

## United Nations General Assembly Sixth Committee: Plenary debate on the report of the International Law Commission, Cluster I

23 October 2023

Statement by Mr Adam McCarthy, Chief Counsel, Department of Foreign Affairs and Trade

Check against delivery

---

Thank you, Chair.

Australia aligns itself with the joint statement delivered by Fiji on behalf of the members of the Pacific Islands Forum. We wish to make these additional remarks in our national capacity.

Australia thanks the International Law Commission for its report on the work of its 74<sup>th</sup> session. We acknowledge the Commission's valuable contribution to the codification and progressive development of international law.

Australia also welcomes both the new and re-elected members of the Commission who commenced their five-year term this year.

Although gender balance continues to evade the Commission, we are pleased with its decision to appoint two of its eminent women members as the Chair.

We again encourage the Commission to ensure gender balance – as well as geographic balance and representation of the principal legal systems of the world – among the Bureau, Special Rapporteurs and Chairs of the Drafting Committees, Working Groups and Study Group.

[Mr/Madam] Chair,

### General principles of law

Australia expresses its sincere appreciation to the Special Rapporteur and Drafting Committee for the preparation of the text of the draft conclusions on general principles of law.

The eleven draft conclusions are a valuable first step to help States clarify the interpretation of 'general principles of law' within the meaning of Article 38, paragraph (1) of the Statute of the International Court of Justice (ICJ).

With respect to general principles of law derived from national legal systems,





# Australian Mission to the United Nations





Another key outcome of the PIF Regional Conference was our joint submission to the Commission in August 2023.

We are pleased to see that there has since been positive support for the Maritime Zones Declaration, beyond the Pacific, thus contributing to the progressive development of international law and State practice on the interpretation of UNCLOS.

Bearing in mind that one of the issues raised in the Study Group's additional paper on sea-level rise is on maritime boundaries, Australia encourages the continued support for the PIF Maritime Zones Declaration.

[Mr/Madam] Chair,

Australia also notes the upcoming climate change advisory proceedings before the ICJ and the International Tribunal for the Law of the Sea.

These proceedings may consider the issues addressed by the Commission's Study Group on sea-level rise in the context of international law, reinforcing the importance of the Commission's work.

We reiterate the value of the Commission's discussions to date, including the sharing of recent State practice, which can play a key role in progressively shaping the development of international law in the context of sea-level rise.

We look forward to continuing to work with our Pacific neighbours and the broader international community on these important issues.

[Mr/Madam] Chair,

Other decisions and conclusions

Turning to the other decisions and conclusions contained in the Commission's latest report, Australia welcomes the Commission's decision to reconstitute its Working Group on methods of work.

We support efforts across the UN system, including within the Commission, to improve inclusivity, efficiency and effectiveness, thereby leading to more fit-for-purpose institutions and outcomes.

In this context, we would particularly welcome consideration of how to strengthen the symbiotic relationship between the Commission and the Sixth Committee in our common endeavour towards the codification and progressive development of international law, consistent with Article 13, paragraph (1) of the UN Charter.

We welcome the Commission's recommendation to hold the first part of its 77<sup>th</sup> session in New York in 2026, noting this is the earliest opportunity in the present quinquennium to do so.

However, we do not want to wait that long to consider others means through which we could strengthen the substantive exchange between the two bodies.



# Australian Mission to the United Nations

