



**PERMANENT MISSION OF SINGAPORE  
TO THE UNITED NATIONS**

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**STATEMENT BY MR. LUKE TANG  
DELEGATE TO THE 69<sup>TH</sup> SESSION  
OF THE UNITED NATIONS GENERAL ASSEMBLY  
ON AGENDA ITEM 78,  
ON CHAPTERS X, XI, XII AND XIII OF THE REPORT OF THE  
INTERNATIONAL LAW COMMISSION ON  
THE WORK OF ITS 66<sup>TH</sup> SESSION,  
SIXTH COMMITTEE,  
3 NOVEMBER 2014**

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Mr. Chair,

1. My delegation would like to express its thanks to the Commission for its report on the work conducted on the topics “Identification of customary international law”, “Protection of the environment in relation to armed conflicts”, “Provisional application of treaties” and “The Most-Favoured-Nation clause”.

2. On the topic of “**Identification of customary international law**”, my delegation wishes to express our thanks to the Special Rapporteur, Sir Michael Wood, for his second report as well as the expediency with which he had conducted his work. We note, in particular, the 11 proposed draft conclusions, which helpfully outline the issues under consideration.

3. My delegation wishes to comment briefly on paragraph 4 of draft conclusion 7, which pertains to the relevance of the acts (including inaction) of international organisations. We echo the comment of the Special Rapporteur that considerable caution is required in assessing the practice of such organisations. In our view, this is largely due to the wide variations in international organisations, including their organisational

structures, their mandates, the composition of their decision-making organs and the manner in which decisions of the organisations are taken, all of which may have an impact in determining what, if any, role is played by such actors in the formation of customary international law. In this regard, we look forward to the third report, which would consider this issue more closely.

4. On the topic of “**Protection of the environment in relation to armed conflicts**”, my delegation wishes to express our thanks to the Special Rapporteur, Dr Marie Jacobsson, for her excellent preliminary report. We note that this topic is still in its early stages of study and that therefore there is still some fine-tuning to be done in terms of its scope and methodology.

5. On this note, we wish to state that we are in agreement with the methodology adopted by the Special Rapporteur – that of a temporal, three-phased approach. We see the value in having a conceptual delineation in the form of pre-, present and post-conflict, which we think will be helpful not only for the purposes of study and debate, but also in the drafting of the eventual outcome document. That said, we share the views of the Special Rapporteur that there cannot be a strict dividing line between the different phases and we urge that adequate attention be paid to how the rules pertaining to the different temporal phases blend into each other.

6. Insofar as scope is concerned, my delegation agrees with the Special Rapporteur that the study should not delve into consideration of possible effects of particular weapons on the environment.

7. Turning to the substance of the preliminary report, we note that its focus was on identifying the relevant rules and principles that may be applicable to a potential armed conflict, in other words, peacetime obligations. We note however that included amongst those rules and principles that have been identified are concepts which may not as yet have the status of universally accepted principles. In this regard, we are of the view that it may be useful for the Commission to continue to trace the development and level

of acceptance of these concepts, which would in turn affect the question of their applicability.

8. Finally, on the question of the outcome of the work, we continue to hold the view that non-binding draft guidelines may be an appropriate outcome on this topic.

9. On the topic of “**Provisional application of treaties**”, my delegation concurs with the general agreement reached by the Commission that the provisional application of a treaty is capable of giving rise to legal obligations as if the treaty were itself in force. In respect of the legal consequences of the provisional application of treaties, we look forward to the Commission’s study of whether or not provisional application could result in the modification of the content of the treaty. My delegation does not think that the answer to this question is a clear one. We are also preliminarily of the view that there may be an overlap here with the topic on “Subsequent agreements and subsequent practice”, and my delegation trusts that the Commission will ensure coherence across its work in this regard.

10. In terms of the Commission’s further work on this topic, my delegation agrees that the modalities for termination of provisional application and the applicability of the regime on reservations to treaties are important areas for further consideration.

11. Finally, I turn to the topic of “**The Most-Favoured-Nation clause**”, which is one that my delegation has followed closely over the years. It is a topic of definite relevance to Singapore especially because of the significant number of bilateral investment treaties and free trade agreements which we have entered into, which contain such clauses. There is also an abundance of cases on the Most-Favoured-Nation clauses, particularly in the context of investor-State disputes, which merit in-depth study.

12. My delegation thanks the Study Group for the review of the draft final report, in particular with the updates to the report to take into account recent developments. We welcome the intention to incorporate further updates into the draft report so that the more

recent cases are also taken into account, as well as the suggestion that the outcome be prepared in a form that would be of practical utility to practitioners and policy makers. We look forward in particular to the analysis in Part III of the report, specifically on the contemporary relevance of the 1978 draft articles to the interpretation of Most-Favoured-Nation clauses, which will “close the loop” with the Commission’s earlier work on this area.

13. In conclusion, Mr. Chair, my delegation welcomes once again the work of the Commission on these issues and look forward to receiving its future deliberations on them, as well as on the other topics that are on its agenda.

14. I thank you, Mr. Chair.

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