MISSION OF

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United Nations General Assembly I Sixth Committee (item 78) Report of the International Law Commission - Clusters 2 and 3
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(check against delivery)
Mr. Chairman,

I take this opportunity to share some brief comments regarding topics contained in Clusters 2 and 3 of the report of the International Law Commission.

Concerning the topic "crimes against humanity", Brazil concurs with the importance of including such crimes in domestic legislation and of promoting the harmonization of national legislation in this regard. A future convention could indeed be beneficial for facilitating much-needed judicial cooperation in this realm, since a number of legal systems, such a the Brazilian one, generally allow exceptional to the principle of territoriality in the application of criminal rules when there is a conventional basis. As a proud founder of the International Criminal Court, Brazil believes that prominence should be given to the language already contained in the Rome Statute in this regard, including in relation to the non-exclusion of responsibility on account of a superior order.

Regarding the topic "protection of the atmosphere", I would like to focus my observations on the proposed language for a preambular paragraph that reads "aware of the special situation and needs of developing countries". Brazil notes that such language is based on the preamble of the .1997 Convention on the Law of the Non-Navigational Uses of International Watercourses and would also suggest that the Commission give careful consideration to language stemming from the 2015 Paris Agreement on Climate Change, including the expression "common concern of humankind". We also believe that, a later stage, the Commission should examine attentively the applicability of the concept of "common heritage of mankind" to the atmosphere.

Turning to the topic "jus cogens", I take this opportunity to thank the Special Rapporteur for his first report. Considering that is an issue of evident conceptual complexity, Brazil appreciates that the Commission will first focus on identifying the general nature of jus cogens and the process for its creation. Regarding draft conclusion 3, we consider the reference to "fundamental values of the international community" to be an