



**PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS**

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**STATEMENT BY MR TOH SHIN HAO,
DELEGATE TO THE 77TH SESSION OF THE UNITED
NATIONS GENERAL ASSEMBLY, ON AGENDA ITEM 77,
ON THE REPORT OF THE INTERNATIONAL LAW
COMMISSION ON THE WORK OF ITS SEVENTY-THIRD
SESSION (CLUSTER III: CHAPTERS VII and VIII OF
A/77/10), SIXTH COMMITTEE,
1 NOVEMBER 2022**

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1 Mr Chair, my delegation is pleased to address Chapters VII and VIII of the Report.

2 First, on **Chapter VII on the topic “Succession of States in respect of State Responsibility”**, Singapore thanks the Special Rapporteur, Mr Pavel Šturma, for his fifth report, which focused on questions relating to plurality of injured and responsible successor States.

3 My delegation has noted the change in form of the Commission’s final output on this topic from draft articles to draft guidelines, and the Special Rapporteur’s proposed new scheme for the consolidation and restructuring of the previous draft provisions referred to the Drafting Committee. Regardless of the form of the final output, we share the views of others that primacy should be accorded to agreements entered into by the concerned States and that it is important for the output to be concise, balanced and serve as useful practical guidance to States.

4 I turn next to **Chapter VIII on the topic “General Principles of Law”**. My delegation wishes to extend our appreciation to the Special Rapporteur, Ambassador Marcelo Vásquez-Bermúdez, and to the Commission for their work on this topic.

5 My delegation notes that the second category of general principles of law identified under subparagraph (b) of draft conclusion 3, namely, those that may be formed within the international legal system, has given rise to very robust discussion. At present, we retain an open mind as to whether this second category of general principles of law exists. In our view, certain principles of law do appear

to support the existence of the second category of general principles. These include sovereign equality, a fundamental tenet of international law which establishes the uniform legal personality of States and upon which the international legal order is built; and State consent to binding dispute settlement, which is a corollary and expression of sovereign equality. Both were cited in the Commission's commentary to draft conclusion 7. That being said, we agree with concerns that have been raised about whether there is sufficient State practice, jurisprudence or teachings to support fully the existence of the second category and to determine clearly the methodology for their identification.

6 My delegation's view is that the methodology for identifying such a second category of general principles should be sufficiently strict so as not to undermine or bypass the requirements for identifying customary international law norms, including State consent to be bound. However, the criteria should also be flexible enough so that identification of such general principles does not become an impossible task such that no such general principles can actually be identified.

7 In this regard, my delegation notes several difficulties with the methodology currently formulated under draft conclusion 7. First, the proposed criterion is unclear. In particular, it is not clear to us how we can ascertain that the "community of nations" has "recognised" such principles and what circumstances would constitute such "recognition". It is also not clear to us, what it means for a principle to be "intrinsic to the international legal system". The draft commentaries do not shed much light on these uncertainties. Second, the caveat under paragraph 2 of draft conclusion 7 that the criterion is "without prejudice to the question of the possible existence of other general principles of law formed within the international legal system" is overly broad and threatens to undermine the criterion in paragraph 1 completely. This in turn leads to greater uncertainty over the identification of principles formed under this second category.

8 My delegation is also of the view that the Commission should be careful not to conflate this second category of general principles of law with treaties and customary international law. We therefore welcome the Commission's work on clarifying the relationship between these sources of international law under draft conclusions 10 (Functions of general principles of law) and 11 (Relationship between general principles of law and treaties and customary international law), which have been provisionally adopted by the Drafting Committee. There remain important issues to be resolved in this regard. For example, it is not clear how the Commission intends to reconcile the gap-filling function of general principles described under paragraph 1 of draft conclusion 10, with the need to resort to "generally accepted techniques of interpretation and conflict resolution in international law" to resolve conflicts between a general principle of law and a treaty rule or customary international law rule under paragraph 3 of draft

conclusion 11.

9 My delegation therefore looks forward to further debate on these draft conclusions, as well as on this important topic generally. Thank you.

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