

S T A T E M E N T

by

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*(check against delivery)*

Madam Chair,

I will address Chapters VI, VIII and IX of this year's Report of the International Law Commission, namely the topics “**Prevention and repression of piracy and armed robbery at sea**”, “**Non-legally binding international agreements**” and “**Succession of States in respect of State responsibility**”.

Let me turn first to the topic of “**Prevention and repression of piracy and armed robbery at sea**”. We thank the former Special Rapporteur Mr. Yacouba Cissé for his second report and for his contribution to the Commission’s work on this topic. We appreciate the second memorandum prepared by the Secretariat. Our congratulations also go to Mr. Louis Savadogo for being appointed as a new Special Rapporteur and we wish him success in his role.

Slovakia agrees with the Commission’s view that the starting point for the analysis of the topic shall be the United Nations Convention on the Law of the Sea (UNCLOS). The second report of the Special Rapporteur provided useful analysis of practice of international organisations, regional approaches and bilateral practices with objective to clarify the content of the obligation of cooperation in the repression of piracy under Article 100 of the UNCLOS. We take note of the effort of the Special Rapporteur to reflect these findings in the proposal of draft Article 4 on “General obligations” and draft Article 5 on “Obligation of prevention”. We however share some of the Commission’s doubts about the content of these draft proposals. Draft Article 4 as provisionally adopted by the Drafting Committee more appropriately streamlines the original proposals of draft Articles 4 and 5.

Reacting to the second report of the Special Rapporteur, we stress the importance of distinguishing between the concepts of prevention and repression. We would call for caution in

Madam Chair,

Moving to “**Non-legally binding international agreements**”, allow me to start by congratulating Mr. Mathias Forteau for his appointment as a Special Rapporteur for this topic and I wish him all the best in his future endeavours in this capacity. We appreciate his approach of initial discussion to define general direction of the Commission’s work in the particular context of this topic.

In general, we would advocate for caution instead of ambition for this topic. Non-legally binding international instruments are frequently and purposefully used in practice of States for their efficiency and flexibility. Emphasis should therefore be laid on avoiding undue limitations on the freedom of States to have recourse to such instruments. The Commission’s work should not, in any way aim to form basis

Taking into account our approach towards the topic, provisionally, we can endorse the proposed form of draft conclusions. Last but not least, we would discourage the Special Rapporteur and the Commission to dwell into considerations related to *jus cogens* norms and the non-legally

calls “to distinguish more clearly between instances of codification and progressive development”. Looking at previous products of the Commission, calls for clearer distinction between the progressive development and codification were hardly a reason to discontinue work on any of them. Similarly, some topics previously worked on or on the current programme of work of the Commission have not been anchored on robust State practice. At some instance, existing State practice might have hardly allowed even for progressive development. Eventually, Article 13 of the UN Charter refers to the “progressive development of the international law and its codification”, not the other way round.

To conclude, from among the options for further action presented by the Working Group, Slovakia supports those which are not indifferent to the efforts and resources vested in the work on this topic. Such is only the one reflected in paragraph 327.

I thank you.