



**New Zealand Permanent Mission to the United Nations
Te Aka Aorere**

**United Nations General Assembly: Sixth
Committee, Agenda Item 82 - Cluster III.
Report of the International Law
Commission**

**New Zealand Statement delivered by
First Secretary, Mr. Luke Roughton**

2 November 2021

CHECK AGAINST DELIVERY



Thank you Chair.

With respect to Chapter Seven on **Succession of States in respect of State responsibility**, New Zealand thanks the International Law Commission for its continued work on this topic, and welcomes the fourth report of the Special Rapporteur, Mr. Pavel Šturma, which focuses on the impact of succession of States on forms of international responsibility of States.

New Zealand commends the detail provided on the problems arising in relation to different forms of reparation, including restitution, compensation, and satisfaction, and welcomes the text of the draft articles and commentaries provisionally adopted by the Commission at its seventy-second session.

We welcome the Special Rapporteur's proposal to address in his next report the legal problems arising in situations where there are several successor States, and issues of shared responsibility, and look forward to following the continuation of the topic at the Commission's seventy-third session. We note that there is little state practice in some of the areas covered by this topic, and we would benefit from the commentaries clarifying, as appropriate, when the draft articles represent progressive development, rather than the codification, of international law.

We support the Special Rapporteur's view that the Commission decide on the most suitable outcome of the topic at a later stage.

Regarding Chapter Eight on **General principles of law**, New Zealand thanks the International Law Commission for its progress on this topic and commends the Special Rapporteur, Mr. Marcelo Vázquez-Bermúdez on his second report, which addressed the identification of general principles of law in the sense of Article 38, paragraph 1 (c), of the Statute of the International Court of Justice.

We note with appreciation the general observations given by the Special Rapporteur in his second report, including, importantly, that recognition is the essential condition for the existence of a general principle of law. We support the report's characterisation of the methodology for the identification of general principles of law derived from national legal systems – that is, first, determining the existence of a principle common to the principal legal systems of the world, and second, ascertaining the transposition of that principle to the international legal system.

With regard to the second category of general principles of law proposed in the Special Rapporteur's first report, New Zealand notes the idea of paying attention to norms formed within the international legal system – but considers that general principles of law formed within the international legal system and rules of customary international law must be clearly distinguished.

New Zealand welcomes the Special Rapporteur's proposal for his third report to address the functions of general principles of law and their relationship with other sources of law.

To close, New Zealand highly regards the Commission's work, which provides assistance to states in developing, clarifying and upholding the rules that underpin the international community's commitment to the international rule of law. New Zealand values the opportunities provided in the Sixth Committee to engage in substantive dialogue on the issues considered by the Commission.

Thank you.