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Statement

by

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**before the Sixth Committee
of the 72nd Session of the United Nations General Assembly**

**Agenda Item 81:
Report of the International Law Commission on the work of
its sixty-ninth session (Cluster I)**

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Mr. Chair,

My delegation wishes to congratulate the International Law Commission on the success of its sixty-ninth session and to express our appreciation to Mr. Georg Nolte for his chairmanship and the comprehensive presentation of the report.

For our discussion today, Thailand wishes to comment on Chapter IV on crimes against humanity and Chapter XI on other decisions and conclusions of the Commission.

Chapter IV Crimes against humanity

On the topic of crimes against humanity, Thailand wishes to thank the Special Rapporteur, Mr. Sean Murphy, for his third report. We welcome the successful completion of the first reading of the draft articles by the Commission and wishes to make the following remarks.

First, Thailand recognises the need for the effective prevention and suppression of crimes against humanity as a means to end impunity and safeguard the rule of law. We wish to express support for the Commission's work on this topic and we are positively considering the suggestion that these draft articles be developed into a convention on crimes against humanity. It is our view that such a convention will help facilitate national prosecutions and strengthen international cooperation between and among States in the suppression of crimes against humanity.

Second, with respect to draft article 3, Thailand supports the Special Rapporteur's approach in defining "crimes against humanity" based on Article 7 of the Rome Statute, the core elements of which have been well refined and elaborated by previous international criminal tribunals for many years.

Third, in principle, Thailand supports the obligation to prosecute or extradite (*aut dedere aut judicare*) in draft article 10, which would help narrow jurisdictional gaps in the prosecution of crimes against humanity. However, since it is still unclear whether this obligation is or is not part of customary international law, as noted by the Commission's Working Group on this topic back in 2014, it would be useful to seek greater clarification from State practice regarding the nature and scope of this obligation with respect to crimes against humanity.

Finally, Thailand supports draft article 13 on extradition and draft article 14 on mutual legal assistance, which encompass the two cornerstones of international cooperation in criminal matters. Given the serious nature of crimes against

humanity, it seems logical to exclude the “political offence” exception as a ground for refusing an extradition request, and as such Thailand can support the principle behind paragraph 2 of draft article 13. We also support the flexibilities provided for in paragraphs 3 and 4 of draft article 13, which allow a State to inform the Secretary-General of its intention to use the draft articles as the legal basis for extradition in the case where its domestic law makes extradition conditional on the existence of a treaty. Similarly, we can support paragraph 6 of draft article 13, which conditions extradition upon national law or applicable extradition treaties.

However, since these draft articles are modelled on provisions of existing treaties, which address different types of crimes, whether or not they are compatible with the provisions related to crimes against humanity remains the subject of debate and therefore requires further elaboration. In this regard, it would be useful for the Special Rapporteur to provide more detailed justification for his choices of model provisions.

These are a few of my delegation’s preliminary comments. Thailand will continue to study the proposed draft articles carefully and will provide the Commission with more comprehensive comments in the future.

Chapter XI Other decisions and conclusions of the Commission

Mr. Chair,

Turning to Chapter XI on other decisions and conclusions of the Commission, Thailand wishes to make the following comments.

First, Thailand welcomes the timely inclusion of the topic of general principles of law, which is the third principal source of international law in Article 38(1)(c) of the Statute of the International Court of Justice. Thailand encourages the Commission to focus its work on clarifying the nature, scope and functions of the general principles of law as well as how they can be identified.

Second, Thailand fully supports the Commission’s continued engagement with other international and regional organizations, including the Asian-African Legal Consultative Organization (AALCO). Such engagement significantly helps synchronize and create synergies between the international and regional efforts in promoting the wider appreciation of international law.

Finally, Thailand wishes to thank the Commission and its members for supporting the International Law Seminar, which has enabled young international lawyers, especially those from developing countries, to familiarize themselves with

the work of the Commission. We hope that Member States will continue to make voluntary contributions to the United Nations Trust Fund for the International Law Seminar so as to secure the broadest participation possible in future seminars.

I thank you, Mr. Chair.
