



Statement by

Ms. Galia Rivlin

Legal Department

Israel Ministry of Foreign Affairs

Report of the International Law Commission on
the work of its seventy-third session Cluster III

Agenda Item 77

2 November 2022

Mr. Chairperson,

As we approach the end of the ILC debates in the Sixth Committee this year, Israel would like to thank the Rapporteurs for their close attention to these important discussions, and hope that the information provided by states was

Mr. Chair,

In general, Israel would like to reiterate its reservations regarding this category. We understand that there are also significant disagreements on this matter within the Commission, and the Drafting Committee in particular. In

fact that there is no general agreement concerning the very existence of such a putative source of international law among States and members of the Commission - and not merely disagreement regarding its nature or contours -

Mr. Chairperson,

With regard to the Draft Conclusion 7(1), which relates to the methodology for identifying general principles of the second category, Israel takes note of the text proposed by the Drafting Committee. At its current phrasing, Draft Conclusion 7(1) states that in order to determine whether a general principle has been formed within the international legal system, it is necessary to ascertain that the community of nations has recognized the principle as intrinsic to the international legal system. Neither the current text of the Draft Conclusion, nor the commentaries thereto, provide necessary clarifications. Primarily, the expression *intrinsic* in this context is vague and open to multiple interpretations. This, in turn, may undermine the coherent application of the Draft Conclusion. As the Special Rapporteur stated in the report of the Commission, Israel agrees that the main challenge in this context lies in formulating a clear and precise methodology for the identification of such general principles. Israel encourages the Commission to dedicate as much time as necessary to meet this challenge.

Israel would also take this opportunity to comment on Draft Conclusion 7(2). According to this paragraph, the methodology proposed in Draft Conclusion 7(1) is without prejudice to the question of the possible existence of other general principles of law . The stated aim of the Draft Conclusions, as expressed in the commentary to Draft Conclusion 1, is to clarify the scope of general principles of law and the method for their identification. In light of this aim, Draft Conclusion 7(2) might not be appropriate as it could be construed as creating a significant exception to the criteria set out by Draft Conclusion 7(1), potentially encouraging the

Israel suggests therefore that the ILC consider deleting Draft Conclusion