



SLOVENIA

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STATEMENT

BY

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Agenda item 82: Report of the International Law Commission on the work of its seventy-third session

Cluster I:

Chapter IV Peremptory norms of general international law (*jus cogens*)

Chapter V Protection of the environment in relation to armed conflicts

Chapter X Other decisions and conclusions of the Commission

**77th Session of the General Assembly
Sixth Committee**

New York, October 2022

Mr Chairman,

Slovenia is pleased to address the work of the International Law Commission as reflected in the Report from the Seventy-third Session. At the outset, we would like to express our appreciation to the members of the Commission and Special Rapporteurs for their engagement and successful adjustment to work in the changed conditions brought about by the pandemic. We hereby acknowledge their dedicated efforts and the progress achieved in different topics.

Mr Chairman,

Referring to the Chapter IV: Peremptory norms of general international law (*jus cogens*), five reports of the Special Rapporteur Mr Dire D. Tladi set the ground for the comments of the States and the adoption at the second reading of the entire set of draft conclusions together with comments. The latter provide a comprehensive tool for broad and coherent understanding and bring greater clarity of the identification and effects of these norms. In this respect, Slovenia welcomes additional clarifications, i.e. of draft conclusions 5, 9 and 14.

Slovenia recognises the particular importance of the topic and of the need to determine the criteria that assist in defining which norms of general international law have the nature of peremptory norms. They bear characteristics inherent to them and reflect common and overarching values shared by the international community. Indeed, their universal applicability derives from having been accepted and recognised by a very large majority of States of a representative nature, as stands in the amended draft conclusion 7.

We support the inclusion of a non-exhaustive list of these norms in the annex to the conclusions. In our belief, this list mirrors the encounter with this notion and its manifestations in the work of the Commission to date. It is a record of the norms that undoubtedly qualify for inclusion and which, as stated in the comment to conclusion 23, have, in fact, been routinely identified as having peremptory character.

All peremptory norms of general international law (*jus cogens*) produce *erga omnes* obligations. As reflected in Conclusion 2, peremptory norms reflect and protect fundamental values of the international community. They are universally applicable and are hierarchically superior to other rules of international law. In this respect, we would like to highlight the particular consequences of serious breaches of these norms. There is a general obligation recognised under international law of all States to cooperate to bring to an end any serious breach by a State of an obligation arising under such a norm. Conclusion 19 and the articles on

the responsibility of States for internationally wrongful acts build upon the rules of customary international law, which contain an obligation not to recognise as lawful a situation created by a breach of an obligation arising under such a norm and consequently an obligation not to render aid or assistance in the maintenance of such situation. In the light of what is happening around the world at this time, we emphasise that the meaning and purpose of legal norms are only realised when they are fully operational and when subjects seek to comply with them. Slovenia supports the recommendation of the Commission for the adoption of a resolution and the widest possible dissemination of the draft conclusions and comments.

Mr Chairman,

Turning to Chapter V, Slovenia welcomes the adoption of the draft principles on "Protection of the environment in relation to armed conflicts". Allow me to thank the International Law Commission and particularly the Special Rapporteur, Ms Marja Lehto, for steadfast work in the preparation of these draft principles.

Allow me to underline the importance of some of the principles.

The temporal scope of the draft principles is before, during and after armed conflicts. The draft principles enhance protection of the environment in relation to both, international and non-international armed conflicts. They address States, international organisations and other actors involved in protection of the environment.

Slovenia welcomes Principle 8 on Human Displacement, which recommends that States protect the environment in areas where persons displaced by armed conflict are located, and to provide relief and assistance for such persons. It is a welcome addition to the other draft principles due to the growing number of displaced persons over the world.

Slovenia strongly supports States' responsibility for an internationally wrongful act – damage caused to the environment in armed conflicts and their obligation to compensate such damage (Principle 9).

States must ensure that business enterprises exercise due diligence and protect the environment and human health in conflict areas in accordance with principles 10 and 11 on Corporate Due Diligence and Corporate Liability, respectively. Slovenia appreciates that these principles aim to deter corporate actors from preying on the local population and natural resources during armed conflicts and to prevent financing conflicts through the exploitation and trade of such commodities.

Slovenia would like to thank the ICRC for invaluable Guidelines on the Protection of the Natural Environment in Armed Conflict. Draft principles and Guidelines demonstrate that this issue gets more attention by the international community.

Slovenia pays close attention to the protection of the environment by organising high-level events and regional consultations between national IHL committees on contemporary IHL issues, including the protection of the environment in the whole cycle of conflict.

Mr Chairman,

Regarding Other decisions and conclusions of the Commission, we firstly welcome the decisions to reconvene the Working Group on the long-term programme of work and especially the recommendation to include the topic "Non-legally binding international agreements" in the long-term programme of work of the Commission. State practice in this regard is largely increasing, demonstrating new developments and confirming a concrete and reasonable need to address this topic. On top of that, we reiterate that universal criminal jurisdiction is a topic of increased relevance which has a direct link to the rule of law and human rights.

Secondly, we are pleased with the decision to re-establish the Working Group on methods of work of the Commission, the recommendations of which would support the Commission's endeavours in addressing a wide range of topics – from those that the Commission has been working on for some time to those that reflect new challenges in international law.

Finally, regarding gender parity in relation to the Commission, Slovenia would like to recall that it sees potential for a possible contribution of the Commission and that it would welcome reflection on this in relevant activities and respective communication.

In addition to the address within the current cluster, Slovenia is looking forward to further discussion in the coming days when it will present its views on the selected issues within the remaining two clusters.

Thank you.