

Statement by
DELEGATION OF VIET NAM
at the 74th Session of the Sixth Committee of UNGA
on Agenda Item 79: “Report of the International Law Commission”
Cluster III (Chapters VII and IX)
New York, 6 November 2019

Thank you Mr. Chairman/Madame Chair,

1. With respect to Cluster III, my Delegation would like to first address the topic of **Succession of States in respect of State responsibility**. We have a brief observation on this topic.

2. My Delegation takes note that the Special Rapporteur, Mr. Pavel Sturma, has submitted his third report with draft articles and commentaries revised upon the comments and observations made by Member States in the Sixth Committee during the last meeting. We support the revisions and commend efforts of the Special Rapporteur as well as the Commission to work on this diverse, context-specific, yet sensitive topic of international law. This is mainly due to the scarcity of State practice regarding the treatment of succession of States. We, therefore, highly appreciate the methodology and approach taken by the Special Rapporteur in order to provide a comprehensive overview of the relevant state practice, jurisprudence and doctrines of states succession in respect of state responsibility. In our view, the succession of States in respect of state responsibility should be carried out on the basis of committed negotiations, in a free will manner and in an appropriate timeframe.

3. My Delegation agrees with the Special Rapporteur on the subsidiary nature of the draft articles and on the priority to be given to agreements between the States concerned. As a result, the important role of agreements should be taken into account of in greater detail, especially for situations when the predecessor State continues to exist, unification or separation of territory. On the other hand, it is our view that the principle of “non-succession” remains the predominantly applicable principle in these kinds of situations, unless the successor agrees to share the responsibility incurred by the predecessor State.

Mr. Chairman/Madame Chair,

4. Turning next to the topic of **General principles of law**, my Delegation welcomes the first report of the Special Rapporteur, Mr. Marcelo Vazquez-Bermudez on this topic.

5. Similar to the topic of Peremptory norms of international law (*jus cogens*) currently being worked on by the Commission, Viet Nam commends the Special Rapporteur and the Commission to work on this difficult as well as highly-theoretical topic of general international law, even though the present report bears only a preliminary and introductory nature of the topic.

6. Our delegation takes note of the methodology proposed by the Special Rapporteur, in which he break down four groups of issues to be studied further, including the legal characteristics of general principles of law as a source of international law, origins and the distinction between the different general principles of law, relationship between general principles of law and “general international law” and lastly, recognition as the essential condition for the existence of a general principle of law.

7. It is my Delegation’s view however that the Commission and the Special Rapporteur should thoroughly examine the direction and focus of this project. To be more specific, the role of general principles of international law as recognized and applied in international judicial practice should be given due regard. Without overlooking the other sources of international law mentioned under Article 38(1) of the ICJ Statute, those principles have been argued, identified and applied before international judicial mechanisms in many instances. In this Delegation’s view, many UN Member States would benefit from the Commission’s guidance on the general principles of international law in their international engagements. It is indisputable that the rule of law at international level would depend much on a clearer understanding of principles of international law. Therefore, in addition to principles of law formed within domestic legal systems, the Commission needs to further elaborate its studies on the general principles of law formed within the international legal system.

I thank you./.