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STATEMENT

BY

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OF THE REPUBLIC OF MOZAMBIQUE
TO THE UNITED NATIONS**

BEFORE THE

SIXTH COMMITTEE

ON AGENDA ITEM 82:

**ON THE REPORT OF THE INTERNATIONAL
LAW COMMISSION ON THE WORK OF ITS
SEVENTIETH SESSION**

(CLUSTER II: CHAPTER VIII)

NEW YORK, 26 OCTOBER 2018

Mr. Chairman,

Let me start by thanking the Chairman of the International Law Commission for his presentation of the Commission Report contained in document A/73/10. I would like to take this opportunity to commend the Commission for its work during its seventieth session and the progress achieved in many and different topics, as well as the special rapporteurs for their contributions to the work of the Commission. I would also like to express Mozambique's Delegation appreciation for the Codification Division of the Secretariat for their tireless work devoted to the development of international law within the United Nations.

Mr. Chairman,

The International Law Commission has been making significant contributions to the development and codification of international law, carrying out the mandate of the General Assembly, set out in article 13 of the United Nations Charter. Although the existence today of other and different fora in the world for international law development, the work and task of the Commission has proven to be of the most importance and relevance to the entire international community.

Thanks to its diverse composition by experts and practitioners of international law representing different regions and legal systems, and its relations with Members States through the Sixth Committee and the General Assembly , it continues to have an important role in the progressive development and codification of international law, and thus in the advancement of the rule of law at international and national levels.

The International Law Commission relies on the practices of Member States to progress its work, and in fact, is obligated to seek and collect views of Members Sates into account at the various stages of its work in the progressive development and codification of international law. It is against this context that my country has decided to take the floor today in order to engage in the debate on the Commission's work.

Mr. Chairman,

Mozambique is happy to see that the commemorative events of the seventieth anniversary of the establishment of the International Law Commission are taking place in Geneva and New York, under the auspices of the United Nations and different Members States. This anniversary is an historic occasion for all Members States to review and recognize the valuable work and mandate of the International Law Commission within the United Nations system.

We believe that interaction that has existed during seventy years between the Sixth Committee and the Commission has proved very beneficial for both, so much as it contributes to mutual dialogue between the two on all legal matters that concerns the international community.

Nevertheless, we do recognize that there is naturally scope for improvement on certain issues. We continue to believe that the time between the publication of the Commission report and that of its consideration at the Sixth Committee remains relatively short, especially taking into consideration that many topics which are currently on the agenda of the Commission require a carefully examination and deep analysis by Members States.

The other issue that still poses some concerns is the prevailing situation of the under representation of female experts in the membership of Commission, less than 12%, which is something contrary to the principles of the United Nations system, based on an approach of gender balance.

Mr. Chairman,

My delegation would like to make some brief comments on chapter VIII of the report, concerning the topic: **Peremptory Norms of General International Law (*jus cogens*)**.

In this regard, I would like to begin by commending once again the Special Rapporteur Mr. **Dire Tladi** of South Africa, for his detailed and comprehensive document on this matter.

We believe that there are certain values in the human universe that are considered to be fundamental and superior, and because of that nature they cannot be negotiated. Those values are universal and

imperative from which no derogation is permitted by any way of particular agreements. It stems from the idea that certain legal rules cannot be contracted out, given the fundamental values they uphold. It is meant that those norms are positioned in the very first place within hierarchy of the whole international legal order and as such they restrict the sovereign authority of any State.

Principles contained in the United Nations Charter, the prohibition of the use of force between states, the prohibition of slavery, racial discrimination, torture, genocide as well as people's right to self-determination among others are considered to be peremptory norms of general international law (*jus cogens*), thus they cannot be negotiated or derogated by anyone.

Although there are many and different opinions over its exact content, sources, means of identification, and application, no state or international organization can legally violate them. Despite persistent debates on these matters, *jus cogens* is now referred to in several legal instruments within and beyond the law of treaties in the international legal order. The 1969 and 1986 Vienna Conventions on the Law of Treaties stipulate that any treaty is void and null if it conflicts with any peremptory norms of general international law (*jus cogens*).

States and international organizations shall cooperate to bring to an end any breach of *jus cogens* and shall not recognize as lawful a situation created by such a breach, nor render aid or assistance in maintaining such situation. Moreover, if States or international organizations are to violate those norms, they cannot invoke any circumstance precluding the wrongfulness of their conduct, such as necessity or force majeure.

In conclusion let me say that Mozambique will continue to follow with great interest the work of the Commission on this and other topics. Our hope is that the Commission's work continues to be an important contribution for peace, security and respect for human rights within the context of consolidating the international legal order.

I thank you all!