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78TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

Sixth Committee

Agenda Item 79

**Report of the International Law Commission
on the work of its seventy-fourth session
Cluster I**

Chapter IV: General principles of law

Chapter VIII: Sea-level rise in relation to international law

**Statement by
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Mr Chairman,

At the outset allow me to express my country's appreciation for the valuable work accomplished by the International Law Commission at its seventy-fourth Session.

Greece would like to share some remarks on the work of the Commission relating to the "General principles of law" and the "Sea-level rise in relation to international law".

Chapter IV: General principles of law

On the topic of "General principles of law", allow me to commend on behalf of my country the Special Rapporteur, Mr. Marcelo Vázquez-Bermúdez, for the quality of his work as well as the Commission, for the adoption, on first reading, of the text of the draft conclusions and commentaries. This study undertaken by the Commission is in fact a useful complement to its previous work on the sources of international law.

Greece would like to share some observations on certain points of these draft conclusions and commentaries.

First, regarding Conclusion 3 which deals with the categories of general principles of law, we support the inclusion of the phrase "that may be formed" in respect of general principles of law *that may be* formed within the international legal system, as echoing the debate about the existence of this second category.

Furthermore, it would be of the interest of legal certainty and consistency to further elaborate on the points that international legal system like any other system *must* be able to generate general principles of law that are intrinsic to it as well as on general formulation of article, 38 paragraph 1 (c) as not excluding the existence of such principles (paragraph 2 of the commentary to Conclusion 7).

With reference to the issue of transposition in Conclusion 6, while acknowledging the presentation of some examples illustrating the subject, we would appreciate the inclusion of positive examples in the commentary thereto. In fact, the commentary as it stands refers almost exclusively to negative examples, namely to principles that haven't been considered compatible with the international legal system.

Greece takes note of the careful approach of the Commission with respect to paragraph 2 of Conclusion 8 on decisions of national courts as a subsidiary means for the determination of general principles of law. At the same time, we are mindful of the fact that the value of such decisions may vary. Similarly, we would welcome further clarification on the role of decisions by national courts in the identification of general principles that may be formed within the international legal system.

Turning to Conclusion 9, we would like to support a cautious approach as far as it concerns teachings as a subsidiary means for the determination of general principles of law, taking also into account the ongoing work within the Commission on the topic of "Subsidiary means for the determination of rules of international law".

Finally, we particularly welcome Conclusion 10 which merges essential and specific functions of the general principles of law.

Chapter VIII: Sea-level rise in relation to international law

Mr Chairman,

Allow me first of all to thank the Commission for its Report on the topic of the Sea level rise as well as the Co-chairs for the Additional paper to the first issues paper on the subject.

The Additional paper highlights the importance of the principle of legal stability and rightly underlines the significance that States attach to it.

Greece would like to reiterate that predictability, stability and certainty, which are inherent to the UNCLOS and guide its application, require the preservation of baselines and of the outer limits of maritime zones, as well as of maritime entitlements deriving there from, in accordance with the Convention. Moreover, baselines and maritime zones that have been duly established and deposited according to UNCLOS are not affected by climate-change related sea-level rise, unless the coastal State opts to review and update its baselines and outer limits of its maritime zones. The Convention imposes no obligation of reviewing or recalculating baselines or the outer limits of maritime zones established in accordance with its provisions.

In the light of the above, Greece would like to stress again that the UNCLOS, which sets out the legal framework within which all activities in the oceans and seas must be carried out, provides the answers to the questions raised, including with respect to the topic of sea-level rise, within their proper context. Therefore, considerations *lege ferenda*, as well as considerations pertaining to the formation of customary law are not relevant.

Concerning other issues addressed in the Additional paper, Greece would like to reiterate that maritime boundary agreements are subject to the rule excluding boundary agreements from fundamental change of circumstances and, consequently, sea-level rise does not affect maritime boundaries. In this respect, Greece underlines the importance of safeguarding the stability of maritime boundaries, confirmed by state practice and international jurisprudence. It is in the light of the principle of stability of boundaries and of the need to preserve the baselines and the outer limits of maritime zones that concepts such as equity or “the land dominates the sea” should be assessed. We also believe that a cautious approach is necessary as to the question regarding the relevance of various principles, notions and concepts, to the particular context of sea level rise. Finally, we agree that sources of law other than the UNCLOS are of no relevance.

Mr. Chairman,

Greece would like to underline once again that such sensitive issues, including any considerations on the need for interpretation or for possible guidance on the topic of sea level rise, should be dealt with caution within the International Law Commission, as they touch upon a carefully balanced legal regime for activities at sea contained in the UNCLOS, whose integrity needs to be always maintained.

Thank you for your attention