



**Permanent Mission
of Ukraine**
to the UN

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**Statement by Ms. Oksana Zolotarova,
Acting Director-General of the Directorate General for International Law,
Ministry of Foreign Affairs of Ukraine
on the Agenda item 82**

**Report of the International Law Commission on the work of its Seventieth
session**

(October 24, 2018)

Mr. Chairman,

At the outset, I would like to join many other previous speakers in welcoming the substantial report of the Commission from its seventieth session and praise its members for their hard and dedicated work. We also thank the United Nations Secretariat, in particular the Codification Division of the UN Office of Legal Affairs for support provided to the Commission.

It is difficult to overestimate the role of the Commission in development of universal international law in conception and in scope, and in ensuring its codification. The seventieth anniversary commemorative events once again proved the significance of the Commission's work not only for evolution of public international law but also for maintenance of the international legal order based on law.

In my statement, I will briefly comment on the chapters of the ILC report from its seventieth session envisaged for Cluster one and additionally address issue of "Protection of the environment in relation to armed conflicts", which is of particular interest for my delegation.

With regard to the topics “Subsequent agreements and subsequent practice in relation to the interpretation of treaties” and “Identification of customary international law” we welcome the adoption by the Commission, on second reading, sets of respective draft conclusions together with commentaries thereto. We would like to express gratitude to Special Rapporteurs Mr. Georg Nolte and Sir Michael Wood for their devoted work that led to the elaboration of draft conclusions on these topics.

On the recommendations for the long-term programme of the work of the Commission, we took note the suggestion to include topics of the Universal criminal jurisdiction and Sea-level rise in relation to international law.

Mr. Chairman,

As in previous years, my delegation wishes to thank the Commission for its continuing work on the progressive development and codification of the legal framework protecting the environment in relation to armed conflicts. In particular, we wish to recognize the work of its former Special Rapporteur Dr Marie Jacobsson, and to congratulate her replacement Dr Marja Lehto on her first report, which addressed the protection of the environment in situations of occupation.

The weakness of the existing legal framework for environmental protection in relation to armed conflicts has exacerbated these problems, and it was one of the motivations behind our initiative for a resolution on «Protection of the environment in areas affected by armed conflict» at the second session of the United Nations Environment Assembly in 2016. We were also pleased to co-sponsor Iraq’s resolution on «Pollution mitigation and control in areas affected by armed conflict or terrorism» at the Assembly’s third session in 2017.

It is high time for the ILC to address these questions. Recent developments show that protecting the environment in relation to armed conflict is not a hypothetical and theoretical question but one that requires immediate attention from legal society. We welcome ILC engagement and hope that, in the nearest future, it will lead to a legally binding document.

Regrettably, my country and its people have become the bright example of the consequences of violation by one of the Permanent Members of the Security Council of norms and principles of international law, including International Humanitarian Law.

Our recent experience has confirmed the damage that can be done when an occupying power fails to give proper weight to environmental considerations in its administration of occupied territory. Our own monitoring, and that of the Organization for Co-operation and Security in Europe, has revealed the extent to which environmental protection has been weakened in Crimea and Donbas. Environmentally hazardous infrastructure has been damaged or disrupted, and protected natural areas degraded, even as environmental governance has been weakened. We have seen signs of severe environmental degradation in Crimea, resulting from environmental mismanagement of both natural and agricultural areas.

Turning to the latest report from the ILC and the Commission's draft principles, we welcome these principles and note their timely contribution to the progressive development of the law of belligerent occupation. The decision to abide by the conservationist principle is in our opinion correct but at the same time, the human rights and environmental obligations during prolonged occupations should be studied and addressed.

We broadly welcome draft principle 21 particularly in relation to the responsibility for environmental damage that can extend beyond the occupied territories. In the Donbas we face serious threats from groundwater pollution and subsidence caused by the improper closure and subsequent flooding of coal mines, together with ongoing risks of a serious environmental emergency caused by disruption to one the region's many hazardous industries. For example, the irresponsible decision by occupation authorities to cease groundwater pumping at the YunKom mine – where a nuclear device was detonated in 1979 – has presented the very real risk of radioactive contamination spreading to groundwater, rivers and ultimately to the Sea of Azov.

I would also like to emphasize that the principles of international law relevant to the environmental hazards Ukraine has experienced as a result unlawful activities in and around occupied Crimea are not limited to international humanitarian law, and include, for example, the UN Convention on the Law of the Sea. I want to present one example of such a violation - illegal construction of a bridge across the Kerch Strait. Apart from the fact that it violates Ukraine's rights as a coastal state and disrupts the freedom of international navigation, the unauthorized construction of the bridge threatens long-term consequences for the coastal and marine environment of the Sea of Azov by interfering with water circulation, increasing erosion and damaging internationally important protected areas etc., and has been undertaken without necessary precautions.

In this regard, we are looking forward to the second report next year, in particular with emphasis on questions related to the responsibility and liability for environmental harm in relation to armed conflicts.

I thank you.