

Mr. Chair,

I am delivering this explanation of position on behalf of the delegations Austria, Belgium, Chile, Colombia, Costa Rica, El Salvador, Italy, Jordan, Mexico, Peru, Portugal, South Africa, State of Palestine, Tunisia, Switzerland *and my own delegation, Lebanon*, on the Resolution just adopted by the Sixth Committee on the topic of *jus cogens*.

Mr. Chair,

At the outset, our delegations would like to recall that peremptory norms of international law represent the fundamental principles of general international law, several of them codified in the UN Charter.

They are the fundamental norms which entail no derogation, and which give rise to legal obligations owed to the international community as a whole. They are fundamental norms, the violation of which entails an aggravated regime of State responsibility under the law of the State responsibility. The manner in which the Sixth Committee has embarked on negotiations on such an important topic and the approach shown by some to a standard treatment of the work of the ILC on the matter is of great concern for our delegations. It sends a negative signal to the outside world on the commitment to those fundamental rules. We wish to take this opportunity to reaffirm our full adherence and commitment to the promotion of those norms as the pillars on which international law is built and we invite other delegations to do the same at the earliest opportunity

Furthermore, our delegations have time and again stressed that the institutional relationship between the General Assembly and the International Law Commission is being undermined by the recent lack of willingness and ability of the Sixth Committee to effectively address the recommendations put forward by the Commission. Positions regarding the merits of *part* or *the whole* of an ILC outcome have always existed and will always exist, as long as States are allowed to form an independent legal opinion on the content of this product. Not recalling the main tenets of the ILC recommendation, will risk undermining the institutional relationship between the Commission and this committee.

In this instance, the Commission recommended the General Assembly to (1) take note of the draft conclusions, (2) annex the draft conclusions to the resolution, (3) ensure their widest dissemination, and (4) commend the draft conclusions and annex, together with the commentaries thereto, to the attention of States and to all who may be called upon to identify peremptory norms of general international law and to apply their legal consequences.

None of these recommendations imply an endorsement of their content. They simply aim at making States and other relevant stakeholders aware of the conclusions and it would be their prerogative to evaluate, use, or even disregard them, as they deem fit.

Even so, the resolution we have just adopted only encompassed one aspect of this recommendation in a departure from the general practice of the committee towards the ILC products.

Mr. Chair,

Despite positions on a myriad of topics of ILC outcomes over the years, this Committee has always managed to keep the practice of taking note, disseminating widely, annexing and commending a wide array of ILC products. And this is so because the premise has always been the same: these actions are done without prejudice to State's views on the matter and do not prejudge any collective decision of Member States as to whether and how the outcome of that work will be used in the future.

When engaging with ILC products, instead of allowing positions on the content of the product to be dealt with by States individually when applying or implementing it, this time the positions of delegations on the topic were reflected in the corresponding resolution.

We are thus extremely concerned about the consequences of the process. We seem to have inaugurated the practice of turning what used to be an act of institutional respect for the hard work carried out by the ILC into an exercise that should not be a part of the sixth committee resolutions related to the work of ILC. This sends a negative signal to the ILC regarding the products of its endeavors. It is concerning, in our pursuit for the progressive development of international law and its codification, especially a few months away from the 75th session of the ILC.

To conclude, Mr. Chair, we reiterate our disappointment with the outcome of this negotiation. Despite the best efforts carried out by the coordinator, whom we thank for his tireless dedication, we regret that singular views informed by considerations on aspects of the topic at hand prevented us from finding a balanced outcome.

To be clear, consensus should not be a means of translating the opposition of a vocal minority into the general will of the international community. Our delegations will continue to uphold and strive for an effective and efficient Sixth Committee, which is representative of the views of delegations, and which contributes substantively to the strengthening of the rule of law in international relations.

I thank you.