



SLOVENIA

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STATEMENT

BY

**Ms. Petra Langerholc, Minister Plenipotentiary and Legal Adviser
at the Permanent Mission of Slovenia to the United Nations**

**Agenda item 82: Report of the International Law Commission on the work of its
seventy-second session**

Cluster III:

Chapter VII: Succession of States in respect of State responsibility

Chapter VIII: General principles of law

76th Session of the General Assembly

Sixth Committee

New York, November 2021

Madam Chairperson,

Slovenia is pleased to address the Sixth Committee on the work of the International Law Commission within cluster III on the issue of Succession of States in respect of State responsibility and General principles of law.

Madam Chairperson,

In the context of Succession of States in respect of State responsibility, Slovenia as a successor State expresses its appreciation to the Special Rapporteur Mr Pavel Šturma for his extensive efforts on this topic resulting in fourth report (contained in document A/CN.4/743) and would like to make the following observations on this complex nature of the topic.

To begin with, Slovenia agrees that the draft articles in question are of a subsidiary nature to the agreements entered into between the States concerned,

rectional or other movement", "acknowledgment and adoption of the act of another state", "acts of continuing nature", and so forth. Having said that, we believe that commentaries to articles should stick more closely to the inter-relatedness of

As the Special Rapporteur rightly observes, the international law terminology referring to different principles is imprecise, as terms such as principles of international law, general international law, general principles of international law, fundamental principles of international law, etc. are used interchangeably. We also agree that there is a difference between the notion of principles as a source of law and principles as a subcategory of customary or conventional international law; a difference that is not reflected in the terminology used by States. We hope the Commission's efforts will contribute to a clarification and proper use of terminology, since we consider that these two concepts are not at all the same.

Each source of international law mentioned in Article 38 of the ICJ Statute has a certain scope of validity; international conventions apply to

should not lose the most basic character – they should enable the law to function as a law, even on international level (i.e. the principle of sovereign equality). Therefore, we advocate for a very cautious approach in identifying these principles and their sources, precisely because of their applicability *erga omnes*.

As has been repeatedly emphasised, identification of a norm as a general principle of law should not create a shortcut to the process of the formation of international custom that has a much higher threshold than "recognition".

Madam Chairperson,

We believe that the Commission should further clarify the use of terminology referring to the different nature of principles applied in international law, the characteristics that the general principles of law should have to qualify as such, and the difference between the formation of international customary law and general principles of law.

Thank you, Madam Chairperson.