



S L O V A K I A

STATEMENT

by

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78th session of the United Nations General Assembly
Sixth Committee

*Report of the International Law Commission
on the work of its seventy-third session (item 79)
Cluster I*

New York, 24 October 2023

(check against delivery)

Madam Chair,

At the outset, I wish to express our sincere congratulation to new members of the International Law Commission for the next quinquennium and wish them all the success in their crucial work. I also congratulate Ms. Nilüfer Oral and Ms. Patrícia Galvão Teles on being elected as Chairs of this year's session and for their diligent leadership throughout the whole session.

We note the first consideration of three new topics, as well as substantial progress made on other topics on the agenda of the Commission. Nevertheless, we would like to indicate some concerns about the approach of the Commission on the topic of "Succession of States in respect of State responsibility" on which I will elaborate further in our intervention to topics included in Cluster III.

Madame Chair,

In my statement, I will focus on Chapters I, II, III, IV, VII and X of the Report, namely on topics "**General principles of law**" and the "**Sea-level rise in relation to international law**". I will also offer some comments on the "**Other decisions and conclusions of the Commission.**"

With regard to "**General Principles of Law**", my delegation commends the Commission for the adoption of 11 draft conclusions with commentaries on first reading and Mr. Marcelo Vázquez-Bermúdez for his thorough work as the Special Rapporteur. Slovakia has been closely following the progress made on this topic and will consider the opportunity of sending its comments in writing within the established deadline. We believe that the views of States expressed both orally and in writing, will be duly studied and taken into account during the second reading of the draft conclusions.

While my delegation welcomed the inclusion of the topic on the active programme of the work, our original position has slightly evolved. Studying the draft conclusions and its commentaries, we are now more inclined to opine that the practical benefit and the need of analysing this topic on international level is rather limited. This holds even more in comparison to previous works of the Commission on the primary sources of international law, the treaties and customary international law. The autonomy of judicial institutions before which this matter arises

predominantly, should be respected. In addition, by its very nature, the topic might not be fully suitable for progressive development and codification.

Not to repeat our comments from the last year's session, which we recall, allow me, Madam Chair, to briefly highlight the points in which we see the most significant disagreement with the draft conclusions as adopted by the Commission on first reading. It is our view that general principles of law can be derived only from national legal systems. They *per se* represent the higher degree of generalisation or abstraction of existing norms and principles of a national legal order which are common to legal systems of the world. We find it still difficult to accept that general principles of law would be a third, completely distinct and autonomous source of rights and obligations under international law, and that they can be formed within international legal system. The Commission's efforts to present examples of the latter based on the interpretation of some judicial decisions in commentaries to the draft conclusion 7 has not changed our position.

In principle, Slovakia concurs with draft conclusion 4 to 6, however, wishes to express some doubts about the use of the term of "transposition". While acknowledging that not all principles derived from *foro domestico* and common to various legal systems can be applied in the international legal system, the current wording might suggest that the transposition is a formal requirement for the establishment of the existence a general principle of law, rather than for its applicability in the international legal order. We believe that the term "transposability" would better reflect the nuance between the existence and the applicability of a general principle of law in the international legal order.

Turning now to draft conclusions 8 and 9, we encourage the Commission to maintain the consistency throughout its work. In particular, we might have identified some discrepancies between the draft conclusion 8 and the draft conclusion 4 on "Subsidiary means for the determination of rules of international law" as proposed by the Special Rapporteur addressing the same subject-matter. We invite the Commission to consider the option to leave this part for the consideration under the topic of the "Subsidiary means...".

Moving to the draft conclusion 11, we do not fully concur with the relationship between the general principles of law on one hand and the treaty and customary international law on the other. While there might be no formal hierarchy between them, we are of the view that they do

not enjoy the same status. The primary function of general principles of law is, in our view, rather supplementary, filling the gaps in international law.

Finally, in relation to paragraph 3 of draft conclusion 11, we have some difficulty to envisage a situation where a general principle of law would be in conflict with a customary rule of international law. This holds even more vis-à-vis the proposed second category of general principles of law. My delegation would welcome some examples of such a conflict, otherwise the third paragraph would seem to be redundant.

Madam Chair,

Let me now address the topic of **“Sea-level rise in relation to international law”**.

My delegation welcomes the additional paper to the first issues paper prepared by the co-chairs of the Study Group, Mr. Aurescu and Ms. Oral, which provides a well-researched and comprehensive clarification on a number of principles and issues relating to the law of the sea. We also praise the progress made so far by the Commission on all three subtopics, namely the law of the sea, statehood and the protection of persons affected by sea-level rise.

We recognise that the sea-level rise is a topic that impacts whole international community and requires global solutions, including formulating answers to legal questions. While we note the interest of the Commission to interpret the legal concepts encompassed in the UN Convention on the Law of the Sea, we wish to reiterate our call to preserve the integrity of the UNCLOS and the balance of rights and obligations it guarantees.

My delegation commends the analysis provided by the Study Group on the issue of legal stability in relation to sea-level rise opening the option of fixed baselines and preservation of maritime zones, which is in the interest of predictability and security in the affected regions.

We also note with interest the suggestion for the Study Group to adopt a pragmatic approach and propose concrete solutions to practical problems caused by sea-level rise. At the same time, we call for caution when distinguishing legal aspects of this topic from issues of policy nature.

My delegation encourages the Study Group to continue its work on this topic with a view of preparing a consolidated final report in 2025.

Madam Chair,

Before concluding, I will offer some brief remarks on “**Other decisions of the Commission**”, namely those related to its programme of work and working methods.

We note with interest the inclusion of the topic of non-legally binding international agreements on current programme of the Commission’s work and congratulate Mr. Mathias Forteau on being appointed as Special Rapporteur. My delegation believes that this topic might be beneficial mostly for the future practice of States. However, the topic indicates that it concerns the instruments beyond the reach of the international law of treaties, therefore a careful approach should be taken, especially when defining its scope. We invite the Commission to also consider changing the title to "non-legally binding international *instruments*".

Looking at the long-term programme, we reiterate our call to the Commission to consider moving the topic “Universal jurisdiction” on its active programme of work.

In terms of the working methods, we eagerly await the results of the working group on certain long-standing questions as clarity among different forms of outputs. We are particularly pleased to see the female chairs of the Commission. In this context, we further encourage the Commission to take into account the gender balance in all aspects of its work, including when appointing Special Rapporteurs.

I thank you.