

SLOVENIA

Check against

STATEMENT

BY

**Dr Marko Rakovec, Legal adviser, Director General for International Law and
Protection of Interests, Ministry of Foreign and European Affairs of the
Republic of Slovenia,**

Chapter VIII

Sea-level rise in relation to international law

Chapter X Other decisions and conclusions

**78th Session of the General Assembly
Sixth Committee**

Mr Chairman,

Slovenia looks forward to discussing the activities of the International Law Commission as reflected in the report of the seventy-fourth session. First of all, we would like to thank the Chairperson of the Commission, Ms Patrícia Galvão Teles, and the other members of the Commission and the Special Rapporteurs for their active engagement during the last session. We hereby acknowledge their dedicated contributions and the progress made in various areas.

Mr Chairman,

On the first subject, General principles of law, Slovenia would like to thank the Special Rapporteur, Marcelo Vazquez-Bermudez, for his sound and well-structured work on the subject, and the Commission and the Drafting Committee for their work in presenting us with the draft conclusions on general principles of law adopted by the Commission at first reading. We were all faced with the task of better understanding one of the most contrasting sources of international law in Article 38(1)(c) of the ICJ Statute.

The process of codifying general principles of law has always proved difficult, mainly because there has never been a consensus on the nature, scope or function of these principles, nor is there a uniform practice among states and international courts and tribunals, especially in relation to other sources of international law. However, we cannot deny that they have played an important role in international law throughout history and that they are an important independent source of international law.

First, we agree with the terminology that the general principle must be recognised by the "community of nations", since the term "civilised nations" in the ICJ Statute is outdated from today's perspective. It should not be confused with the term "international community of States as a whole", which describes *jus cogens* norms. The term "community of nations" is, in our view, widely accepted and we welcome the ILC's comment that all nations participate equally in the formation of general principles of law.

We agree that it is crucial to provide more guidance on the identification of general principles of law. While the identification of general principles derived from national legal systems is relatively clear, the real challenge lies in formulating a precise methodology for the identification of general principles formed within the international legal system. We support the two-step approach for the identification of general principles derived from national legal systems, but we need a detailed methodology that does not leave room for interpretations that could lead to legal uncertainty.

The wording in draft Conclusion 7, paragraph 1, "a general principle of law that *may* be formed within international legal system", which would be recognised by the community of nations as inherent in the international legal system, does not, in our view, provide sufficient legal precision to address such an important issue.

On the question of hierarchy, we would like to point out that general principles of law are regarded as *lex generalis*, and are rarely applied compared to treaties and customary international law, which are *lex specialis*. We therefore welcome the Commission's Conclusion 11, which emphasises that general principles of law as a source do not have a hierarchical relationship with treaties and customary international law. Slovenia agrees that they enjoy equal status and are not limited to the practical role of filling gaps.

Finally, we find useful a list of possible general principles of law derived from the international legal system, such as *uti possidetis* or *compétence-compétence*, which are reflected in the decisions of the international tribunals.¹

Mr Chairman,

Regarding the issue of Sea-level rise in relation to international law, Slovenia aligns

ensuring justice for atrocity crimes, on the one hand, and for ensuring the stability of international cooperation, on the other. We are also pleased

Slovenia also appreciates the Commission's recognition of the need for gender parity in its own composition, and we acknowledge the contribution of women members to the Commission's outstanding work in several areas.

Finally, Slovenia appreciates the Commission's work for the promotion of the rule of law, in particular its fundamental legacy, i.e. the progressive development and codification of international law. I would like to take this opportunity to present Slovenia's concrete contribution to this cause in May this year. I am pleased to report that Ljublj-6)7(e)-6)JTJET@0.00000887 0 59.25 842 reW*nBTF1 12 Tf50a