



# AUSTRALIA



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**UNITED NATIONS GENERAL ASSEMBLY SIXTH COMMITTEE:  
Report of the International Law Commission, Cluster III  
(agenda item 77)  
2 November 2022**

**Statement by Ms Clare Skinner, Assistant Director, Department  
of Foreign Affairs and Trade**

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Thank you, [Mr/Madam] Chair.

Australia would like to make some remarks today on the International Law Commission's work on General Principles of Law.

We thank the Special Rapporteur, Mr Marcelo Vázquez-Bermúdez, and the Commission for the progress made on this important topic.

With respect to general principles of law derived from national legal systems, Australia commends the Commission's further work on draft conclusion 6 to clarify how to identify that a principle is transposable to the international legal system.

Australia supports the conclusion that compatibility with the international legal system is the governing criteria for determining whether a principle is transposable to the international legal system.

Australia also considers that including practical examples of transposition in the commentaries will assist the Commission to clarify this complex process.

Australia acknowledges there has been much debate on the existence and identification of general principles of law formed within the international legal system, both within the Commission and the Sixth Committee.

Australia encourages the Commission to continue its analysis on identifying general principles of law formed within the international legal system, with a view to reaching a conclusion based on State practice and decisions of international courts and tribunals.

It is important that a draft conclusion for identifying general principles formed within the international legal system is clearly distinguishable from customary international law.

Australia expresses hesitation about the inclusion of a 'without prejudice' clause in draft conclusion 7, to the extent that it does not specify strict criteria by which a general principle of law in this category can be identified.

Further, Australia reiterates its support for the development of draft conclusions on the functions of general principles of law.

Draft conclusion 10 provides useful clarification to States, practitioners and others called upon to identify and apply general principles of law.

In Australia's view, the conclusion on the functions of general principles of law also supports, and must be read in light of, the conclusion on the relationship between general principles of law and treaties and customary international law.

Australia conveys appreciation for the analysis of State practice and decisions of international courts and tribunals completed by the Special Rapporteur in his third report on this aspect.

Australia applauds the progress made by the Special Rapporteur and the Commission and looks forward to the Commission's work to finalise its conclusions on this topic.

Thank you.