

Ireland

Statement by

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at the

Sixth Committee

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66th Session

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Agenda item 81:

The report of the International Law Commission on the work of its 63rd Session

Chapter XIII: Other decisions and conclusions of the Commission

Mr Chair

1. As the current quinquennium of the International Law Commission draws to a close, Ireland would like to take this opportunity to make some general comments in relation to the programme, procedures and outputs of the ILC. We will refer in this regard to chapter XIII of the Report of the Commission.

2. Ireland is a strong supporter of the International Law Commission. The Commission – and its members over the more than 60 years since its establishment – have made a tremendous contribution to international law. Many of the building blocks of international law began or were developed in the Commission. We all owe the Commission a debt of gratitude for this work.

3. As we look forward to the next quinquennium, it is worth reflecting on the Commission's composition, working methods, topics and outputs with a view to ensuring that the Commission remains as productive and as effective a contributor to the international system as it has been to date.

4. We very much welcome that the ILC, at its 63rd session, established a Working Group on Methods of Work. We have examined with interest the conclusions of that Working Group, as adopted by the Commission and set out at paragraphs 370-399 of the Report. We will today set out views on some of the issues raised by that Working Group, as well as a number of wider observations relating to the Commission. Our comments are also made against the backdrop of the presentation made to 6th Committee on 2 November by the Legal Counsel, Patricia O'Brien, regarding the challenges now faced.

Mr Chair

5. Regarding the composition of the ILC, Ireland considers that the best possible make-up is a good mix of academics, diplomats and practitioners. Naturally, another feature of a balanced ILC is one which, in accordance with its Statute, reflects the

main forms of civilisation and the principal legal systems of the world. We also consider that rotation of membership is important, to ensure the true diversity of the international community is reflected.

6. The organisation of the ILC's sessions should also be re-considered from time to time, both from the perspective of efficiency and financial considerations. For instance, the possibility might be considered of the Commission holding sessions alternately in New York and Geneva, if that might minimise costs.

7. We agree with the view of the Commission (as set out in paragraph 389 of the Report) that split sessions should be retained, but only on condition that this time is used efficiently. In particular, we would encourage Special Rapporteurs to produce their reports in time for the first annual session of the Commission. This in turn would allow all members to use the intersessional period to progress their work. We also consider it important that sessions are of sufficient duration to allow for the significant agenda of the Commission to be addressed. However the duration required may well vary from year to year, with perhaps less time required at the outset of the quinquennium compared to its closing years.

8. In our view, the timing of the Commission's annual sessions is an issue which is ripe for fresh thought. Scheduling the Commission's meetings to run until late summer often means that States do not have the advantage of access to the final ILC Report in sufficient time prior to its consideration in 6th Committee. Debate in this forum could be significantly enhanced if the Commission's sessions opened and closed earlier in the year, allowing States an appropriate amount of time to reflect on the Commission's outputs prior to opening of the UN General Assembly. Although the dates proposed by the Commission at paragraph 413 of its Report are slightly earlier than was the case in 2011, we would be interested in the possibility of moving the session to an earlier date in the future. Ireland urges other States and the

Secretariat to consider this issue carefully, prior to adoption of a resolution under this item.

9. On a practical note – and regardless of the dates chosen for the session – Ireland notes that a draft of the ILC Report is available in Geneva during the Commission’s closing session. Ireland this year found it valuable to study that draft in advance of circulation of the finalised text and we would encourage other States to do likewise.

10. In terms of outputs, Ireland has followed with interest the evolution of the Commission’s work – from a traditional practice of producing draft articles and conventions; to the current position where various types of products – including guidelines and so on – are debated and agreed in the Commission where appropriate to the relevant topic.

11. We consider this to be a very welcome development and one which we would encourage the Commission to further build on in the future. In that regard we were pleased to see the reflection at paragraph 383 of the Report that the final form of work should be considered at an early point, at least on a preliminary basis.

12. Cooperation is not a one-way process and Ireland acknowledges that the 6th Committee could itself make some improvements to contribute to better interaction and cooperation with the Commission. We consider that 6th Committee should in future consider the possibility, for instance, of targeted and specific questions to the Commission in relation to issues on the agenda of the 6th Committee. If the Committee agreed, this approach could be explored in due course to secure expert input on specific issues arising under broad topics such as Universal Jurisdiction.

13. Ireland has noted with interest the topics added by the Commission to its long-term programme of work (paragraph 365). We are particularly supportive of the proposals “formation and evidence of customary international law”; and “provisional

application of treaties”. We support addition of these topics to the Commission’s agenda. We hope, however, that the Commission will also give priority to the existing topics of “immunity of state officials from foreign criminal jurisdiction” and “the obligation to extradite or prosecute”, which are of key importance to us.

Mr Chair

14. Ireland supports and values the Commission and wishes to ensure that it continues to thrive, throughout the many changes and challenges now faced by international law. Ireland is committed to continuing to cooperate with the Commission as it evolves to face present and future challenges.

Thank you