



Ministero degli Affari Esteri
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Ufficio I

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Agenda item n. 79 - Report of the International Law Commission
Cluster I
Statement of Italy
Delivered by Min. Stefano Zanini

Mr. Chairman/Madam Chair,

First of all, I would like to thank the Chairman of the ILC for his presentation of the ILC Report. In my intervention today, I will address the topic of “**General principles of law**”.

First of all, allow me to commend the International Law Commission for its work on the subject. Italy welcomes the adoption of the Draft Conclusions on general principles of law and the related commentaries.

Italy believes that the aim of the draft conclusions is to serve as a guide in the interpretation and application of international law. Therefore, we trust that research will proceed in order to give a more exhaustive guidance. In this sense, Italy **appreciates the adoption of the commentaries** and the inclusion of examples of general principles of law commonly recognised therein.

With regard to general principles **derived from national legal systems**, Italy shares the view stated in draft conclusion n. 6 that “*A principle common to the various legal systems of the world may be transposed to the international legal system **in so far as it is compatible with that system***”, Italy believes it would be interesting to pursue the analysis of the limits to transposition of principles of national law into the international legal system. We are aware that the assessment of transposition is mostly conducted by judges on a case-by-case basis. Nonetheless, we believe that the studies of the Commission should lead to the identification of some general essential features of the process of assessing the transposition of a principle common to the various legal systems of the world to the international legal system. In order to achieve this, the numerous works of scholars on the subject should be taken into account.

With regard to general principles **that may be formed within the international legal system**, the commentaries reflect some of the concepts that Italy exposed last year, with particular regard to the difference between customary law and general principles of law. Italy reckons that this distinction should be subject of further study, in order to find a shared and more defined methodology for the

detection of general principles as well as the differences between the criteria for establishing the emergence of either a norm of customary law or a principle.

Aware that the expression “general principle” is used in practice in different circumstances, and that States’ practice furnishes scarce elements to clarify the origin, the structure, and the functions of general principles, it would be profitable to continue reflecting on the commonly recognised **essential features** of the general principles.

The above observations on finding precise criteria pertain, in particular, to the risk of overriding the will of States in the creation of norms of international law, especially taking into account that **general principles may be an autonomous source of rights and obligations**, as clarified in draft conclusion n. 10.

Lastly, Italy will consider submitting written comments and relevant information and looks forward to continuing its engagement with the Commission on such a significant topic.

Mr. Chairman/Madam Chair

I will now address the topic of “**Sea-Level Rise in relation to international law**”.

Please allow me to express the Italian Government’s most sincere gratitude to Mr. Aurescu and Ms. Oral, for the submission of the Additional Paper to the first Issues Paper, which clarifies many aspects of the subtopic related to the Law of the Sea.

Taking into account the discussions conducted at this stage, Italy would like to share the following observations.

Firstly, Italy emphasizes the importance of ensuring stability, security and legal certainty with regard to maritime delimitation and supports the view that the issue of legal stability is closely connected to the preservation of maritime zones as they were before the effects of sea-level rise. In this regard, Italy considers that the United Nations Convention on the Law of the Sea does not seem to preclude baselines from being considered as fixed.

Secondly, Italy reiterates its position in favour of seeking solutions that do not involve modifications to applicable international law, with particular reference to the United Nations Convention on the Law of the Sea.

At the same time, Italy takes positively note of the suggestion expressed by the Study Group that a meeting of the States Parties to the UNCLOS could be convened with a view to defining a shared interpretation of the relevant provisions of the Convention.

Lastly, Italy shares the view that sea-level rise does not constitute a fundamental change of circumstances under article 62 of the Vienna Convention on the Law of the Treaties. Indeed, Italy believes that this phenomenon should not affect the stability of the existing maritime delimitation agreements and, therefore, the maritime boundaries established therein.

Italy looks forward to the continuation of discussions on this important topic within the International Law Commission and to the circulation by the Study Group of the Additional Paper to the second Issues Paper on the consequences of sea-level rise in relation to the subtopics of statehood and protection of persons.