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CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
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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 II (Chapters VI and VII)
New York, 27 October 2017

Thank you, Mr. Chairman

1. We would like to turn to the topic of **Protection of the atmosphere**.

On this topic, we note with appreciation the works and efforts of the Special Rapporteur, Mr. Shinya Murase, that have resulted in the provisional adoption of draft guidelines on important issues such as the interrelationship between international law on the protection of the atmosphere and other fields of international law, namely international trade and investment law, the law of the sea and international human rights law.

Protection of the atmosphere is a pressing concern of States and the international community as a whole. Therefore, Viet Nam again welcomes the works of the Commission to tackle this contemporary issue.

With regards to the draft guidelines, my delegation wishes to make the following observations. First, we are of the view that the term “atmosphere” needs to be more clearly defined so as to distinguish it from other territorial domains. Especially, we seek clarification on whether the scope atmosphere should include the area above sea areas.

Secondly, a guideline needs to be developed so as to deal with situations of overlap in scope of application of the rules of the protection of the environment in the atmosphere and the existing rules on the protection of the environment in general.

2. Turning next to the topic of “**Immunity of State officials from foreign criminal jurisdiction**”, at the outset we wish to extend our appreciation to Ms. Concepción Escobar Hernández for her fifth report, which focuses on limitations and exceptions to the immunity of State officials from foreign criminal jurisdiction.

Immunity from criminal jurisdiction originates from customary international law. Thus, the codification of the rules in this matter needs to be carefully undertaken with due regards to the principles of sovereign equality, non-intervention into the domestic affairs of States, as well the need for the maintenance of international peace and security, ensuring the balance between the benefits of granting immunity to State officials and the need to address impunity. The drafting of the articles need to ensure the mentioned principles and reflect the codification of established norms. In this context, we believe that the exceptions to criminal jurisdiction warrant further debate.

First, Viet Nam concurs with the rules established under draft Article 7(i) as it reflects existing legal principles enshrined in various international treaties dealing with international criminal liability.

With regards to exceptions related to the crime of corruption, my delegation is of the position that corruption should not be considered as an exception to the immunity of state officials as it reflects the conduct of an individual serving personal agenda and for personal gains. Furthermore, such a rule has not been well established in customary international law.

Finally, on the so-called “territorial tort” exception, we believe that more consideration needs to be given in addressing this issue as it relates more to the civil jurisdictional aspects than criminal.

Thank you, Mr. Chairman.