



**Statement by the Republic of Türkiye at the Sixth Committee
Report of the International Law Commission on the Work of its 73rd Session
(3 October - 18 November 2022)**

CLUSTER III

“Succession of States in respect of State responsibility”

Madame Chair,

We would like to thank Special Rapporteur Mr. Pavel Šturma for his fifth report and the Commission for their deliberations on “Succession of States in respect of State responsibility”.

We refer to and reiterate our positions in our previous statements on the topic.

We would like to underline that absence of a comment or observation should not be construed as agreement with the content of the reports prepared up to now on the topic, and the references therein.

Without prejudice to our comments and observations made in our previous statements, we would like to kindly bring to the attention of the Committee the following considerations on the topic once more.

We observe that the reports make reference to the articles on responsibility of States for internationally wrongful acts. However, we emphasize that the concerned articles are still considered as open to discussion, specifically as regards whether and to what extent they reflect customary international law. In that regard, we also would like to point out that we do not agree with the conclusion in paragraph 14 of the fifth report that draft articles 16 to 19 reflect existing international law.

Türkiye still has concerns and doubts as to whether it is possible to differentiate between the political and legal aspects of this topic, which are largely intertwined. We also would like to draw attention to the fact that the scarcity of available State practice and prevalence of significant differences over the existing ones might even cast doubt on drafting “guidelines” on the topic.

“General Principles of Law”

Madame Chair,

On General Principles of Law, we would like to thank Special Rapporteur Mr. Marcelo Vázquez-Bermúdez for his third report and the Commission for their work and deliberations.

We refer to and reiterate our previous statements on the topic.

It has been suggested in the fifth report of the Special Rapporteur that ascertaining the recognition of the transposition of a general principle of law from domestic legal systems would be implicit and “that implicit recognition is to be found in the framework of rules and principles of international law accepted by States, framework within which a general principle of law is to apply and fill possible lacunae”.

Further, it has been suggested in the fifth report that it appeared from the practice of States and the jurisprudence of international courts and tribunals that, in some cases, international instruments, in particular treaties, could be considered as evidence confirming that a principle was transposed to the international legal system.

We consider that more elaboration might be needed for clarification of the proposition that recognition of transposition would be implicit and did not require an express or formal act. This would be all the more relevant vis-à-vis the suggestion that general principles of law “may serve, inter alia, as a basis for primary rights and obligations, as well as a basis for secondary and procedural rules” and their suggested role of “gap-filling”.

Since ultimately international instruments, in particular treaties, were proposed to be considered as evidence confirming the transposition; in this context, firstly, we would like to inquire what would be suggested to be evidence of the transposition when general principles of law assume the role of “gap-filling that might exist in conventional and customary international

law” and secondly, we would like to kindly ask for clarification as regards the phrase “international instruments, rules and principles of international law accepted by States”.

This concludes our remarks for Cluster III.

I thank you, Madame Chair.