



**PERMANENT MISSION OF SINGAPORE  
TO THE UNITED NATIONS**

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**STATEMENT BY MS DAPHNE HONG, DIRECTOR-GENERAL,  
INTERNATIONAL AFFAIRS DIVISION, ATTORNEY-GENERAL'S  
CHAMBERS OF SINGAPORE, ON AGENDA ITEM 79 ON THE REPORT  
OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS  
SEVENTY-FIRST SESSION (CLUSTER 1: CHAPTERS I-V & XI OF  
A/74/10), SIXTH COMMITTEE, 29 OCTOBER 2019**

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*[Please check against delivery]*

Mr Chair,

1 As this is the first time that I take the floor on behalf of my delegation, allow me to congratulate you on your election as Chair of the Sixth Committee, and reaffirm our full support to you and the Bureau. I would also like to congratulate Mr. Pavel Šturma on his election as Chair of the Commission, and thank him for presenting its report.

2 Singapore commends the Commission on the adoption, on second reading, of draft articles on “Prevention and punishment of crimes against humanity”, the adoption, on first reading, of draft conclusions on “Peremptory norms of general international law (*jus cogens*)”, and the adoption, on first reading, of draft principles on “Protection of the environment in relation to armed conflicts”.

3 Singapore also wishes to recognise and commend the officers of the Codification Division. Their unstinting dedication and substantive support to the Commission is critical to the Commission’s discharge of its important mandate. We are, in particular, deeply appreciative of the resources dedicated to maintaining the Commission’s website. The website has greatly improved the transparency of the Commission’s work. This transparency is indispensable to the promotion of the Commission’s institutional

relationship with Member States through this Committee, because it allows Member States to have access to context that may not always be apparent from simply reading the Commission’s report—which is otherwise an extremely comprehensive and useful document.

Mr Chair,

4 I shall now address Chapters IV, V and XI of the report.

5 Singapore expresses its appreciation to the Commission for completing its work on the topic “**Crimes against humanity**” in an open and consultative manner. We also wish to commend, in particular, the Special Rapporteur, Professor Sean Murphy, for producing a quality product in a relatively short time.

6 Singapore was amongst those delegations that submitted written comments to the Commission on this topic. Like others, we considered the draft articles very carefully, and made some suggestions on how they could be clarified or improved. In this regard, we greatly appreciate the Commission’s clear efforts to engage with Member States. We do, however, remain of the view that the draft articles should be further improved or clarified in the manner proposed in our written comments. To cite just one example, Singapore had commented that draft article 7, paragraph 2, is intended to provide an additional *treaty based* jurisdiction in respect of an alleged offender on the basis of presence alone when none of the other connecting factors are present. In other words, our understanding is that draft article 7, paragraph 2 only permits States to establish jurisdiction over crimes committed by a national of a *State party* and does not extend to establishing jurisdiction over nationals of *States non-parties*. We remain of the view that this should be expressly reflected in the text of this draft article. We invite delegations to refer to the other parts of Singapore’s written comments, which are available on the Commission’s website.

7 We have also read with interest the numerous written submissions made by others, many of which contain very detailed comments. These submissions contain many

valuable ideas, but also demonstrate that there remain some divergences in views. In this regard, my delegation looks forward to hearing the views of other delegations in the course of the present debate, including on the issue of what further action should be taken on these draft articles.

Mr Chair,

8 Crimes against humanity are among the most serious crimes of concern to the international community. It is imperative that the international community works together to end impunity for perpetrators and provide justice for victims. In this regard, the Commission's draft articles and commentaries can contribute to the strengthening of accountability by providing useful practical guidance to States on this topic.

9 I now turn to the topic "**Peremptory norms of general international law (*jus cogens*)**". We commend the Special Rapporteur, Professor Dire Tladi, for his excellent work on another significant addition to the Commission's recent methodological output on sources doctrine. We congratulate the Commission on the close of first reading. We are particularly pleased to now have sight of the commentaries, especially in light of the Commission's standard "health warning" that, "[a]s is always the case with the Commission's outputs, the draft conclusions are to be read together with the commentaries" (A/74/10, p. 147).

10 We appreciate the opportunity for Member States to provide written comments to the Commission by the end of next year. We offer two preliminary reactions at this time.

11 First, my delegation continues to doubt the value of draft conclusion 21. We now see, in the commentary to draft conclusion 21, that the Commission acknowledges that the equivalent provisions in the 1969 Vienna Convention on the Law of Treaties do not reflect customary international law. This is a point that my delegation made here last year. We recognise that it is natural for the Commission to refer to the International Court of Justice, since that is the principal judicial organ of the United Nations. But our

preliminary concern is that this text may inadvertently narrow options for Member States, especially in view of other possible avenues for peaceful settlement, such as mediation, conciliation, or even *ad hoc* arbitration. These are all means indicated in Article 33 of the Charter, which is referenced in Article 65 of the 1969 Vienna Convention, as well as paragraph 3 of draft conclusion 21 itself.

12 Second, my delegation followed, with keen interest, the detailed discussions in the Commission concerning the compromise solution for the non-exhaustive list. This compromise solution is draft conclusion 23 and the draft annex. We are deeply appreciative of the efforts of the Special Rapporteur and Commission members to find this compromise. We also recognise the essential dilemmas that a list presents. Our preliminary concern, however, is the same as those Commission members who highlighted that, in practice, users of this work may take the list to be closed or at least semi-closed. We are therefore concerned that the list should properly reflect the methodology that the Commission itself has laid out for the identification of norms having a *jus cogens* character. We are not sure, at the moment, that draft conclusion 23 and the draft annex do so.

13 These are among the matters that my delegation will be considering more closely over the coming months. The Commission has put a very rich text before us. We look forward to studying it, and will endeavour to submit written comments by the specified deadline.

Mr Chair,

14 I turn to Chapter XI of the report, concerning **“Other decisions and conclusions of the Commission”**. Given its relevance to this Committee’s substantive engagement with the Commission’s output, my delegation would be interested to learn the outcome of the Commission’s discussion on methods of work, particularly in light of the debates, during the Commission’s seventy-first session, on the methods of work adopted for the topics “Identification of customary international law” and “Peremptory norms of general international law (*jus cogens*)”.

15 My delegation would also be interested to learn about the outcome of the Commission’s discussion on the nomenclature of conclusions, guidelines and principles as outcomes. This is a matter of great interest to those who follow the Commission’s work, and we see that at least one syllabus for a topic added to the long-term programme of work this year proposes output in the form of “draft guidelines” or “draft principles”. It would be useful for the Commission to articulate its practice on nomenclature.

16 Finally, my delegation shares the Commission’s view of the importance that young lawyers from all over the world should have the opportunity to familiarise themselves with the work of the Commission and the other Geneva-based international organizations. In this regard, we note the support of several Commission members, who are also alumni of the International Law Seminar, for the inaugural Conference of the new International Law Seminar Alumni Network, where Singapore’s Mary-Elisabeth Chong, Vice-President of the Network, made concluding remarks.

17 I thank you, Mr Chair.

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