



PERMANENT MISSION
OF ESTONIA TO THE UN

Statement of the Republic of Estonia

73rd Session of the United Nations General Assembly Sixth Committee

Report of the International Law Commission Cluster II

Mr Chairman,

Today I will address three topics: 1) the protection of the atmosphere, 2) the provisional application of treaties and 3) peremptory norms of general international law (*jus cogens*).

Mr Chairman,

Estonia would like to thank Special Rapporteur Mr. Shinya Murase and the

all States of utmost importance in this matter and support the idea that States could endeavour the recommendations, for example through political declarations.

We would also like to express our strong support for the inclusion of guideline 11

paragraph 2(a) which concerns the compliance with international obligations and

missing capabilities of some States. We especially welcome the mentioning of existing States in case of non-compliance. We consider the recognition of specific

While agreeing with the content of draft guideline 3 and understanding that it is

wording of the two guidelines is repetitive in the sense that draft guideline 4 entails

with peremptory norms as far as possible. We support the suggestion for widening the scope of draft conclusion 11 that could also cover acts of international organizations that create obligations for States.

Estonia welcomes draft conclusion 12 paragraph 1, which requires States to eliminate consequences of an act performed under a provision in conflict with peremptory norms. Since there is a deviation of the wording from that of Article 71 of the Vienna Convention on the law of treaties, the Commission could clarify the need for the different wording of the draft conclusion

Draft conclusion 14 recommends a dispute settlement procedure. Estonia believes this matter could be further analysed by the Commission since there are regulatory differences expressed in Article 33 of the Charter of the United Nations and Article 66 (a) of the Vienna Convention. In addition, the draft conclusion and the commentary seem to be in contradiction, which should be clarified.

We would like to note that draft conclusion 15 does not reflect the issue in its full complexity by analysing all aspects of customary international law as basis for surfacing *jus cogens* norms. We support the amendment suggested in the commentaries to indicate that the elements required for the development of customary international law – State practice and *opinio juris* – cannot give rise to a norm not in accordance with *jus cogens*.

Regarding the Estonian position on draft conclusion 18 on the relationship between *jus cogens* norms and obligations erga omnes, we are of the opinion that it deserves a