



# SLOVENIA

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## STATEMENT

**BY**

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Agenda item 82

**Report of the International Law Commission on the work of its  
seventieth session: Cluster 1: Chapter IV: Subsequent agreements &  
subsequent practice in relation to interpretation of treaties, Chapter V:  
Identification of Customary international law, Chapter XII:  
Commemoration, Chapter XIII: Other decisions**

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Sixth Committee

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Mr Chairman,

I would like to begin by thanking the Chairman of the Commission, Mr Eduardo Valencia-Ospina, for his helpful presentation of the report to the Sixth Committee, and all members of the Commission for a productive session, in which some notable progress has been made.

Slovenia also takes this opportunity to thank the Codification Division of the Secretariat, including for their continuous updating of the Commission's website, which is an invaluable resource regarding the Commission's work.

With regard to Cluster I topics, let me first congratulate the Commission on its **70<sup>th</sup> anniversary**, which it is celebrating this year. The anniversary is an excellent opportunity to take stock and look to the future, which the Commission did by holding two events in New York and Geneva consisting of solemn parts and of panel discussions focusing on various aspects of the Commission's work.

I would like to take this opportunity to commend the Commission for its continuous contribution to the promotion of the rule of law. The Commission's indispensable role in promoting the progressive development of international law and its codification, as well as its contribution to promoting the implementation of international law at both the national and international level is greatly valued by Slovenia. The rule of law is the cornerstone of interstate relations, good governance and human rights. International order based on rules and adherence to international legal obligations, including international courts' and tribunals' decisions, is fundamental to peace and security and successful cooperation between nations. Slovenia thus expresses its utmost appreciation to the Commission for its contribution to strengthening the rule of law.

Mr Chairman,

Concerning the Subsequent agreements and subsequent practice in relation to interpretation of treaties, Slovenia wishes to express its appreciation for the outstanding work of the Special Rapporteur, Mr Georg Nolte, and his thorough fifth report, which led the Commission to adopt the entire set of draft conclusions and commentaries on its second reading.

The conclusions and their commentaries provide a comprehensive tool for treaty interpreters. For smaller member states such as Slovenia, it is very useful to have such tools with a high degree of authority behind them, which compensates for the lack of local capacity. It is true that the commentaries are very complex and academic in places, but one needs such a basis in order to approach the complex task of interpretation with the relevant background.

With regard to specific issues addressed in the draft conclusions and commentaries, we welcome the comment on draft conclusion 4, that an element of good faith is necessary in any subsequent practice in the application of a treaty. We believe that this principle applies generally, since any treaty interpretation as well as implementation should be in good faith. This is also important to prevent parties from attempting to amend treaties by a subsequent reinterpretation of their provisions in a way that would in reality necessitate its amendment.

We also have a general query with regard to the status of conclusions; namely, whether these conclusions could within their scope be considered as a subsequent agreement and/or practice with respect to the interpretation of Articles 31 and 32 of the VCLT. And more generally, could that apply to any other Commission pronouncements on the VCLT, since the Commission can be considered to have contributed substantively to its content?

Mr Chairman,

The importance of Commission deliberations and pronouncements in view of its status and mandate has also been emphasised by the Commission in its work on the Identification of Customary International Law, which is the next topic we wish to comment on.

We would like to commend Special Rapporteur Sir Michael Wood for his outstanding work, and the Commission for the completion of this topic. Although international law has become increasingly regulated by treaties, customary international law remains a prominent legal source. Among other things, it enables states or international organisations that are not party to treaties due to various political, specific treaty-related or other reasons to accept and apply certain rules not related to those reasons through recognition as customary law.

Although it was not the task of the Commission to identify specific rules of customary international law, which in any case would be a difficult if not impossible task, its work on the criteria for identifying them will certainly be most useful. As it is on the one hand inherently difficult to grasp the rules of customary international law, while on the other they are often considered directly to be part of internal legal orders without any explicit approval, the conclusions will facilitate the task of bodies such as courts that are called on to identify these rules, by defining the elements that are to be taken into account.

Mr Chairman,

We would also like to briefly comment on the inclusion of the topic Sea-level rise in relation to international law in the long-term programme of the Commission's work. We welcome this topic, which in our view is part of climate change in general, which is a far-reaching phenomenon with an impact on various aspects

of how we regulate human societies internally and even more internationally. We need to cooperate and arrive at universal solutions to this global challenge. Moreover, considering the latest international scientific reports on temperature rise, which is causing the rise in sea level, we believe that there is an immediate need not only to analyse this topic from the perspective of international law, but also to agree on possible conclusions and recommendations for future action.

In conclusion, Slovenia looks forward to the discussion of the ILC Report in the coming days where it will contribute its views on the other two clusters.

Thank you.