

SLOVENIA

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STATEMENT

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Agenda item 81

Report of the International Law Commission on the work of its sixty-ninth session, Cluster 3, Chapter VIII: Peremptory norms of general international law (*jus cogens*), Chapter IX: Succession of States in

Mr Chairman,

It is my pleasure to address the Sixth Committee regarding the work of the International Law Commission on Cluster 3 topics.

Concerning 'Peremptory norms of general international law (*jus cogens*)', Slovenia welcomes the second report of the Special Rapporteur, which contains six draft articles concerning the criteria for the identification of *jus cogens* norms.

My delegation notes the approach of the Special Rapporteur, who based his analysis on Article 53 of the VCLT. However, we also note and appreciate the thorough analysis in his report identifying other possible ways to approach the definition. Recalling its previous statement on the topic, the Slovenian

delegation believes that the nature of *jus cogens* norms is distinct and exceptional, as they reflect

common and generally accepted fundamental values and foundations of the international order. As such, we agree that the approach taken on the criteria for *jus cogens* cannot be based entirely on consent. This is why Slovenia would welcome the consideration of the characteristics set out in draft conclusion 3, paragraph 2, in the context of the identification of *jus cogens*.

While acceptance and recognition by the international community of states as a whole is inherent in

paragraph 3. We also propose that the notion of 'public statements on behalf of states' be further
defined because not all such statements carry the same weight and consequences under

international law. Furthermore, it is not clear what is meant by 'official publications'. Slovenia further
suggests evaluating and taking into account the role of the regular denunciation of a behaviour as a
means of evidence.

regardless of the fact of the succession of the responsible state. Before the date of succession, the injured state may invoke the responsibility of the responsible (predecessor) state, whereas, in the case of invocation after the date, rules regulating the extent (and modality) of the succeeded responsibility and rules for different categories of succession are needed in order to evaluate how 'succession agreements' influence the injured state. For example, does agreement between successor states not recognising their joint and several responsibility diminish the invocation entitlement of the injured state? In this regard, Slovenia supports the decision of the Special Rapporteur to propose in subsequent reports a set of rules for different categories of succession.

Slovenia welcomes the Special Rapporteur's intention to pay additional attention to the issue of the

In the case of 'succession agreements', we would also propose examining the provisions of
constitutions (or constitutional acts) of some federal states, for example, the Constitutional Charter of

