



PERMANENT MISSION OF ITALY  
TO THE UNITED NATIONS

**Sixth Committee**  
**76<sup>th</sup> Session of the General Assembly**

**Check upon delivery**

**Agenda item n. 82 Report of the International Law Commission (2021)**

**Third Cluster**

**Statement of Italy**

**Delivered by Mr. Enrico Milano**

Mr. Chairman,

In our intervention today, we will briefly address the two topics: “Succession of States in respect of State Responsibility”; and “General Principles of Law”.

Mr Chairman,

I will first address the topic of **“Succession of States in respect of State Responsibility”**.

Italy wishes to congratulate the ILC and the Special Rapporteur, Prof. Pavel Sturma, for the progress made during the last session of work. Italy shares the view already expressed by other delegations that because of the paucity and sparsity of the practice of State in the subject-matter, the topic may be not ready yet for codification of existing customary international law. Nonetheless, the work that has been done so far could easily constitute the basis for guidelines on the topic.

This task may be accomplished by an exercise of progressive development that may be aimed at indicating to States normative parameters for context-based, mutually

agreed solutions, which frequently are the only viable solution to matters of State succession, including in respect of State responsibility. As it happens for all the topics under discussion by the ILC, Italy is of the view that also in this exercise, the distinction between what constitutes existing general international law and the provisions which seek to progressively develop international law, should be clearly signaled. Italy shares the approach adopted by the Special Rapporteur and by the ILC to always consider the work already done by the ILC in both issues, State responsibility for internationally wrongful acts and succession of States, as the principal points of reference in addressing the topic under discussion. This methodology has been followed also during this session and namely in the debate on the draft articles presented by the Special Rapporteur. Moreover, it is commendable that the Special Rapporteur has made reference to State practice in different categories of State succession, in order to identify emerging rules regulating State succession in matters of State responsibility, and to fully take into account the views expressed by States within the Sixth Committee.

Italy would also like to confirm its support for the avoidance of any general, sweeping rule or principle, whether in the sense of the *tabula rasa* principle or in the opposite sense of automatic succession.

Finally, Italy will consider submitting any relevant State practice of its own at a later stage.

Mr. Chairman,

I will now briefly turn to the topic of “**General Principles of Law**”.

Italy would like to thank the Special Rapporteur, Mr Marcelo Vázquez Bermúdez, for producing the Second Report, which continued to set out the context of the discussion and provides clear indications as to general principles of law within international practice and doctrine.

Italy takes note of the consolidated view of the Special Rapporteur to consider as basis of the ILC work both general principles of law *in foro domestico* and general principles of law formed within the international legal system. Italy believes that it is essential for the future development of the topic to identify the features of general principles of international law, with due regard to the distinguishing factors from customary international law and from the rules that regulate the latter’s formation. Italy concurs to the general understanding by the ILC and member States that the expression “civilized nations” contained in Article 38, paragraph 1 (c), of the Statute

of the International Court of Justice was anachronistic and should be avoided. Rather, referring to general principles of law, the expression “community of nations”, included in article 15, paragraph 2 of the International Covenant on Civil and Political Rights, should be used.

Lastly, Italy will consider submitting written comments and offer information at a later stage and looks forward to continuing its engagement with the Commission on such an important topic.

That concludes our submissions on Cluster 3 of the ILC Report.

Thank you, Mr Chairman.