



**United Nations General Assembly | Sixth Committee
Report of the International Law Commission (Cluster III)**

(check against delivery)

Madam Chairperson,

Moving to the third cluster of items discussed in the report of the International Law Commission, Brazil would like to make some remarks regarding the topics contained in Chapters IV and VIII, namely: (i) Succession of States in respect of state responsibility; and (ii) general principles of law.

Brazil commends Special Rapporteur Pavel Sturma for his fourth report on succession of States in respect of State responsibility. The current work of the ILC on the matter is instrumental to identify the rules of international law in a subject where state practice is limited.

The Commission has contributed to the codification and progressive development of several aspects of state succession. Its efforts have led to the adoption of the Vienna Convention of Succession of States in respect of Treaties, to which Brazil is a party, and the Vienna Convention of Succession of States in respect of State Property, Archives and Debts, as well as the draft articles on Nationality of Natural Persons in relation to the Succession of States. By studying the interaction between this area of law and state responsibility, the Commission may fill a gap in international law.

State responsibility for internationally wrongful acts is essential to ensure the effectiveness of international law. Therefore, responsibility should not disappear in every single case where the legal personality of a state ceases to exist. In cases of state succession, the “clean slate” rule might not be the appropriate answer. At the same time, Brazil believes that automatic succession should not be a general rule, as it does not reflect broad state practice. Applying the general rules of state responsibility in situations of succession of states should depend on a case-by-case analysis.

Brazil agrees that the draft articles on state succession in respect of state responsibility are subsidiary in nature and should play second fiddle to agreements between the affected states, as observed in Part One of the fourth report of Professor Sturma. Furthermore, Brazil reiterates the importance of harmonizing the

current efforts of the Commission on the subject with its previous works, not only in respect of state succession but also state responsibility.

Brazil supports the views expressed in the Report on the importance of taking into account more geographically diverse sources of State practice. Moreover, we consider that the outcome for this topic does not necessarily need to be in the form of draft articles, and that a set of draft guidelines or draft principles could be preferable.

Madam Chairperson,

I now turn to the topic of general principles of law. Brazil commends the Special Rapporteur, Mr. Marcelo Vázquez-Bermúdez, for his insightful and well-researched second report. I would also like to express Brazil's appreciation to the Secretariat for its memorandum surveying the case law of international tribunals on the matter.

Brazil highlights the great importance of general principles of law (GPL) as a primary source of international law. Noting that the ILC has done impressive work to clarify several legal aspects of other sources, such as treaties and customary international law, the current study on GPL is not only timely, but needed. It fills a gap in the ILC work on sources and helps to clarify Article 38, paragraph 1 (c) of the Statute of the International Court of Justice.

For a general principle of law to exist, it must be recognized by the international community, and particularly by states. In this regard, Brazil concurs with the notion contained in draft conclusion 2. We are pleased to see that the Rapporteur avoided the use of the outdated expression "civilized nations", which is contained in the ICJ Statute. The term "civilized nations" runs counter the core values and principles of this Organization and should have no place in the Commission or in a court of law.

The ILC adopted instead the formulation "community of nations". While noting that this terminology is reflected in other instruments – such as the International Covenant on Civil and Political Rights - , Brazil would encourage the use of more precise terminology, to reflect the primary role of states in the formation of international law.

Brazil supports the criteria adopted by the ILC in draft conclusion 4 for the identification of a GPL derived from national legal systems. It is particularly important to ensure that this assessment involves a careful analysis of the different legal systems and regions of the world. Similarly, on draft conclusion 5, Brazil agrees with the Special Rapporteur that the comparative analysis of legal systems must be wide and representative.

For a comparative analysis to be representative, it must not only cover as many legal systems as possible. It also needs to be geographically and linguistically diverse. As a Portuguese speaking country, Brazil attaches great importance to this matter. To this date, materials from Portuguese speaking countries are

often absent from UN documents, with only sparse references that do not properly reflect the importance of our legal tradition. We encourage further efforts to expand the linguistic and geographical reach of analyses aimed at covering national legal systems.

Madam Chairperson,

To conclude, I would like to reaffirm that Brazil attaches great importance to the work of the ILC and its invaluable contribution to the codification and progressive development of international law. Brazil appreciates the presence of many ILC members during the International Law Week, in New York, and their constructive dialogue with the Sixth Committee. Such a dialogue is key in promoting legal certainty and strengthening the international legal system. Brazil has had a long-standing presence in the ILC and, in this regard, we are honored to present one of our finest legal scholars to serve as its member, Professor George Galindo.

Professor Galindo has a solid professional and academic background with over 20 years of legal experience. Since 2016, he is the Principal Legal Adviser to the Ministry of Foreign Affairs of Brazil. He is also a member of the Inter-American Juridical Committee of the Organization of American States since 2019 - the equivalent to the ILC in the Inter-American system. Professor Galindo is also a professor of international law at the University of Brasília and the Brazilian Diplomatic Academy, as well as author of numerous academic writings, having published not only in the Americas, but also in Africa, Asia, and Europe. Therefore, Brazil is proud to nominate Professor Galindo as a candidate to the ILC. We look forward to continuing supporting the ILC in its fundamental role of strengthening the international legal system and promoting legal certainty for international relations.

Thank you.