

**UNITED NATIONS GENERAL ASSEMBLY
28 October 2019**

**Report of the International Law Commission on the Work of its
Seventy-First Session**

Cluster I

Statement by Mr Jordan Aitken, Adviser,

We recognise the role such an instrument could play in closing the gap in the current structure of conventions regarding serious international crimes and we are open to continuing a conversation with other States in this regard.

Chair

of general international law.

the international community on the peremptory character of norms of international law.

Australia also welcomes consideration of proposed draft conclusions on the consequences and legal effects of peremptory norms of general international law, and the accompanying commentaries.

The draft conclusions provide a useful framework to assist with the identification of peremptory norms of international law and their content.

Australia has taken note of the varying views as to the propriety of dealing with the question of the existence of regional jus cogens and the inclusion of a list of peremptory norms of general international law in the fourth report of the Special Rapporteur.

Australia remains doubtful as to the utility of further consideration of regional jus cogens, given the conceptual and practical challenges involved, the significant debate relating to the utility of such a concept and whether the concept could undermine the universality of jus cogens.

In relation to Draft Conclusion 23, which provides for a non-exhaustive list of peremptory norms of general international law, Australia remains unconvinced of the practical value of such a list.

Should the inclusion of such a list nevertheless be considered necessary, we note the important clarifications provided in the Commentary to Draft Conclusion 23 that: (i) the draft conclusions are methodological in nature and do not attempt to address the content of individual peremptory norms of general international law; and (ii) the list merely represents a non-exhaustive list of those norms which have previously been referred to by the Commission as having peremptory character.

We commend the progress made by the Special Rapp