



# General Assembly

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## Seventy-eighth session

Agenda item 79

### Report of the International Law Commission on the work of its seventy-third and seventy-fourth sessions

#### Report of the Sixth Committee

*Rapporteur:* Mr. Moussa Mohamed **Moussa** (Djibouti)

## I. Introduction

1. The item entitled “Report of the International Law Commission on the work of its seventy-third and seventy fourth sessions” was included in the provisional agenda of the seventy-eighth session of the General Assembly in accordance with Assembly resolution [77/103](#) of 7 December 2022.

2. At its 2nd plenary meeting, on 8 September 2023, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 23rd to 33rd meetings, and at its 37th meeting, from 23 to 31 October, on 1 to 2 November and on 17 November 2023. The views of the representatives who spoke during the Committee’s consideration of the item are reflected in the relevant summary records.<sup>1</sup>

4. For its consideration of the item, the Committee had before it the reports of the International Law Commission on the work of its seventy-third and seventy-fourth sessions ([A/77/10](#) and [A/78/10](#), respectively).

5. The Chair of the International Law Commission at its seventy-fourth session<sup>2</sup> introduced the report of the Commission on the work of that session at the 23rd meeting, on 23 October 2023, and the Committee considered the report in three clusters, namely: cluster I (chapters I to IV, VIII and X) at its 23rd to 28th meetings, from 23 to 27 October 2023; cluster II (chapters V and VI) at its 28th to 30th meetings,

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<sup>1</sup> [A/C.6/78/SR.23](#), [A/C.6/78/SR.24](#), [A/C.6/78/SR.25](#), [A/C.6/78/SR.26](#), [A/C.6/78/SR.27](#), [A/C.6/78/SR.28](#), [A/C.6/78/SR.29](#), [A/C.6/78/SR.30](#), [A/C.6/78/SR.31](#), [A/C.6/78/SR.32](#), [A/C.6/78/SR.33](#) and [A/C.6/78/SR.37](#).

<sup>2</sup> The Commission elected as Chair, at its 3613th meeting, on 25 April 2023, Ms. Nilüfer Oral (Türkiye), for the duration of the first part of its session and then, at its 3634th meeting on 2 June 2023, Ms. Patrícia Galvão Teles (Portugal), for the remainder of the seventy-fourth session. See *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 10 (A/78/10)*, para. 3. Both presented the report.



on 27 and 31 October 2023; and cluster III (chapters VII and IX) at its 30th to 33rd meetings, on 31 October and 1 to 2 November 2023.

## **II. Consideration of proposals**

### **A. Draft resolution [A/C.6/78/L.12](#)**

6. At the 37th meeting, on 17 November 2023, the representative of Colombia, on behalf of the Bureau, introduced a draft resolution entitled “Report of the International Law Commission on the work of its seventy-fourth session” ([A/C.6/78/L.12](#)) and orally revised operative paragraph 44 to include the date for the commencement of the debate on the report of the Commission at the seventy-ninth session of the General Assembly. The Committee decided under agenda item 120 (“Revitalization of the work of the General Assembly”) that the date would be 21 October 2024 (see [A/78/444](#)).

7. At the same meeting, the Committee adopted draft resolution [A/C.6/78/L.12](#), as orally revised, without a vote (see para. 11, draft resolution I).

### **B. Draft resolution [A/C.6/78/L.21](#)**

8. At the 37th meeting, on 17 November 2023, the representative of Slovakia, on behalf of the Bureau, introduced a draft resolution entitled “Peremptory norms of general international law (*jus cogens*)” ([A/C.6/78/L.21](#)).

9. At the same meeting, the Committee adopted draft resolution [A/C.6/78/L.21](#) without a vote (see para. 11, draft resolution II).

10. The representatives of Lebanon (on behalf of Austria, Belgium, Brazil, Chile, Colombia, Costa Rica, El Salvador, Italy, Jordan, Lebanon, Mexico, Peru, Portugal, South Africa, the State of Palestine, Switzerland and Tunisia), China, Argentina, Singapore, Morocco, India, the United Kingdom of Great Britain and Northern Ireland, Mexico, Saudi Arabia and Cameroon spoke in explanation of position after the adoption of the draft resolution.

### III. Recommendation of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

#### **Draft resolution I**

#### **Report of the International Law Commission on the work of its seventy-fourth session**

*The General Assembly,*

*Having considered* the report of the International Law Commission on the work of its seventy-fourth session,<sup>1</sup>

*Emphasizing* the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,<sup>2</sup>

*Recognizing* the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

*Recalling* the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

*Recalling also* the role of Member States in submitting proposals for new topics for the consideration of the International Law Commission, and noting in this regard the recommendation of the Commission that such proposals be accompanied by a statement of reasons,

*Reaffirming* the importance for the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

*Recognizing* the importance of the work of the special rapporteurs of the International Law Commission,

*Welcoming* the holding of the International Law Seminar, and the voluntary contributions made to the United Nations trust fund for the International Law Seminar,

*Acknowledging* the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

*Noting* the establishment of a trust fund for assistance to Special Rapporteurs of the International Law Commission or Chairs of its Study Groups and matters ancillary thereto,

<sup>1</sup> *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 10 (A/78/10).*

<sup>2</sup> Resolution 2625 (XXV), annex.

*Stressing* the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

*Wishing* to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

*Welcoming* initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in General Assembly resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its seventy-fourth session;<sup>3</sup>
2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its seventy-fourth session, and notes in particular the completion of the first reading of the draft conclusions on general principles of law and the commentaries thereto;<sup>4</sup>
3. *Recommends* that the International Law Commission continue its work on the topics in its current programme of work, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;
4. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report,<sup>5</sup> regarding:
  - (a) Prevention and repression of piracy and armed robbery at sea;
  - (b) Subsidiary means for the determination of rules of international law;
  - (c) Sea-level rise in relation to international law;
5. *Also draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 1 December 2024 on the draft conclusions on general principles of law;<sup>6</sup>
6. *Further draws the attention* of Governments to the importance that the International Law Commission attaches to receiving their comments and observations on the topic “Immunity of State officials from foreign criminal jurisdiction” ahead of its second reading;<sup>7</sup>
7. *Takes note* of the decision of the International Law Commission to include the topic “Non-legally binding international agreements” in its programme of work,<sup>8</sup>

<sup>3</sup> *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 10 (A/78/10).*

<sup>4</sup> *Ibid.*, chap. IV, sect. C.

<sup>5</sup> See *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 10 (A/78/10).*

<sup>6</sup> *Ibid.*, para. 38.

<sup>7</sup> *Ibid.*, para. 29.

<sup>8</sup> *Ibid.*, para. 249.

and encourages the Commission to continue the examination of the topics that are in its long-term programme of work;<sup>9</sup>

8. *Encourages* the International Law Commission to take particular account of the capacity and views of Member States, as well as of the workload of the Commission, when including topics in its current programme of work;

9. *Takes note with appreciation* of the recommendation of the International Law Commission, contained in paragraphs 275 and 276 of its report, regarding the commemoration of its seventy-fifth anniversary, and encourages States, in association with regional organizations, professional associations, academic institutions and members of the Commission concerned, to convene national or regional meetings, which would be dedicated to the work of the Commission;

10. *Takes note* of paragraph 277 of the report of the International Law Commission, and requests the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution [56/272](#) of 27 March 2002;

11. *Welcomes* the efforts of the International Law Commission to improve its methods of work, and encourages the Commission to continue this practice;

12. *Invites* the International Law Commission to continue to take measures to enhance its efficiency and productivity and to consider making proposals to Member States to that end;

13. *Recalls* the importance of an in-depth analysis of State practice and the consideration of the diversity of legal systems of Member States to the work of the International Law Commission;

14. *Takes note* of paragraph 283 of the report of the International Law Commission, recalls the paramount importance of multilingualism as set forth in General Assembly resolution [76/268](#) of 10 June 2022 on multilingualism, underlines the importance of having the documents of the Commission published in due time in the six official languages of the United Nations while ensuring their accuracy in all official languages, and to this end requests special rapporteurs to submit their reports within the time limits specified by the Secretariat, and the Secretariat to give due consideration to the quality of the translation of the documents of the Commission in the six official languages;

15. *Encourages* the International Law Commission to continue to take cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

16. *Recalls* that the seat of the International Law Commission is at the United Nations Office at Geneva;

17. *Takes note* of paragraph 291 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 15 April to 31 May 2024, which will coincide with the commemoration of the seventy-fifth anniversary of the Commission, and from 1 July to 2 August 2024;

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<sup>9</sup> The following topics are currently in the long-term programme of work of the International Law Commission: "Ownership and protection of wrecks beyond the limits of national maritime jurisdiction", "Jurisdictional immunity of international organizations", "Protection of personal data in transborder flow of information", "Extraterritorial jurisdiction", "The fair and equitable treatment standard in international investment law", "Evidence before international courts and tribunals", "Universal criminal jurisdiction" and "Reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law".

18. *Also takes note* of paragraph 291 of the report of the International Law Commission, and endorses the request of the Commission that the Secretariat proceed with the necessary administrative and organizational arrangements to facilitate the holding of the first part of the seventy-seventh session of the Commission in New York;

19. *Stresses* the desirability of further enhancing the dialogue between the International Law Commission, in particular the special rapporteurs, and the Sixth Committee, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission throughout the year;

20. *Encourages* delegations, during the debate on the report of the International Law Commission, to continue to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

21. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

22. *Underlines* in this regard the necessity to allow sufficient time for the consideration of the report of the International Law Commission in the Sixth Committee;

23. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

24. *Takes note* of paragraphs 293 to 298 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of articles 16 (e), 25 and 26 of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

25. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

26. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission;

27. *Also reaffirms* its previous decisions concerning the documentation and summary records of the International Law Commission;<sup>10</sup>

28. *Takes note* of paragraph 281 of the report of the International Law Commission, stresses the need to expedite the preparation of the summary records of the International Law Commission, welcomes the continuation of the measures taken

<sup>10</sup> See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly; see also *Yearbook of the International Law Commission 1982*, vol. II (Part Two), paras. 267–269 and 271, as well as all subsequent annual reports of the International Law Commission.

to streamline the processing of summary records during the sixty-fifth session of the Commission,<sup>11</sup> which have led to a more rational use of resources, and expresses its satisfaction that the summary records of the Commission, constituting *travaux préparatoires* in the progressive development and codification of international law, will not be subject to arbitrary length restrictions;

29. *Welcomes* the institutionalization of the practice of the Secretariat to include on the website of the International Law Commission the provisional summary records in English and French relating to the work of the Commission;

30. *Also welcomes* the efforts of the Secretariat in seeking to ensure the timely and efficient processing of the documents of the International Law Commission and the institutionalization of the experimental measures taken during the sixty-eighth session of the Commission to streamline the editing of those documents;

31. *Takes note* of paragraph 280 of the report of the International Law Commission, and underlines the importance of the publications of the Codification Division to the work of the Commission, welcomes in particular the issuance of the tenth edition of *The Work of the International Law Commission* in Chinese, English, French, Russian and Spanish and of volume 26 of the *United Nations Legislative Series* entitled *Materials on the Provisional Application of Treaties*,<sup>12</sup> and reiterates its request that the Secretary-General continue to publish *The Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years;

32. *Also takes note* of paragraph 284 of the report of the International Law Commission, expresses its appreciation to the United Nations Library at Geneva for the dedicated assistance accorded to the Commission, and notes the Commission's emphasis on the need for adequate funding to ensure the continuation of the Library's ability to function as a research library to assist the Commission in the performance of its mandate in the codification and progressive development of international law;

33. *Further takes note* of paragraph 285 of the report of the International Law Commission, stresses the unique value of the *Yearbook of the International Law Commission*, and requests the Secretary-General to ensure its timely publication in all official languages;

34. *Expresses its appreciation* to Governments that have made voluntary contributions to the trust fund on the backlog relating to the *Yearbook of the International Law Commission*, and encourages further contributions to the trust fund;

35. *Takes note* of paragraph 286 of the report of the International Law Commission, expresses its satisfaction with the remarkable progress achieved in the past few years in reducing the backlog of the *Yearbook of the International Law Commission* in all six languages, welcomes the efforts made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog, encourages that Division to provide continuous necessary support to the Editing Section in advancing the

<sup>11</sup> *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10 (A/68/10)*, para. 183.

<sup>12</sup> See resolution 76/113, para. 5, and *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 10 (A/76/10)*, para. 49.

*Yearbook of the International Law Commission*, and requests that updates on progress made in this respect be provided to the Commission on a regular basis;

36. *Welcomes* the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;

37. *Takes note* of paragraph 287 of the report of the International Law Commission and expresses its appreciation for contributions made to date to the trust fund to receive voluntary contributions for assistance to Special Rapporteurs of the International Law Commission or Chairs of its Study Groups and matters ancillary thereto, and invites further contributions to the trust fund, in accordance with the terms of the trust fund, including the need for the financial contributions not to be earmarked for any specific activity of the International Law Commission, its Special Rapporteurs or Chairs of its Study Groups;

38. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants representing the principal legal systems of the world and from different countries in the various regions, including in particular those from developing countries, will be given the opportunity to attend the Seminar, as well as delegates to the Sixth Committee, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations trust fund for the International Law Seminar;

39. *Requests* the Secretary-General to continue to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue to consider ways to improve the structure and content of the Seminar;

40. *Underlines* the importance of the records and topical summary of the debate in the Sixth Committee for the deliberations of the International Law Commission, and in this regard requests the Secretary-General to forward to the Commission, for its attention, the records of the debate on the report of the Commission, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

41. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and any draft provisions adopted on either first or second reading by the Commission;

42. *Also requests* the Secretariat to make the complete report of the International Law Commission available as soon as possible after the conclusion of the session of the Commission for the consideration of Member States with due anticipation and no later than the prescribed time limit for reports in the General Assembly;

43. *Encourages* the International Law Commission to continue to consider ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

44. *Recommends* that the debate on the report of the International Law Commission at the seventy-ninth session of the General Assembly commence on 21 October 2024.

## Draft resolution II

### Peremptory norms of general international law (*jus cogens*)

*The General Assembly,*

*Having considered* chapter IV of the report of the International Law Commission on the work of its seventy-third session,<sup>1</sup> which contains the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*), with their annex,

*Taking note* of the recommendation of the International Law Commission contained in paragraph 41 of its report,<sup>2</sup>

*Emphasizing* the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

*Noting* that the subject of identification and legal consequences of peremptory norms of general international law (*jus cogens*) is of major importance in international relations,

1. *Welcomes* the conclusion of the work of the International Law Commission on peremptory norms of general international law (*jus cogens*), and takes note of the adoption by the Commission of the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*) and the annex and commentaries thereto;<sup>3</sup>

2. *Expresses its appreciation* to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

3. *Takes note* of the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*) and the annex and commentaries thereto;

4. *Also takes note* of the range of comments and observations on the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*) and the annex and commentaries thereto, whether submitted in writing by Governments or expressed in debates of the Sixth Committee,<sup>4</sup> including those made at the seventy-seventh session of the General Assembly.

<sup>1</sup> *Official Records of the General Assembly, Seventy-seventh Session, Supplement No. 10 (A/77/10).*

<sup>2</sup> *Ibid.*, para. 41.

<sup>3</sup> *Ibid.*, para. 44.

<sup>4</sup> The written comments of the Governments are available on the website of the International Law Commission, at [https://legal.un.org/ilc/guide/1\\_14.shtml](https://legal.un.org/ilc/guide/1_14.shtml). The statements made in the Sixth Committee are available in full (in the original languages) on the website of the Sixth Committee, at [www.un.org/en/ga/sixth/](http://www.un.org/en/ga/sixth/).