



PHÁI ĐOÀN THƯỜNG TRỰC  
CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM  
TẠI LIÊN HỢP QUỐC

PERMANENT MISSION  
OF THE SOCIALIST REPUBLIC OF VIET NAM  
TO THE UNITED NATIONS

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**Statement by DELEGATION OF VIET NAM**  
**at the 72nd Session of the Sixth Committee of UNGA**  
**on Agenda Item 81: “Report of the International Law Commission”**  
**Cluster I (Chapters I, II, III, IV, V and XI)**

*New York, 25 October 2017*

Our delegation thanks the International Law Commission for the comprehensive report on the work of its sixty-ninth session. Viet Nam highly appreciates the Commission for its dedication to the progressive development and codification of international law. The Commission’s tireless efforts have provided this Committee with valuable information and analysis on many important areas of international law.

1. On the topic of “**Crimes against humanity**”, at the outset we wish to extend our appreciation to Mr. Sean D Murphy for his third report, resulted in the provisional adoption of the provisions related to extradition, *non-refoulement*, mutual legal assistance, victims, witnesses, and obligation of Federal States.

My delegation in principle supports the punishment of crimes against humanity on the basis of respect for national sovereignty and non-intervention in domestic matters of other States, consistent with the principles enshrined in the Charter of the United Nations. On the other hand, against the various challenges that are facing the International Criminal Court in investigating and prosecuting serious international crimes, we believe that more consideration needs to be given

to the necessity and effectiveness of an international treaty dealing with crimes against humanity.

Regarding the provisions on the prosecution of criminals, Viet Nam is of the view that the principle of complementarity should be upheld, thus priority needs to be given to the jurisdiction of national courts in dealing with crimes against humanity. Similarly, disputes on the interpretation and implementation of the Convention should be first settled by the concerned States before submitting to any international court or tribunal.

Moreover, we note that there exist differences among the criminal legal systems of States, and in order to address this issue, there needs to be the possibility for State reservation against provisions that the reservation of which are not in contravention to the objectives and purposes of the Convention. Particularly, my delegation reiterates our position at the previous session that the criminal liability of legal persons has yet to gain wide acceptance in international law, thus that the sanction against acts of legal persons should be dealt with by national laws of States and should be excluded from the Convention, otherwise States should be given an option to make reservation against the application of such provision.

2. Turning to the final topic of this cluster, my delegation would first like to thank Mr. Juan Manuel Gómez-Robledo for his extensive work in delivering the fifth report on *the Provisional application of treaties*.

At the outset, Viet Nam supports the early completion of the Guidelines to meaningfully assist States in developing consistent practices regarding their provisional application of treaties, despite the Guidelines' non-binding nature.

Furthermore, my delegation seeks clarification on the following issues. First, relating to the form of agreement reflected in draft Guideline 4(b), in cases where provisional application of a treaty is determined based on a resolution of an international organization which is adopted by the majority of State parties while some States voice their opposition to such provisional application, how then will the treaty be applied to such States? If the treaty is provisionally applied to the opposing States despite their opposition, is the national sovereignty of the States in question negatively affected? Secondly, regarding draft Guideline 11, more details should be given to the legal consequences in cases where a State or international organization makes a declaration on the provisional application of a treaty while

other States or international organizations do not express clear acceptance of such declaration, or the rule that applies among States and international organizations in cases where a State or international organization is bound by the declaration and must provisionally apply the treaty while other States or organizations who do not make any such declaration are under no obligations to provisionally apply said treaty.

Finally, on a technical level, in order to specifically address the groups of States that agree to provisionally apply treaties, we suggest that the term “between the States or international organizations **concerned**” wherever it appears in the Guidelines should be changed to “between the **provisionally applying** States or international organizations”.

Thank you, Mr. Chairman.