

Recently we witnessed another interesting incident. Russia terminated its provisional application of a multilateral treaty by notifying the depositary on its intent not to become a party to it. At the same time the depositary of the treaty is interpreting

Madam Chairperson,

We would like to thank the Special Rapporteur Mr. D.Tladi for detailed and interesting third report on “**Peremptory norms of general international law (jus cogens)**” which considered one of the most complex issues – the consequences of peremptory norms.

The Russian delegation shares the approach of the Commission that the Vienna Convention on the Law of Treaties constitutes the basis of its work on this topic. Therefore, we support draft conclusion 11, preliminary presented in the Annex to the report of the Chairman of the Drafting Committee where it was decided not to use the concept of “invalidity” of the treaty together with the “null and void” concept in favor of “null and void” concept, which, in our view, corresponds to the Vienna Convention on the Law of Treaties and contributes to the uniformity in the use of terms.

We believe that the issue of the consequences of peremptory norms of general international law is extremely important for interpretation of treaties. Therefore, the Russian delegation welcomes the intent of the Commission contained in the report of the Chairman of the Drafting committee regarding paragraph 3 of draft conclusion 10 to be made a separate draft conclusion in order to record the general rule of interpretation consistent with the peremptory norms of general international law. We also believe that the existing language should be properly amended to reflect its work on tight

We cannot support either the ideas of the Special Rapporteur regarding the interpretation of the Vienna Convention on the Law of Treaties under which the States who do not directly participate in the treaty cannot have the right to address the International Court of Justice. Therefore, we consider as unacceptable the proposal of the Special Rapporteur that any dispute regarding the contradiction of the treaty to the norm of *jus cogens* should be transmitted to the International Court of Justice implying any State, which is not a party to the treaty.

It seems to us that this proposal does not reflect the principle of *lex lata* and does not presume a certain prerequisite for *lex ferenda*.

The Russian delegation maintains a position that we must avoid any interpretation of the Vienna Convention different from the meaning contained therein.

Moreover, we must take into account the fact that the States have made several reservations regarding Article 66 of the Vienna Convention on the Law of Treaties, which has envisaged the procedure of judicial litigation.

We question the position of the Special Rapporteur regarding the persistent objector, which according to him is not applicable to the *jus cogens* norms (paragraph 3 of draft conclusion 15). As the Special Rapporteur recognizes, from the viewpoint of the doctrine, it is a question whether the *jus cogens*

Nevertheless, as it has been rightly put out by the Special Rapporteur, currently the discussions have been engaged on the issue of correspondence of the UN Security Council resolutions with, inter alia, *jus cogens* norms, albeit discussions are mostly theoretical and non-supported by any practice whatsoever. Nevertheless, the conclusions of the Commission that can lead to wrong interpretation may seriously harm the activity of the UN Security Council.

The Russian delegation is mostly concerned with draft conclusions 22 and 23.

We believe that the consideration of issues related to criminal responsibility and immunity of State officials is clearly outside the scope of the current topic and their inclusion in draft conclusions is at least unjustified since at present the immunity of state official is a subject to a separate research conducted in the framework of the Commission.

We do not believe that the parallel investigation of the comparable issues is correct from the viewpoint of methodology and the established procedure of the work of the Commission especially taking into account the absence of unanimity among the members of the Commission and among States on various aspects related to the immunity of the State officials.