



*Check Against Delivery*

**Statement by**

**Mr. Mohammad Sadegh Talebizadeh Sardari,**

**Representative of the Islamic Republic of Iran**

**before the Sixth Committee of the**

**77<sup>th</sup> Session of the United Nations General Assembly**

**on**

**Agenda item 78: “Report of the International Law Commission on the  
work of its Seventy-third session”**

**Cluster III**

**Chaps: VII (Succession of States in respect of State responsibility) and VIII  
(General principles of law)**

**New York, 2 November 2022**

**Mr. Chairperson,  
Distinguished Members of Delegates**

In my today’s intervention, I will address Chapter VII and Chapter VIII of the ILC Report and share the views of my delegation on two respective topics of “**Succession of States in respect of State Responsibility**” and “**General Principles of Law**”.

In this regard, I will first address the topic of “**General Principles of Law**” and I would like to appreciate the Special Rapporteur, Mr. Marcelo Vázquez-Bermúdez as well, for producing his third Report which deals with the issue of transposition, general principles of law formed within the international legal system, and the functions of general principles of law and their relationship with other sources of international law. My delegation also commends the Commission and its members for their work at its seventy-third session.



**Mr. Chairperson,**

While recalling our previous observations and concerns expressed before this Committee<sup>1</sup>, I would like to make some general observations.

First and foremost, concerning the “General principles of law formed within the international legal system”, due regard should be paid for selection of terms. For the purpose of this topic, it would be valuable to draw a distinction between “principles” and “rules”. We believe principles provide the common denominator for a number of related legal rules. Consequently, the more fundamental the underlying rules, the more fundamental is the legal principle that is extracted from these rules. In this sense, it is imperatively vital to differentiate between the notion of “General Principles of law” as a source of law enumerated in article 38(1)(c) of the Statute and the notion of “principles or rules of international law” as a subcategory of customary or conventional international law.

In light of this delineation, the only legitimate expression of General Principles in the sense of Article 38(1)(c) are the legal principles which are recognized by all or majority of the various national systems of law and are inherent in any legal system within the experience of states; principles that can be transposed to and applied at the international level as well.

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<sup>1</sup> See: Statements already delivered by the Islamic Republic of Iran before the [74<sup>th</sup> \(Cluster III\)](#), and [76<sup>th</sup> \(Cluster III\)](#) Sessions of the Sixth Committee of the United Nations General Assembly under the respective Agenda Items regarding the “Report of the International Law Commission” on its work.



We agree that the sources referred to in article 38 of the ICJ's Statute are not in a hierarchical relationship, rather there exists a hierarchy of norms in international law; nevertheless, the ICJ jurisprudence indicates that the Court has seldom found occasion to apply "general principles of law", since as a rule of conventional and customary international law have been sufficient to supply the necessary basis of its decisions. Moreover, it appears that General Principles of law are mostly procedural norms within national legal systems.

As a matter of course, "General principles of international law" or "General principles of law formed within the international legal system" do not and could not fit within the article 38(1)(c). In this vein, it must be underlined that they either come to existence through the process of the development of customary international law, and hence, should be regarded as general norms of international law, which are usually customary, already existing and binding at the international level; or they are either created as a result of certain logical propositions underlying judicial reasoning on the basis of existing international law. Needless to say, that even deductions as such by the judges could not be considered as General Principles of law in the sense of Article 38(1)(c) for a variety of reasons. For instance, it lacks the vital element of "recognition" and relies upon deduction and inference rather than any recognition. Likewise, it completely eliminates the concept of a "nation" from the source, with the exception of the extent to which the nation contributed to the original legal framework from which deductions or inferences are being drawn. Additionally, it grants judges broad and unrestricted judicial discretion, in contrast to process through which the source evolved historically namely from its introduction in



the 1875 Arbitral Procedure Regulations to its incorporation into the PCIJ and ICJ Statutes.

Therefore, for these reasons, I would like to restate our position that “General principles of law formed within the international legal system” could not to be considered within the scope of this topic.

### **Mr. Chairperson**

With regard to the seventh chapter of the ILC Report, which deals with the topic of “**Succession of States in respect of State Responsibility**”, we would like to thank the Special Rapporteur, Mr. Pavel Šturma, for presentation of his fifth Report, as well as the Commission for the work carried out so far in this respect.

I would like to briefly point out that the Islamic Republic of Iran recalls its previous remarks<sup>2</sup> on this topic and is of the view that not only there exists a paucity and sparsity of the practice of States in the subject-matter, but also as far as it concerns the previous works of the Commission on the very same topic, it appears that thus far, the international community of states has not yet welcomed the topic of succession of States broadly. As regards, the “Vienna Convention on succession of States in respect of treaties” of 23 August 1978 has only 19 Signatories and 23 Parties and the “Vienna Convention on succession of States in Respect of State Property, Archives and Debts” of 8 April 1983 has only 7 parties and has not yet entered into force. Furthermore, the 2001 “Draft Articles on Responsibility of States for

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<sup>2</sup> See: Statements already delivered by the Islamic Republic of Iran before the [72<sup>nd</sup> \(Cluster III\)](#), [73<sup>rd</sup> \(Cluster III\)](#), and [74<sup>th</sup> \(Cluster III\)](#), Sessions of the Sixth Committee of the United Nations General Assembly under the respective Agenda Items regarding the “Report of the International Law Commission” on its work.



Internationally Wrongful Acts” is among those ILC products that are still pending before this Committee. That being so, it seems the time is not yet ripe enough to constitute the basis for choosing the title of “draft articles” for the topic under consideration.

**Mr. Chairperson,**

Having reached the end of my statement corresponding to the final cluster on the report of the Commission on its work, my delegation once again expresses its gratitude to the members of the ILC and hopes for the successful completion of all the ongoing works currently underway.

**I Thank you Mr. Chairperson.**