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process. In contrast, arrangements (such as memoranda of understanding) reflect moral and political commitments, and are less-than-treaty status.

Australia supports the approach proposed outlined by the Special Rapporteur which seeks to balance the sovereignty of States to exercise their capacity to enter into non-binding instruments, and the need for legal clarity and certainty within the international law regime.

We thank the Special Rapporteur for his decision to focus on the practical aspects of this question, including the nature, regime and effects of non-binding arrangements, refraining from development of prescriptive on the practical

