



CROATIA

Statement by

Gordana Vidović Mesarek
Director-General

Directorate-General for European and International Law
Ministry of Foreign and European Affairs

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- *Check against delivery* -

Madam Chair, distinguished colleagues,

First of all, allow me once again to congratulate you, Madam Chair, and the other members of the Bureau on your election..

I take this opportunity to welcome the Chair and Members of the International Law Commission and to thank them for their presence today as well as for the presentation of the Commission's report.

It is my great pleasure to be here in person and to share with you Croatia's views on the work of the International Law Commission.

The main focus of my intervention this year is on the following topics of the ILC Report – “Provisional Application of Treaties”, “Succession of States in respect of State responsibility”, “General principles of law” and “Sea-level rise”.

[Provisional Application of Treaties]

Madam Chair,

I shall start by the topic of “Provisional Application of Treaties”. Croatia welcomes the adoption in the second reading of the Guide to Provisional Application of Treaties, the annex and the commentaries to it, as well as the decision of the ILC to submit those to the General Assembly for its widest possible dissemination. We commend the work of the ILC and Special Rapporteur Mr. Juan Manuel Gomes Robledo and express our appreciation for the efforts they have invested in the preparation of these valuable and useful documents. We are convinced that practitioners and our colleagues dealing with the treaty making process will benefit from those.

[Succession of States in respect of State responsibility]

Madam Chair,

In the 1990-es, during and after the process of dissolution of the predecessor State, Croatia suffered the most serious crimes, consequences of which greatly influenced on the process of succession which has not been completed yet. In this regard, Croatia continues to support the topic of „Succession of States in respect of State responsibility“ and highly appreciates the significance that the ILC has given to this subject so far. We congratulate the Special Rapporteur Prof. Pavel Šturma for the fourth report and efforts invested in this important topic.

We agree with the Special Rapporteur that it is important to preserve consistency, both in terminology as well as in substance, with the previous work of the Commission, in particular its articles on responsibility of States for internationally wrongful acts and that neither the “clean slate” rule nor automatic succession can be accepted as general rules.

We support the indicated plans of future work on this topic as well as the issues to be dealt with in the fifth report. However, as we stated during discussions on the second and the third report of the Special Rapporteur, we continue to suggest that in future work on this topic situations in which part or parts of the predecessor State that become successor States could bear responsibility for international wrongful acts committed not only against third States, but also against other successor States of the once common state should also be taken into account. Having said that, we are of the view that paragraph 2 of the Draft article 17 could be an excellent starting point to address and deal with this important issue in situations related to the dissolution of State in a non-peaceful manner.

[General principles of law]

Madam Chair,

Now turning to the topic of “General principles of law”. We congratulate the Special Rapporteur Mr. Marcelo Vázquez-Bermúdez for the second report on this topic.

We agree with the general assessment [of the ILC members] that controversies over the general rules formed within the international legal system are still left unresolved and that to this end additional efforts must be invested to further examine, elaborate and clarify remaining issues relating to this particular category. In this regard, Croatia also supports the plan that future work on this topic will deal with functions of general principles of law and their relationship with other sources of international law in his following reports on this topic.

Having that in mind, we are of the view that there should be a clear distinction between general principles of law and other sources of international law, especially in relation to customary law, which is not the case now. In order to achieve that it is important to clearly determine the elements necessary for the recognition of general principles of law, which currently remain unclear taking into account the formulation of the Draft conclusion 7 (paragraphs 210 to 215). Moreover, the current criteria for determination and recognition of general principles of law seem to be subjective and not objective as they should be. Bearing that in mind, we emphasize the importance of Article 38 paragraph 1 subparagraph d) of the Statute of the International Court of Justice. In this regard, an additional clarification would be needed in relation to reference to *jus cogens* in paragraph 239 point (4) as well.

We also take this opportunity to suggest that due regard should be paid to the terminology used in the draft conclusions in order to preserve consistency. Namely, in the Draft conclusion 4 point (a) in our view the term “the principle legal systems” should be used instead of the term “the various legal systems”. It also seems to us that titles of the Draft conclusion 4 and the Draft conclusion 5 are similar and refer to the same issue, so we suggest to further examine those.

[Sea-level rise]

Madam Chair,

Croatia also welcomes the Commission's work on the topic of "sea-level rise", which has proven to be one of the fast-growing global risks, both a present and future danger. Indeed, due to its coastal geography, Croatia is not immune to the threats posed by sea-level rise. We appreciate the efforts that the ILC and reconstituted Study Group have invested so far and support at this stage a general position taken on the necessity to preserve the integrity of the UN Convention on the Law of the Sea.

We would also like to express our view that for the purpose of clarity and consistency the sources of law, listed in paragraph 294 of the ILC Report, should be in line, including in the sense of terminology, with the Article 38 of the Statute of the International Court of Justice. Having said that, we also express doubts and reservation on the possibility to include geographical charts on the list of sources of law, as it is indicated in subparagraph (d).

Croatia will continue to closely and actively follow future discussions and deliberations of the ILC and the Study Group on the issue of sea-level rise, which, in our view, would in the greatest possible manner take into account and benefit from the findings and results of the work that the ILA Committee on International Law and Sea Level Rise made so far. We look forward to engaging in a more substantial discussion at a later stage.

I thank you Madam Chair.