

Statement of the Republic of Estonia

**73rd Session of the United Nations General Assembly
Sixth Committee**

Report of the International Law Commission

Several cases listed in the commentaries as examples of either amending a treaty or specifying (i.e. widening or narrowing) its interpretation could easily be claimed to be the opposite case as well. We therefore

arenas, or catalysts, for State practice. We are of the opinion that the practice of international organizations does contribute to the formation of rules of customary international law and reflecting this in the conclusions in the suggested way is relevant. As the Special Rapporteur rightly put it, excluding such practice would preclude the member States themselves who have directed an international organization to execute in their place actions falling within their own competences from contributing to the creation or expression of customary international law.

With regard to draft Conclusion 6 paragraph 1, Estonia commends the wording of the notion that inaction may, under certain circumstances, be a form of State practice. The commentaries make it clear that it cannot be simply assumed and only deliberate inaction in specific circumstances may be taken into account. Deliberate inaction, as suggested by the Special Rapporteur, would have been a very precise suggestion also for the draft conclusions, but as is noted well, the draft conclusions and the commentaries thereto should be read closely together.

With regard to draft Conclusion 13, we note that it follows closely the wording of Article 38 paragraph 1 (d) of the Statute of the International Court of Justice. Estonia agrees with the commentaries that caution is called for when seeking to rely on decisions of national courts as a subsidiary means for the determination of rules of customary international law. National courts may lack international law expertise and may have reached their decisions without receiving arguments from States, thus the judgments of international courts and tribunals should be accorded greater weight.

Estonia expresses once again its appreciation for the work done on this important topic and supports wide dissemination of the draft conclusions with the commentaries thereto.

Mr Chairman,

Estonia congratulates the Commission for its **seventieth anniversary**. We took note with great acknowledgement that the Commission celebrated the anniversary with

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among others such important panel discussions as interaction between the

Commission and the Sixth Committee; Commission impact and working methods and the changing landscape of international law.

Estonia appreciates that the details of proceedings of the seventieth anniversary commemorative events will be m