

(Chapter IV)

Statement by Denmark on behalf of the Nordic countries

Xx October 2024

Mr./Madam Chair,

I have the honour of delivering this statement on behalf of the five Nordic countries: Finland, Iceland, Norway, Sweden and my own country, Denmark.

IV - Settlement of disputes to which international organizations are parties

First, the Nordic countries would like to welcome the work on the settlement of disputes to which international organizations are parties and the draft guidelines, which we believe is a suitable outcome for this purpose. We would also like to offer a few observations in this regard. As a general observation, the Nordic countries see merit in underlining the principle of free choice of means of dispute settlement.

further explanations on what constitutes an international dispute are dealt with in the commentaries.

We welcome draft guideline 4 as a basic principle in the settlement of disputes between international organizations or between international organizations and States. We note with appreciation that the draft guideline does not give priority to any specific means of dispute settlement. We agree with the view expressed by some members of the Commission that lack of use of third party adjudication may often be a policy choice rather than an effect of the principle of State sovereignty. It may be appropriate to the extent that some treaties and constituent documents may include obligations regarding settlement of specific disputes.

Regarding the accessibility of dispute settlement means, which is addressed in guideline 5, we agree with the overall recommendation to make the means of dispute settlement available not only to a normative perspective but includes also the practicable use of those means for settling disputes. However, we are hesitant as to whether the express mention of arbitration and judicial settlement, notwithstanding the qualification that they are available only if the parties have agreed to them, in guideline 5 is justified. As noted by some Commission members, judicial settlement is in fact available to international organizations in many circumstances, and voluntary arbitration by agreement is always available. More emphasis on highlighting arbitration and judicial settlement may risk leaving the impression that this is somehow preferable to other means, which need not be the case. In line with the principle of freedom of choice of means, it is not necessary to





reminder of the auxiliary function of subsidiary means. Furthermore, the question of their relative weight is also to be carefully considered in order to ensure jurisprudential legitimacy and broad acceptance by the international community.

The Nordic countries reiterate our appreciation to the Commission for engaging with the topic of subsidiary means for the determination of rules of international law. We will continue to collaborate with the Commission on the topic with great interest.

Thank you!