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STATEMENT

by

**H.E. Ambassador Eden Charles
Chargé d'Affaires, a.i.**

**Permanent Mission of the
Republic of Trinidad and Tobago
to the United Nations**

on the

**Report of the International Law Commission
in the Sixth Committee**

**United Nations, New York
November 03, 2014**

Mr. Chairman,

Trinidad and Tobago wishes to commend the Chairman of the International Law Commission ("the Commission"), Mr. Kirill Gevorgian, for his Statement introducing various clusters on the Report of the Commission ("the Report") and to commend the organization on its work in fostering the codification and progressive development of international law.

With your permission, Mr. Chairman, we wish to comment on some topics cutting across several clusters of the Report. My delegation did not have the opportunity to comment before on the clusters. In my short statement, I will cover the following issues: protection of persons in the event of disasters, customary international law, crimes against humanity and jus cogens.

Mr. Chairman,

Trinidad and Tobago intends to provide detailed written comments on the issue of protection of persons. In the meantime, we wish to comment only on the general thrust of the draft articles on the protection of persons. These draft articles, in our view, address a very important issue and the Commission should be congratulated for placing the item on its agenda. The recent scourge of disasters that have hit the world, across different continents, affecting people irrespective of culture, development status and region bears testimony to the need for these articles. We wish therefore to congratulate the Commission, and in particular Special Rapporteur Mr. Eduardo Valencia Ospina, for his hard work on the topic.

The draft articles purport to be based on cooperation and, indeed, there are several provisions on cooperation in the draft articles. In truth, however, the draft articles adopt an alternative approach. The constant reference to duties of the affected State vis-a-vis third States suggests that it is not reflective of cooperation but rather a rights duty approach. Trinidad and Tobago supports, in addition to cooperative principles, a rights duty approach. This rights-duty approach, however, must apply as between the affected State and its population. The relationship between third States and affected States must be governed by a different set of rules. We shall expand upon this general view in our written statement.

Mr. Chairman,

On customary international law, we wish to congratulate Sir Michael Wood for an excellent second report. The report is as well researched as others reports that this delegation has seen for some time, both in terms of doctrine and jurisprudence. This is not to say that my delegation agrees with everything, but as matter of quality, the report is exceptional. We also wish to thank the Drafting Committee for the draft conclusions as reflected in the statement of the Chair of the Commission.

On the question of the practice of intergovernmental organizations, we support the view that ultimately this will be dependent on the specific rule in question. It is safe to assume that with respect to certain rules, the practice of intergovernmental organizations will be irrelevant while such practice may be relevant in respect of other rules. The question is where to draw that line. The answer that the Commission comes up with should not be based on intuition. It should, however, be based on an assessment of the relevant practice and doctrine, reflected in the report and the commentaries. Trinidad and Tobago also wishes to express its agreement with the Drafting Committee's decision to exclude the idea of specifically affected States, which has, in our opinion, little basis in law.

Mr Chairman,

We also take the opportunity to express our congratulations to Professor Sean D. Murphy on his appointment as Special Rapporteur for the topic, crimes against humanity. We fully support the inclusion of this topic on the current agenda of the Commission. Nonetheless, we are of the view that that all three major international crimes, namely, crimes against humanity, genocide and war crimes, could benefit from examination by the Commission. It is true that the crimes against humanity have not been the subject of a special treaty while the other two crimes have been. Nevertheless, Trinidad and Tobago submits that that the interstate cooperation mechanisms for the other crimes can also benefit from strengthening. Moreover, like others, we wish to emphasise that the project should not detract from but rather complement what is provided under the Rome Statute of the International Criminal Court.

Finally Mr. Chairman,

Trinidad and Tobago wishes to express our congratulations to Professor Dire Tladi for an excellent syllabus on jus cogens. We support the Commission's decision to include the subject in its long term programme of work and it is our hope that the Commission would immediately include the topic on its programme and appoint a Special Rapporteur to focus on the issue. We do note that jus cogens is a non-degorable norm of international law and would suggest that the Commission approach each section identified by Professor Tladi with the requisite degree of care and circumspection.

Mr. Chairman, we wish to assure the ILC that in the very near future, Trinidad and Tobago will be submitting written proposals on the issues we addressed this afternoon.

I thank you Sir.