

**Statement by the Representative of Turkey  
at the Sixth Committee  
on Agenda item 78  
Report of the International Law Commission on the work of its sixty-sixth session  
United Nations  
New York  
3 November 2014**

Mr. Chairman,

Since this is the first time my delegation takes the floor under this agenda item, we would like to take this opportunity to thank the Chairman of the International Law Commission for his introduction of the Commission's report.

We would also like to thank the Special Rapporteurs for their contributions to the Commission's study of these important topics.

On the topic of "provisional application of treaties" we note the second report of the Special Rapporteur. Provisional application is an important instrument of international treaty practice. As pointed out in the first report of the Special Rapporteur it can serve a useful purpose where the subject matter was urgent, implementation of the treaty was of great political significance or it was important not to wait for completion of the lengthy process of compliance with States' constitutional requirements for the approval of treaties. The term is widely known, yet the legal regime that applies to the provisional application deserves analysis by the Commission. However the study should not be aimed at persuading States to utilize the mechanism of provisional application. Instead, it should provide a practical guide on various aspects of provisional application. In this vein we would advocate that the ILC work on this subject should result in guidelines rather than in draft articles.

We would also like to draw attention to the importance of domestic law in this respect. It is after all for individual states to determine whether or not their legal systems allows for provisional application. A comparative study on domestic provisions relating to the provisional application is necessary for proper consideration of the topic. We share the view that it is premature to draw any conclusions on the state practice on the basis of information submitted so far. We therefore support the Special Rapporteur's intention to collect more information on state practice before presenting conclusions drawn from the analysis of such practice.

The question of the legal effects of the provisional application of treaties lies at the very heart of the study undertaken by the Commission. In the first report the Special Rapporteur noted that the terms "provisional application" and "provisional entry into force" are not synonymous and refer to different legal concepts. In this regard further clarification on the view of the Special Rapporteur whether the legal effects and legal obligations arisen from the provisional application could be the same as if the treaty were itself in force would thus be of importance for our understanding of the issue.

Mr. Chairman,

Provisional application involves a treaty-based relationship. This mechanism is possible only on the basis of agreement between States and as an exercise of the free will of States. We therefore share the view that the decision to provisionally apply a treaty cannot be characterized as a unilateral act.

In the explanations given as regards "unilateral act" the Special Rapporteur indicated that by using the term of "unilateral act" it was intended to highlight the fact that it was typically left to the negotiating or contracting states to unilaterally decide whether to provisionally apply a treaty or not. It is further stated that "As such the legal obligation for the State arose not when the treaty, containing a clause allowing provisional application, was concluded, but at the point in time at which the State unilaterally decided to resort to such provisional application." We are of the opinion that this could be valid for multilateral treaties. For bilateral treaties, however, the obligation will arise when the treaty was concluded. My delegation thus support that the Special Rapporteur proceed to consider different consequences arising from the provisional application of bilateral as opposed to multilateral treaties. As the work is still at its early phase we would like to the following. First of all we share the view that it would be beneficial if the work focuses on the specific issues that are felt important in practice and that would be useful for States to know when they decide to resort to provisional application of treaties. We also believe that the applicability of the regime on the reservations to treaties merits further consideration.

Mr. Chairman,

My delegation noted the seventh report of the Special Rapporteur on the protection of persons in the event of disasters.

Since the draft articles on the subject matter will be sent for comments and observations, it would be suffice, at this point, to highlight the delicate balance between the sovereignty of an affected State and the need to assist affected populations following a disaster, including through seeking and providing external assistance.

Close cooperation and solidarity of the international community is paramount for efficient disaster relief and legal guidance on this issue would be useful for a response in a timely and efficient manner. With this understanding we would carefully examine the draft articles.

Mr. Chairman,

International law is an important component of international order and should continuously be developed and strengthened. The International Law Commission plays a central role in this endeavour. My delegation appreciates the significant contributions of the International Law Commission to the progressive development and codification of international law. In this regard we welcome the decision of the Working Group on the Long-Term Programme of Work to review and update the list of possible topics for the consideration by the Commission. We are confident that the review to be conducted by the Secretariat on the 1996 list would reflect the developments since that date and provide a useful basis for the potential topics for the work of the Commission. At the same time we encourage the Working Group to continue consider topics that members may propose.

Thank you.