



# IRELAND

Statement by

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at the

Sixth Committee  
United Nations General Assembly 73<sup>rd</sup> Session

Agenda Item 82:

The Report of the International Law Commission on the Work of its 70<sup>th</sup> Session

PART 1 – Chps I, II, III, IV (Subsequent agreements and subsequent practice), Ch V (Identification of Customary international law), Ch XII (Commemoration) and Ch XIII (Other decisions and conclusions of the Commission)

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Mr Chair,

1. As this is the first time I have taken the floor in the Sixth Committee, allow me to congratulate you and the members of the Bureau on your election, and to assure you of Ireland's support for your work.
2. I will speak today on four issues – first, Commemoration of the seventieth anniversary of the Commission; second, Subsequent agreements and subsequent practice in relation to the interpretation of treaties; third, Identification of customary international law and finally, Other decisions and conclusions of the Commission. A fuller version of my remarks is available on Papersmart.

*Commemoration*

3. Ireland wishes to congratulate the Commission on the successful conclusion of events in New York and Geneva commemorating the Commission's 70<sup>th</sup> Anniversary. In particular, we wish commend the Commission for effectively balancing a full and varied agenda of commemorative events alongside its usual programme of work. In this regard, we recognise the important role played by Commission's Secretariat and support staff.
4. This delegation was pleased to see the theme of the 70<sup>th</sup> Anniversary, "Drawing a Balance for the Future", reflected in numerous panel discussions and side events and look forward to the publication of details of proceedings of the seventieth anniversary commemorative events. In looking to the future of the International Law Commission, one of the questions worth reflecting on is that of its composition, in particular the continued lack of women on the Commission. Seventy years after its establishment, it is dispiriting that the under-representation of women on the Commission remains a challenge. While it was welcome progress to see the number of women on the ILC double to four in the latest elections, this is not a number that permits complacency, particularly when it represents less than 12% of the current membership and when it is recalled that less than 7% of the candidates put forward were women. We are reminded of the Secretary General's statement when launching his 2017 strategy on achieving gender parity at the United Nations that "[t]he meaningful inclusion of women in decision-making increases effectiveness and productivity, brings new perspectives and solutions to the table, unlocks greater resources, and strengthens efforts" across all areas of our work.
5. In addition to gender diversity, it is also Ireland's view that we are best served when there is a good mix of expertise on the Commission, including those with experience of academia, legal diplomacy and private practice in international law.

Mr Chair,

*Subsequent agreements and subsequent practice*

6. In relation to the topic, *Subsequent agreements and subsequent practice in relation to the interpretation of treaties*, Ireland wishes to align itself with the statement delivered by the European Union. Ireland would also like to express our gratitude to the Special Rapporteur, Mr Georg Nolte, for his work on this topic and in particular the rigorous and in-depth analysis contained within the Commentaries which will assist those tasked with the interpretation of treaties into the future.
7. Regarding Conclusion 6, which indicates how subsequent agreements and subsequent practice as a means of interpretation are to be identified, Ireland welcomes the further clarification in the commentaries to this Conclusion that the examples of conduct that do **not** constitute subsequent agreement or practice of treaty interpretation set out in the second sentence of paragraph 1, which deals with temporary non-application of a treaty or *modus vivendi*, are illustrative only.
8. Ireland welcomes the language introduced in paragraph 1 of Conclusion 10 on agreement of the parties regarding the interpretation of a treaty. This conclusion now clearly reflects the aim of the Commission to reaffirm that agreement, for the purpose of article 31, paragraph 3 need not be legally binding, in contrast to other provisions of the 1969 Vienna Convention in which the term “agreement” is used in the sense of a legally binding instrument.
9. The importance of subsequent agreement and subsequent practice in treaty interpretation means that these Conclusions and their accompanying Commentaries will undoubtedly prove a useful tool for practitioners and academics alike in years to come.

Mr Chair,

*Identification of customary international law*

10. Turning to the topic of *Identification of customary international law*, Ireland aligns itself with the statement made by the European Union and wishes to congratulate the Special Rapporteur, Sir Michael Wood, for his excellent work on this topic and on the successful adoption of the Conclusions and detailed commentaries. In addition, this delegation welcomes the Memorandum prepared by the Secretariat on ways and means for making the evidence of customary international law more readily available. This is a very useful resource and Ireland supports the Commission's recommendation that the Secretariat continue to make available the

information contained in the annexes to the Memorandum through an online database to be updated periodically based on information received from States, international organisations and other entities.

Mr Chair,

*Other decisions and conclusions of the Commission*

11. In respect of other decisions of the Commission during its Seventieth Session, Ireland welcomes the inclusion of the topic “Universal criminal jurisdiction” on the Commission’s Long-Term Programme of Work and wishes to thank Mr Charles C. Jalloh for his paper addressing this proposed topic, as well as the useful bibliography. Given the legal and technical nature of this topic, the Commission is well positioned to assist States in identifying the basic principles of universal jurisdiction, including a definition of universal jurisdiction, its nature and scope and a consideration of State practice in its application. Ireland believes examination of this principle by the Commission should provide a basis for future constructive discussion of this issue within the Sixth Committee.
  
12. Ireland is also open to further study of the topic “Sea-level rise in relation to international law” by the Commission. Rising sea-levels pose significant challenges across the globe, and for low-lying countries and small island states in particular. Therefore, Ireland is of the view that an in-depth analysis of existing international law carried out by a Study Group could assist the international community’s understanding of the international law rules applicable to sea-level rise, particularly its effect on statehood and in relation to the protection of affected persons.