



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

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**Statement**

**by**

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**before the Sixth Committee**

**of the 70<sup>th</sup> Session of the United Nations General Assembly**

**Agenda Item 83: Report of the International Law Commission on**

**the work of its sixty-seventh session (Part I)**

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**Please check against delivery**

Mr. Chairman,

Ladies and Gentlemen,

At the outset, my delegation wishes to thank Mr. Narinder Singh for his report on the work of the 67<sup>th</sup> session of the International Law Commission. The Thai delegation attaches great importance to the role of the Commission in the promotion of the progressive development and codification of international law.

#### Chapter IV: The Most-Favoured-Nation Clause

With regard to the first part of the Commission's Report, the topic on "the Most-Favoured-Nation clause" is of practical significance. Our delegation welcomes the Study Group's final report on the MFN clause. In today's interdependent world, international economic agreements – be they bilateral investment treaties or free trade agreements – have an important role in foreign relations. Greater clarity, thorough analysis and useful guidance on the interpretation of MFN provisions, which stipulate one of the key principles in trade and investment treaties, will be useful for policymakers, negotiators and practitioners in the field. We would like to thank the Study Group for undertaking and completing this valuable report.

In interpreting the MFN provisions, our delegation concurs with the Study Group that the Vienna Convention on the Law of Treaties is relevant as a point of departure. We consider the analysis on the applicability of MFN clauses to dispute settlement provisions in investment treaty arbitration to be of particular interest. We take note of the Study Group's conclusion that the mixed nature of the investor-state arbitration poses particular challenges in the interpretation of investment agreements. As a matter of principle, the individual investor has no role in the creation of the treaty obligations. To avoid dispute settlement tribunals interpreting MFN clauses on a case-by-case basis, States should be clear in the treaty language whether or not MFN clauses are to encompass dispute settlement provisions. In the absence of such clarity in the treaty language, the customary

rules of interpretation as codified in the Vienna Convention on the Law of Treaties provide guidance that helps ensure stability and predictability of the international investment regime. In addition, we would like to note that for many countries, the policy context would not favour the application of MFN clauses to dispute settlement and MFN clauses should be narrowly interpreted as to whether or not they should apply beyond substantive obligations.

#### Chapter V: Protection of the Atmosphere

Turning to the topic of protection of atmosphere, our delegation supports the Commission's work in raising the visibility of the issue and in response to the fragmentation of international regimes for protecting the atmospheric environment. We welcome the Special Rapporteur's conclusion after consultation with relevant experts that protection of atmosphere is a "pressing concern of the international community as a whole", which will highlight the fact that this issue is not an exclusively domestic matter but requires coordinated actions by the international community.

Thailand encourages the Commission to continue its work on protection of atmosphere as planned, in a constructive spirit and with flexibilities, given the different views and approaches expressed on the issue.

#### Chapter XII: Other decisions and conclusions of the Commission

On a final note, we appreciate the Commission's role in promoting the respect for the rule of law at the international level, and in contributing to Sustainable Development Goal 16. We also commend the contribution of the Commission to training international lawyers, in particular through the annual ILC International Law Seminars, in which successive generations of diplomats and legal officers have had the opportunity to learn about the Commission's work and deepen their knowledge and understanding in international law over the years.

The Kingdom of Thailand, on our part, is committed to promoting capacity building in the field of international law. Among other activities, we have hosted 3 UN Regional Courses for participants from the Asia-Pacific region in 1986, 2005 and 2012. We plan to host another UN Regional Course in international law for Asia-Pacific again in November next year. We thank the UN Office of Legal Affairs for their continued support and cooperation and hope to receive the same support from all involved.

Thank you.