



# MALAYSIA

STATEMENT BY

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REPRESENTATIVE OF MALAYSIA TO THE SIXTH COMMITTEE OF THE  
79TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

ON AGENDA ITEM 79:  
REPORT OF THE INTERNATIONAL LAW COMMISSION  
ON THE WORK OF ITS SEVENTY-FIFTH SESSION

CLUSTER II -

3. Be that as it may, Malaysia is also of the view that immunity poses significant challenges in disputes involving international organizations. The need to balance immunity with accountability is a complex issue that requires careful consideration of the Member States. While immunity is crucial for the effective functioning of these organization, Malaysia believes that it should not obstruct access to justice. Hence, any mechanisms to address these challenges, including potential amendments to the Statute of the International Court of Justice, should be carefully explored to address these challenges and consequently ensure fair and effective dispute resolution for all parties involved.

4. In light of the above, Malaysia believes that an in-depth analysis of these issues is necessary in refining the guidelines and ensuring that all relevant parties, including Member States, have equitable access to justice.

Mr. Chair,

#### CHAPTER V: SUBSIDIARY MEANS FOR THE DETERMINATION OF RULES OF INTERNATIONAL LAW

8. Turning to Chapter V of the report, my delegation wishes to record its appreciation to the Special Rapporteur Mr. Charles C. Jalloh for preparing the Second Report on

Examples of judicial decisions and other materials found in the case law of international courts, tribunals and other bodies

9. Malaysia also commends the efforts undertaken by the International Law Commission so far. In this regard, Malaysia notes the ILC had provisionally adopted draft conclusions 6, 7 and 8 and their commentaries as well as provisionally adopted draft conclusion 4 (Decisions of courts and tribunals) and draft conclusion 5 (Teachings), as orally revised, which had only been taken note of during the seventy-fourth session and also adopted commentaries. Malaysia would like to express its views and concerns on the draft conclusions 6 to 8.

Mr. Chair,

#### Draft conclusion 6: Nature and function of subsidiary means

10. Malaysia notes that the earlier text of draft conclusion 6 which was proposed by the Special Rapporteur in his Second Report was drafted differently, which had attempted to distinguish the scope of subsidiary means from the sources of international law, i.e. those referred to under subparagraphs 1(a) to (c) of Article 38 of the Statute of the International Court of Justice ( the said earlier draft text included certain ambiguity on the nature and role of such

subsidiary means, that may have been addressed by the revised text of draft conclusion 6 which has now been provisionally adopted by the ILC.

11. With regard to Article 38(1)(d) of the ICJ Statute of which this topic has its origins from, there are only two subsidiary sources for the determination of rules of law, whereby the first is judicial decisions and the second subsidiary source is the teachings of highly qualified publicists of the various nations. Based on this origin, Malaysia is of the view that



22. Malaysia wishes to draw the attention of the Sixth Committee to the fact that States only have the benefit of studying the present draft conclusion within the context of what

should be read in its entirety to ensure that all concerns have been addressed as a whole since they are interrelated to one another. For this reason, Malaysia would like to reserve the right to make further statements on all the draft conclusions once the entire draft is completed.

23. In conclusion, Malaysia acknowledges the importance of this area of study and Malaysia remains committed to further engaging in the development of this topic in a supportive and constructive manner.

Thank you.