the documents that come under domestic law, the acts adopted by international organizations and other unilateral acts, or the agreements concluded by sub-state entities of different countries, as all of these would widen the scope of the study too much, running the risk of making it hardly relevant for States.
6. The question of the identification of criteria for distinguishing legally binding agreements from non-legally binding agreements is essential and has a significant practical value, as it determines the effects to be attributed to the document. The FODULILFDWLRQ RI WKH SDUWLHV¶ LQWHQSHQWLRQ S criteria are necessary only when the parties to the agreement have not expressly indicated that they consider it legally binding or non-binding. When this is the case and the intention is not sufficiently clear, we believe that a combination of the indicators/criteria should be considered.
7. With regard to the **outcome**, draft guidelines and draft conclusions would be, in our view, appropriate options.

