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Statement by

Mr. Mohammad SadeghTalebizadeh Sardari, Representative of the Islamic Republic of Iran before the Sixth Committee of the 77th Session of the United Nations General Assembly

on

Agenda item 78:

Report of the International Law Commission on the work of its Seventythird session

Cluster I

Chaps: I, II, III, IV (Peremptory norms of general international law (jus cogens), V (Protection of the environment in relation to armed conflicts), and X (Other Decisions)

New York, 25 October 2022

Mr. Chairperson, Distinguished members of delegates

We would like to express our appreciation to the Special Rapporteur, Mr. Dire Tladi, for his extensivework on this topic and preparation of his fifth report on the Peremptory norms of general international aw (Jus Cogen)s. My delegation also commends the Commission work on this topic for providing guidance and recommendations in the identification and nature of the peremptory norms of general international aw as well as their consequence and legal effects.



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Before expressing our views on the provisions of the Draft Conclusions on identification and legal consequences **the** peremptory norms of general international lawe, would like to briefly maketwo general comments

Firstly, with regard to the nature of the Draft Conclusion it, appears that the ILC has never determined in its three recent works, i.e



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prioritized over other sources; rather, in conformity the ICJ sapproach all the sources should be considered collectively generally in identifying the norms peremptory character.

Mr. Chairperson





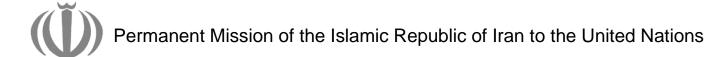
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if they are not bindingmay sometimes have normative value. They can, in certain circumstances, provide evidence important for establishing the existence of a rule or the emergence optinio juris. To establish whether this is true of a given General Assembly resolution, it is necessary to look its content and the conditions of its adoption; it is also necessary to set ther anopinio juris exists as to its normative character. Or a series resolutions may show the gradual evolution of the pinio juris required for the establishment of a new rule (paragraph 70).

Mr. Chairperson

As concerns the draft conclusion 7 regarding ternational community of States as a whole from our point of view, the standard for the identification of Jus Cogens orms is the acceptance and recognition by the international community of States as a whole the same wording of the 1969 VCLT, should be maintained throughout the whole text the draft conclusions. For the sake of clarification, the Islamic Republic of Iran believes that the phrase ery large majority of States does not indicate a numerical value, rather it should be read as accepted and recognized by majority of all the legal systems in accordance with Draft conclusion 3 blet ILC \$ Consolidated text of draft conclusions on General inciples of Law .

As respects the Draft conclusion 12 of consequences of the invalidity and termination of treaties conflicting with peremptory norm of general international lawsinceaccording to article 53 of the 1969 VCLT if a treaty at the time of its conclusion on flicts with a peremptory norm of general international Jatwe whole treaty would



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be null and voidwe are of the conviction that it will not grant acquired rights to a third party

Mr. Chairperson

Concerning the paragraph 3 of draft conclusion 14 or Rules of customary international law conflicting with a peremptory norm of general international law the commentary stest that the persistent objector rule does not apply to perentory norms of general international law, contrary to the standard mentioned in draft conclusion 7 i.e., the acceptance and recognition by the international community of States as a wholen this regard, thenternational Court of Justiceasserts in pagraph 74 of the 1969 judgment of North Sea Continental Shelf Cases (Germany vs. Denmark/Netherlands) that State practice isan indispensable requiremember the formation of a rule of customarynternational law which must be oth extensive and virtually uniform . The ILC should have taken into consideration that while the persistent objection of certain States to a rule of customary internationalaw is relevant the process of formation particularly when custom is regarded as the most common softidentification, it could be as well relevant in the process of identifying peremptory norms of general international law. In other words, the standard for establishingus cogenscan be no less alm what is requirer Statesthing 0.000

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Resolution 1267 dated 15 October 1989ich the Court of First

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Mr. Chairperson