

Appendix 1

The Permanent Representative of Denmark to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the Secretary-General's Note LA/COD/23 of 20 December 1991 regarding General Assembly resolution 46/55 of 9 December 1991 concerning the final draft articles on jurisdictional immunities of States and their property adopted by the International Law Commission at its forty-third (1991) session, has the honour, on behalf of the Nordic countries, Denmark, Finland, Iceland, Norway and Sweden, to convey the following observations.

In the opinion of the five Nordic countries, the draft articles adopted by the International Law Commission form a solid basis for consideration at a diplomatic conference to draw up a convention on this topic. In accordance with the general trend in current international law on State immunity as reflected in the draft articles the aim of the convention should be to draw workable lines of distinction between activities of States performed in the exercise of sovereign authority, acta iure imperii, which should continue to be covered by immunity, on the one hand, and State activities, acta iure gestionis, which should not be covered by immunity due to their commercial character or other adherence to the province of private law, on the other. A functional approach should be adopted in this respect.

Furthermore, it is considered of the utmost importance that general agreement be secured on most procedural questions, and to the extent possible on the basic substantive issues, before an international conference is convened. In this regard the Nordic countries are ready to participate actively in the work of the open-ended working group of the Sixth Committee which shall consider issues of substance and procedural matters regarding the conclusion of a convention on jurisdictional immunities of States and their property.

The Permanent Representative of Denmark to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration.