

Report of the International Law Commission on the work of its
seventy -fourth session
(*Agenda item 79*)

Cluster II

Chapter s: V (Settlement of disputes to which international organizations are parties) and VI (Prevention and repression of piracy and armed robbery at sea)

Mr./Madam Chair,

Making an overall assessment, Portugal believes that the proposed guidelines represent a balanced and adequate first approach to the subject.

In particular, and looking into draft guideline 1, the scope of application of the draft guidelines seems to be broad enough to encompass all relevant aspects that shall be covered, specially taking into account the concerns the Commission has outlined in paragraph 7 to the commentary thereto.

Portugal concurs with the decision of the Commission not to include the word "disputes" in the definition of "international organizations". The Commission makes clear that all kinds of disputes to which international organizations are parties shall be covered by these draft guidelines.

Accordingly, Portugal is of the opinion that disputes of a private law character should be addressed, since it represents a very relevant percentage of disputes to which international organizations are parties, susceptible of raising several issues, including in what concerns access to appropriate settlement of disputes mechanisms by individuals.

Mr./Madam Chair,

As for draft guideline 2, in our view the definitions provided for therein appear to be generally accurate and suitable. Nevertheless, my delegation would like to see the definition of "international organizations" in draft guideline 2, which adds the requirement that an international

As acknowledged by the Commission, the definition of "international organizations" adopted by the Commission in 2011. The most important difference between those two lies in the final part of the definition included in draft guideline 2, which adds the requirement that an international

RUJDQL]DWLRQ PXVW KDYH DW OHDVW RQH RUJDQ FDS
IURP WKDW RI LMWDELQDPEWLOM the express inclusion of this
element as it is decisive to distinguish international organizations from other
entities and platforms of international cooperation that, although established by
treaties, do not enjoy international legal personality of its own.

Mr./Madam Chair,

I would now FRQFOXGH P\ LQWHUYHQWLRQ RQ WKLV WRSLF
appreciation for the work of the Commission and of the Special Rapporteur. We
look forward for the opportunity to address this topic again next year.

Prevention and repression of piracy and armed robbery at sea ±Chapter
VI of the ILC Report

Mr./Madam Chair,

I will now turn to the topic 3UHUYHQWLRQ DQG UHSUHVVLHQ RI SLUD
UREEHU\ DW VHD´

At the outset, Portugal would like to congratulate Mr Cissé on his appointment as
Special Rapporteur and thank him for his thorough first report. Portugal also
thanks the Secretariat of the Commission for the quite useful memorandum it
has prepared. [*The usefulness of both documents goes far beyond the draft
articles and their corresponding commentaries that the Commission dealt with in
its report. They will provide valuable guidance not only for the future work of the
Commission, but also for the work that we will conduct here.*]

Second

provided for in UNCLOS. If there are no relevant developments in international law regarding piracy, the Commission should consider limiting the scope of the topic to armed robbery at sea. There seems to be no reason to prepare draft articles on piracy that are limited to duplicating the regime of UNCLOS, as it can jeopardize its integrity.]

Mr./Madam Chair,

As regards Draft Article 2, paragraph 1, Portugal would like to address four different issues. *First*, Portugal is pleased that the definition of piracy reflects *ipsis verbis* Article 101 of UNCLOS. Portugal shares the view that the definition invites

sovereignty. Be that as it may, without prejudice to what is already provided for in paragra

It should also be noted that, in Comment 7 to Draft Article 2, the Commission clarifies that it decided ³ > « @ WR UHWDLQ WKLW JHRJUDSKLFDO OLF United Nations Convention on the Law of the Sea and to provide a definition of μDUPHG UREEHU\ DW VHD¶ WR FRYHU JH, which can be assimilated to piracy, PD\ RFFXU ´ ,Q RWKHU ZRUGV DUPHG UR be materially similar to an act of piracy, the only difference being the maritime area in which it occurs.

7KHUHIRUH 3RUWXJDO FRQVLGHUV WKDW WKH H[SUHVV Draft Article 3, subparagraph a) can be deleted. This is because the expression ³ZLWKLQ D 6WDWH¶V LQWHUQDO ZDWHUV DUFKLSHOD sufficient to distinguish armed robbery at sea from an act of piracy without the fear of overlap. Otherwise, there is a danger WKDW ³RWKHU WKDQ DQ DFW ZLOO EH LQWHUSUHWHG WR LQFOXGH LQ D 6WDWH¶V WKDW ZDWHUV DUFKLSHODJLF ZDWHUV who Directly or Indirectly with something else.

Finally, Portugal would like to take this opportunity to express its gratitude and