



**PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS**

318 EAST 48TH STREET, NEW YORK, NY 10017
TEL: (212) 826 0840 FAX: (212) 826 2964

**STATEMENT BY MS SERAPHINA FONG,
DELEGATE TO THE 72ND SESSION
OF THE UNITED NATIONS GENERAL ASSEMBLY
ON AGENDA ITEM 81 ON THE REPORT OF THE
INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS
SIXTY-NINTH SESSION (CLUSTER 3: CHAPTERS VIII, IX & X OF A/72/10),
SIXTH COMMITTEE,
31 OCTOBER 2017**

[Please check against delivery]

1. Mr. Chairman, my delegation thanks the International Law Commission for its report on the topics, “Peremptory norms of general international law (*jus cogens*)”, “Succession of States in respect of State responsibility” and “Protection of the environment in relation to armed conflicts”. We follow all three topics with great interest.

Peremptory norms of general international law (*jus cogens*)

2. We turn first to Chapter VIII of the report on the topic, “Peremptory norms of international law (*jus cogens*)”. My delegation wishes to thank the Special Rapporteur Mr. Dire Tladi for his well-researched second report. My delegation welcomes the Commission’s work in attempting to clarify this intrinsically complex area of international law.

3. My delegation welcomes **draft conclusion 4** on the criteria for identifying *jus cogens*.

The criteria for the identification of *jus cogens* should indeed be based on and consistent with Article 53 of the Vienna Convention on the Law of Treaties.

4. On **draft conclusion 7**, my delegation emphasises that the peremptory nature of a norm must be endorsed by the international community of states as a whole. We agree in particular with paragraph 2 of draft conclusion 7, that acceptance and recognition by the “international community of states as a whole” means acceptance and recognition “by a very large majority of States”. It is clear that a single objection raised by a State cannot prevent proof of a *jus cogens* norm. That said, my delegation is of the view that it is imperative that *virtually all states* accept and recognise a norm as having *jus cogens* character before it may be identified as such.

5. With regard to the relationship between the criteria for the identification of *jus cogens* and the descriptive elements of *jus cogens*, my delegation appreciates the Special Rapporteur’s clarification in his second report that the elements in paragraph 2 of **draft conclusion 3** as proposed in the Special Rapporteur’s first report are not criteria for *jus cogens* but are instead descriptive elements of *jus cogens* norms. We note, however, that the actual practical effect of the distinction between the descriptive elements of *jus cogens* and criteria of *jus cogens* remains unclear. While theoretically, it may be possible to distinguish the descriptive elements, criteria and consequences of *jus cogens* based on certain principles, this may not be the case in practice. This is an aspect of the work that may benefit from further textual revision to the draft conclusion, or from further

explanation in an accompanying commentary.

6. On the issue of whether the Commission should adopt an illustrative list of *jus cogens*, my delegation is of the view that the determination of the methodology that the Commission would undertake in compiling such a list, if at all, is crucial. In particular, it is essential that States' comments be sought prior to the inclusion of a crime on the list. If States are unable to agree that a crime is of *jus cogens* character, Singapore is of the view that it would not be possible to include such a crime on the list. Should the Commission decide to compile an illustrative list, my delegation would like to underscore that the Commission should only include norms that already clearly fulfil the criteria identified by the Commission for a norm to constitute *jus cogens*.

Succession of States in respect of State responsibility

7. We turn now to Chapter IX of the report, on the topic, "Succession of States in respect of State responsibility", Singapore thanks the Special Rapporteur, Mr Pavel Šturma, for his preliminary report on the scope and outcome of the topic, and an overview of the general provisions relating to this topic. Singapore will follow the work of the Commission of this topic closely and looks forward to concise final products that could serve as practical and authoritative guidance.

Protection of the environment in relation to armed conflicts

8. Finally, on Chapter X of the report, "Protection of the environment in relation to

armed conflicts”, my delegation wishes to express our appreciation to the previous Special Rapporteur, Ms Marie Jacobsson, and would like to commend her on the invaluable work she has produced on this topic. We also welcome the decision of the Commission to appoint Ms Marja Lehto to carry on the work of Special Rapporteur and we look forward to the Commission’s further work on this topic.

9. I thank you, Mr. Chairman.
