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Statement

By

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Counsellor

Representative of the Kingdom of Thailand

before the Sixth Committee

of the 71st Session of the United Nations General Assembly

Agenda Item 78:

**Report of the International Law Commission on the work of
its sixty-eighth sessions (Part III)**

New York, 1 November 2016

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Mr. Chair,

Today, my delegation wishes to share its views on the current work of the Commission, on Chapter X (Protection of the environment in relation to armed conflicts) and Chapter XI (Immunity of State officials from foreign criminal jurisdiction) of the ILC Report.

Chapter X Protection of the environment in relation to armed conflicts

Mr. Chair,

On the topic “Protection of the environment in relation to armed conflicts”, my delegation wishes to commend the effort of the Special Rapporteur, Ms. Marie G. Jacobsson, for her third report. We support the methodology she adopted for this report, which is the analysis of the relevant rules and principles applicable to different phases of an armed conflict with a special emphasis on post-conflict situations. We consider that any relevant environmental treaties can co-exist with the law of armed conflict. The ongoing study of the Commission on how armed conflicts affect treaties more generally will also be complementary to our consideration here.

Mr. Chair,

Thailand is of the view that having the draft principles as the outcome of this topic is appropriate and timely. It is in line with the objective of our task, which is to raise the visibility of the issue regarding environmental impacts of armed conflicts—an issue which is of contemporary relevance and requires a comprehensive response. We would support the approach that the cultural heritage, although being part of natural

environment be out of the scope of this study as cultural heritage and its protection is extensively regulated through other international norms including through UNESCO instruments and frameworks. We also concur with the view that the sharing of information and international cooperation are essential for this end. In particular, we encourage the continued consultations with agencies which are directly involved in post-conflict situations such as the International Committee of the Red Cross (ICRC) and the United Nations Environment Programme (UNEP), whose relevant experiences and expertise in this field can help formulate a coordinated and informed response to the problems.

We encourage the Commission to continue its work on this important topic.

Chapter XI (Immunity of State officials from foreign criminal jurisdiction)

Mr. Chair,

On the topic “Immunity of state officials from foreign criminal jurisdiction”, my delegation would like to thank the Special Rapporteur, Madame Concepción Escobar Hernández, for her valuable and insightful work, which would contribute to a better understanding of this highly complex and political issue.

Mr. Chair,

In undertaking a study on this challenging topic, the delicate balance between the need to maintain stable international relations and the protection of State equality, on the one hand, and the fight against impunity and the need to provide redress for the victims, on the other, must be carefully addressed. My delegation would like to commend the Special Rapporteur for her effort to find this balance in her work. We would also like to support her approach in distinguishing the *ratione materiae* and the *ratione personae* scope of the immunity in the analysis.

We are of the view that a clearer distinction between what the law is (*lex lata*) and what the law should be (*lex ferenda*), particularly in relation to the different exceptions proposed by the Special Rapporteur in draft article 7 would help us to understand better the state of play of this sensitive issue. At the same time, we believe that this work of great scholarly quality and, like the work of the previous Special Rapporteur, Mr. Roman Kolodkin, can pave a way towards our deeper understanding on this topic.

Mr. Chairman,

My delegation would like to support the continued work and deliberation of the Commission on this matter. We look forward to the sixth report of the Special Rapporteur which will address the procedural aspects of immunity of State officials from foreign criminal jurisdiction.