

CZECH REPUBLIC

Permanent Mission of the Czech Republic to the United Nations

78th Session of the General Assembly Sixth Committee

Report of the International Law Commission on the work of its seventy-third and seventy-fourth sessions

Statem ent by

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, 48th floor 885 Second Avenue, New York, NY 10017 tel.: +1 (646) 981 4001, fax: +1 (646) 981 4099 www.mzv.cz/ un.newyork Madam / Mr. Chair,

The Czech Republic welcomes the completion of the first reading of the draft conclusions General principles of law

Rapporteur, Mr. Ma

Republic intends to provide its written comments on the draft conclusions, therefore it will now limit itself to brief general comments on certain aspects of the draft.

As for the identification of general principles of law derived from national legal systems, we agree with the <u>draft conclusion 4</u>, according to which the identification of such principles requires two steps analysis: ascertainment of principle applied generally in national legal systems, and the applicability of such principle in international law. We also agree with the Commission that general principles of law are source of international law, which is formally equal to treaties and international customary law as other sources of international law and not in hierarchical relationship with them. At the same time, we note that general principles of law have, in practice, supplementary role and are resorted to only occasionally or exceptionally, when other rules of international law, namely treaty or custom, are not applicable.

According to the <u>draft conclusion 5</u>, the determination of general principles of law derived from national legal systems requires a wide and representative comparative analysis of national legal systems, including different systems of the world, and an assessment of

Declaration on Principles of International law concerning Friendly Relations and Cooperation among States of 1970. Further, the prohibition of crimes under international law, also mentioned in the Commission report, has rather the character of the peremptory norm of customary international law. We are of the view that such principles do not belong into the category of general principles of law under Article 38 paragraph 1 (c) of the Statute. In some cases, so-called general principle might even have the non-legal character of a programme policy or guiding principle *de lege ferenda*, leading to future creation of norms of international law.

Madam / Mr. Chair,

Chapter VII the work on the challenging and complex Sea-level rise in relation to , done by the Study Group co-chaired by Mr. Aurescu and Ms. Oral. The discussion of their additional paper to the firs the Commission itself included the topic in its long-term programme of work. Universal criminal jurisdiction is a very pertinent topic, subject of intense discussions, is relevant for State practice and meets the criteria for the selection of topics of the Commission. Therefore, we would like to support the inclusion of this topic on the active programme of the Commission.

Finally, we also note with satisfaction the establishment of a trust csu