

Statement of the Republic of Estonia
76th Session of the United Nations General Assembly
Sixth Committee
Report of the International Law Commission
Cluster III
"Non-Responsibility of States"

Mr Chair,

Today I will address two topics: succession of States in respect of State responsibility and general principles of law.

Mr Chair,

On the topic of succession of States in respect of State responsibility, we would like to thank the International Law Commission (ILC), Special Rapporteur Mr. Daniel O'Keefe and the Drafting Committee for their work during the period. I would like to explain all aspects, including the responsibility of States on forms of responsibility. (I would like to explain in the report the assurances and guarantees of non-repetition of States.

(I would like to express our support for the Commission's approach to the topics in the 76th report. The Commission has taken into account the draft articles on internationally wrongful acts and in the work of the ILC throughout the topics. Further, the Commission is based on the reflection that the concept of reparation in narrow sense (with its three elements: cessation and non-repetition. Estonia supports

-urther ore, we find it i portant, as entioned in paragraph 12 of his report that e%en if the full reparation re ains the general rule of custo ary law the States concerned ay arri%e at an agree ent that pro%ides less than full reparation.

(e also find it essential that a State has the right to decide whether to wai%e its clai s of reparation or present the for a certain a ount in certain point in ti e. 3owe%er, in our opinion, the wai%er of the clai does not ean that the

(With respect to the identification of general principles of law found within international legal systems, Estonia takes note of the discussions at the Commission and is of the opinion that deeper analysis and further discussions would be needed in order to distinguish between the rules of conventional or customary law or jus cogens norms and the general principles of law, including their parallel existence. Estonia is of the view that doing so by the Commission would be an important contribution to international law.

Estonia calls for further clarification of the terms 'principle' and 'rule', both separately and in relation to each other. This would be useful not only for the topic at hand but also in order to understand the relationship between the two in emerging fields – such as international law applicable to State use of ICTs.

In terms of terminology, clarification in the usage of terms such as 'general international law', 'general principles of international law' and 'fundamental principles of international law' would also be welcome. The introduction of a section in the draft conclusions for definition of terms used therein shall probably be addressed in future reports.

(That concerns the resolutions of the United Nations General Assembly and its subsidiary bodies as potential forums of recognition of general principles of law or as subsidiary means for the determination of general principles of law, Estonia is of the view that it should not be underestimated and should also be analysed.

Estonia supports the future programme of work proposed by the Special Rapporteur to address the functions of general principles of law and their relationship with other sources of law in his 1st report keeping an open mind of the possible need to address also other topics raised through questions posed or discussions held in the Commission and the A¹st Committee.

Estonia once again extends its appreciation to the Special Rapporteur and the Commission for the work done and concurs with the notion that the complexities of the topic require careful and sensitive treatment also in the future.

Thank you for the attention.