Greece would like to congratulate the International Law Commission for its decision to include the topic “Subsidiary means for the determination of rules of international law” in its programme of work as well as the Special Rapporteur, Mr. Charles Chernor Jalloh, for his first report. We appreciate the work done so far and look forward to the future developments which, building on the Commission’s previous work on the sources of international law in a consistent way, will provide useful guidance on the use of subsidiary means for the determination of rules of international law.

Firstly, Greece welcomes the provisional adoption by the Commission of draft conclusions 1 to 3 and the relevant commentaries. We also welcome the selection of the form of draft conclusions accompanied by commentaries as the suitable format for the outcome of the present work, corresponding to the approach followed in prior related topics, and we appreciate the consistent methodology applied by the Special Rapporteur.

Secondly, in addressing especially the function of subsidiary means, Greece agrees that the Commission could analyse further the distinction between subsidiary means and the evidence of the existence of rules of international law. In addition, we wish to express our interest in a further elaboration of the distinction between the supplementary means of interpretation provided in article 32 of the Vienna Convention for the Law of Treaties and the subsidiary means for the determination of rules of international law as referred in article 38 of the Statute of the International Court of Justice.

Thirdly, turning to draft conclusion 2, we support the approach regarding the non-exhaustive nature of the categories of subsidiary means. However, regarding draft conclusion 2 (a), Greece is of the opinion that the term “decisions of courts and tribunals” should encompass merely decisions and judgments, including advisory opinions and orders, of organs established as courts or tribunals by the relevant international instruments and not of other bodies of persons or institutions. In fact, the latter may fall under subparagraph (c) of the same draft conclusion. In this regard, we notice that while, in paragraph 6 of the commentary to draft conclusion 2, it was -to use the relevant treaty term- on individual complaints of a State-created treaty body have been included in the term “decisions”, in paragraphs 175- of the same commentary, the works of treaty-based expert bodies seem to be viewed as “any other

Fourthly, on draft conclusion 2 (b), Greece finds particularly interesting