

**Statement by Denmark on behalf of the Nordic Countries  
(Denmark, Finland, Iceland, Norway and Sweden)**

**International Law Commission Cluster III**

**Statement by H.E. Ambassador Ib Petersen  
Permanent Representative of Denmark to the UN**

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Mr. Chairman,

I have the honour to speak on behalf of Finland, Norway, Iceland, Sweden – and my own country – Denmark on Cluster III of the ILC report.

Firstly, turning to chapter VIII of the Report of the International Law Commission, which focuses on the peremptory norms of general international law (jus cogens).

The Nordic countries would like to thank Special Rapporteur, Mr. Dire Tladi for his second report, which covers the criteria for identification of peremptory norms (jus cogens) in an important endeavor to bring clarity to a challenging concept.

The Nordic countries fully support the process and the continued work by Mr. Tladi, the ILC and the ILC Drafting Committee and look forward to future discussions on the draft conclusions after the adoption of a full set of conclusions by the Drafting Committee.

We continue to hold the view that the topic is best dealt with by the Commission through a conceptual and analytical approach rather than with a view to elaborating a new normative framework for states.

We look forward to the recommendation from the Special Rapporteur in due course based on the substance of the arguments from the Drafting Committee, as well as the debates within the Commission and the Sixth Committee.

Mr. Chairman,

Secondly, now turning to Chapter IX of the Report of the International Law Commission on Succession of States in respect of the State responsibility.

The Nordic countries would like to thank the Special Rapporteur Pavel Šturma for his interesting first report that sets the basis for the future work of the Commission on this topic. The question of succession with regard to rights and obligations arising from internationally wrongful acts is indeed a controversial one.

The question of State responsibility has been left out of the earlier work of the Commission on State succession. The issue was also not included in the articles on State Responsibility adopted by the Commission in 2001. Doctrinal writings used to pay little attention to this topic and if they did, they generally concluded that there was no succession to State responsibility. But this should, of course, not make the Commission shy away from a topic where codification and progressive development could potentially bring clarity and predictability.

The Special Rapporteur has analyzed more recent State practice and suggests that the traditional 'clean slate' rule has been challenged, which allows for an analysis on the transmissibility of rights and obligations relating to State responsibility. This is an interesting proposition and the Nordic countries would welcome further instances and analysis of State practice to substantiate this suggestion.

In addition to State succession and State responsibility, the ILC has worked on a number of related areas of law that are of relevance for the topic. There is also already a substantial academic work to build on. Thus it is by no means uncharted waters but rather about filling a gap left between the regimes of State succession and State responsibility.

The Nordic countries are of the opinion, however, that the topic does not allow for large categorizations and agree that the subsidiary character that the Special Rapporteur envisages for the draft articles is a realistic approach. Although State succession is a rare occurrence, the Nordic countries see some merit in the ILC pursuing this topic and look forward to the second report of the Special Rapporteur.

Mr. Chairman,

Finally, allow me to turn to Chapter X of the Report of the International Law Commission on the Protection of the environment in relation to armed conflicts.

The negative impact of armed conflicts continues to be seen the world over. Armed conflicts cause severe human suffering, and women are often particularly affected. Widespread destruction and degradation of the environment imply long-term and severe consequences both for nature itself and for civilian populations who depend on natural resources for their survival.

There is a clear connection between a safe natural environment and living conditions for human beings and international peace and security. It is for these reasons that the Nordic countries strongly support the topic Protection of the environment in relation to armed conflicts.

The Nordic countries express their appreciation to the Commission for the manner in which it has continued to work on the topic following the end of the mandate of the former Special Rapporteur, Ambassador Marie Jacobsson. We would like to express our thanks to the former Special Rapporteur for having prepared draft commentaries on draft principles 4, 6 to 8 and 14 to 18 despite no longer being with the Commission.

The Commission has skillfully managed to facilitate the transition of the topic from one Special Rapporteur to another by establishing a Working Group chaired by Mr Marcelo Vazquez-Bermudez. We would like to express our deep appreciation for his work. The Nordic countries continue to underline the importance of the topic and share the view of the Working Group that substantial work has already been done and that it needs to be finalized without delay, maintaining and building on the work achieved so far. In this context, we note with satisfaction the plan of work for the remainder of the quinquennium that will lead to a first reading in 2019 and the completion of the draft principles on second reading in 2021.

The Nordic countries warmly welcome the appointment of Ambassador Marja Lehto as the new Special Rapporteur on the topic. We are convinced that Dr. Lehto is the right person to continue the work, and we thank her for her willingness to assume this responsibility. We will continue to stress the importance of the topic. We acknowledge that there are matters that need to be addressed in a future report, such as the protection of the environment in situations of occupation. At this stage, it is our view that a more general reference to existing rules and principle on liability and responsibility seems preferable.

Thank you.