

General Assembly
Seventy-seventh Session
Sixth Committee
2 November 2022
Agenda item 77:
Report of the International Law Commission on
the work of its seventy-third session

Cluster III

Mme./Mr. Chair,

At the outset, I would once again like to thank the International Law Commission for its important work.

I have the honour to deliver this statement on behalf of the five Nordic countries Finland, Iceland, Denmark, Sweden, and my own country Norway.

Mme./Mr. Chair,

Intersection of law on State succession and law on State responsibility. We are pleased with the thorough consideration the Special Rapporteur has given to the comments of States throughout his work on this topic. At this point we would also like to express our appreciation to the Special Rapporteur for his valuable contribution during his years as a member of the International Law Commission.

In his fifth Report the Special Rapporteur has focused primarily on situations where there are several injured successor States and/or multiple responsible successor States. No new provisions were proposed this time. The Report is written with the conclusion of a first reading in sight and also gives some ideas for the structure of the future final outcome on this topic. Together with this Report, the summary of the work accomplished so far in Chapter VII of the Commission's 2022 Report forms a good basis for further work on this

We take note of the Commission's decision to the effect that the work on this topic will take the form of draft guidelines rather than draft articles. Although we for the sake of consistency with the Commission's earli

The Nordic countries agree with the basic assertions in draft conclusions 8 and 9 that judicial decisions and teachings of the most highly qualified publicists may serve as subsidiary means for the determination of general principles of international law. However, we believe that inclusion of these as separate draft conclusions is unnecessary and inappropriate. The relevance of judicial decisions and teachings in the determination of international law is a matter best dealt with in the context of a work specifically concerned with those subsidiary means for the determination of rules of law, which has in fact recently been included in the Commission's programme of work.

The Nordic countries welcome the proposed formulation of draft conclusion 10 as an accurate reflection of the actual function of general principles of law in international legal practice, namely the residual characteristic of this particular source of international law and its particular relevance in terms of contributing to the coherence of the international legal system. We encourage the Special Rapporteur and the Commission to consider whether it would be better to highlight the particular traits identified in draft conclusion 10, paragraph 2, letter a and b, in the commentaries, rather than identify them in the text of a draft conclusion, as these traits are common to all primary sources.

The Nordic countries also welcome the proposed structure and formulation of draft conclusion 11. We believe that this offers an accurate reflection of the basic interplay between general principles of law and the other primary sources of law, treaties and customary international law. Considering the subsidiary and residual role of general principles, and the fact that the primary sources are commonly operationalized in successive order, we would prefer if this was better accommodated for in the text of draft conclusion 11 paragraph 1. For example by adding the word "formal" before hierarchical, so that it reads: "General principles of law, as a source of international law are not in a formal hierarchical relationship with treaties and customary international law".

Finally, let me add that the Nordic countries support the proposed outcome of this process, namely draft conclusions accompanied by commentaries.

We look forward to the continued collaboration with the Commission as it progresses its work on this topic.

Thank you.