

Ireland  
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Sixth Committee  
United Nations General Assembly  
66<sup>th</sup> Session

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Agenda item 81:  
The report of the International Law Commission on the work of its 63<sup>rd</sup> Session

Chapter XIII: Other decisions and conclusions of the Commission

*Check against delivery*

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. But for the same reason, we also owe it to the Commission to periodically examine if its composition, working methods, topics and outputs are the optimum arrangements for the time being. This periodic examination should be aimed at 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 63<sup>rd</sup> 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.

5. Regarding the composition of the ILC, Ireland considers that the best possible make-up is a good mix of academics, diplomats and practitioners. This is the best guarantee of outputs that are academically sound while also being attuned to the practical realities of the international community.

6. 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. Speaking as a small state, we also consider that rotation of membership is also important, to ensure the true diversity of the international community is reflected in the Commission.

7. 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.

8. We strongly agree with the view of the Commission (as set out in paragraph 389 of the Report) that split sessions should be retained. We also consider it important that sessions continue to be of sufficient duration to allow for the significant agenda of the Commission to be addressed

9. However 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 inevitably means that States do not have the advantage of access to the ILC Report in sufficient time prior to its consideration in 6<sup>th</sup> Committee. Debate in this forum would 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 point in 2012. Ireland urges other States and the Secretariat to consider this issue carefully, prior to adoption of a resolution under this item.

10. Ireland has followed with interest the evolution of the Commission's outputs – 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. Ireland also acknowledges that the 6<sup>th</sup> Committee could itself make some improvements to contribute to better interaction and cooperation between the Commission and this forum. We consider that 6<sup>th</sup> Committee should now consider the possibility, for instance, of targeted and specific questions to the Commission in relation to issues on the agenda of the 6<sup>th</sup> Committee. If the Committee agreed, this approach could be explored in due course on 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 of the Report). We are particularly supportive of the proposals “formation and evidence of customary international law”; and “provisional application of treaties”. We would approve the addition of these topics to the Commission’s agenda. We hope, however, that the Commission will have the ability to give priority also to the existing topics of “immunity of state officials from foreign criminal jurisdiction” and “the obligation to extradite or prosecute”.

Mr Chair

14. We trust that these comments will be understood not as criticism of the ILC, but rather as constructive input from a State which 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 the challenges of today.

Thank you