

Statement by
DELEGATION OF VIET NAM
at the 73rd Session of the Sixth Committee of UNGA
on Agenda Item 82: “Report of the International Law Commission”
Cluster III (Chapters IX, X and XI)

Thank you Mr. Chairman,

1. With respect to Cluster III, my Delegation would like to first address the topic of **Protection of the environment in relation to armed conflicts**. We commend the Commission in its efforts to revive the topic upon the work done by the former Special Rapporteur, Ms. Marie G. Jacobsson.

Viet Nam has been well aware of and made immense efforts to overcome the consequences of armed conflicts, including damages to the environment. It is undeniable that armed conflicts, regardless of the intentions of the belligerents, have tremendous and lasting impacts on not only the population, but also the fauna, flora, soil, air and water as well as the ecosystem. Though the war ended many decades ago, the effects of the war are still very visible and clearly felt in Viet Nam. The same is true for all other armed conflicts that have occurred around the world.

Therefore, we are very supportive of the continuation of the work of the ILC on this topic in order to establish State responsibility in dealing with remnants of war, particularly those related to damages to the environment. The research of the Commission should be in complementarity to existing international law on the protection of the environment and laws governing armed conflicts, particularly the Geneva Conventions and their Additional Protocols.

We also support the direction by the Special Rapporteur to integrate the law on occupation, international humanitarian law and international environmental law in this Report. Accordingly, even though we support the use of the term "occupying power" instead of "occupying state" in the draft Principles, we would like to see further elaboration on different types of occupation as well as ensuing obligations to protect environment corresponding to each type of occupation. In addition, we believe that the Commission and its Special Rapporteur should

explore on the obligation to prevent, mitigate and control environmental damages applied for occupying powers.

Mr. Chairman,

2. Turning next to the topic of **Succession of States in respect of State responsibility**, my Delegation extends our gratitude to the Special Rapporteur, Mr. Pavel Šturma as Special Rapporteur, for his second report to the Commission on this issue.

At the same time, this Delegation would like to put in record its reservations regarding paragraph 154 and 155 in the second Report by Special Rapporteur, Dr. Pavel Šturma in relation to his interpretation of the 1995 US Viet Nam Claims Settlement Agreement. We are of the view that his interpretation of the 1995 Agreement was incorrect and did not reflect the common understanding of both State parties of the Agreement.

With regard to the recently proposed draft Articles, this Delegation would like to draw your attention to draft Article 6 paragraph 1 which currently provides that "*Succession of States has no impact on the attribution of the internationally wrongful act committed before the date of succession of States*". We believe that the rule of non-succession of state responsibility still applies, therefore would like to suggest that the wording of this paragraph be revised as follows: "*Obligation arising from an internationally wrongful act committed before the date of succession of States shall be attributed to the predecessor State unless the successor State accepts to be bound by such obligation.*"

3. On the final topic of **Immunity of State officials from foreign criminal jurisdiction**, we would first like to extend our appreciation to Ms. Concepción Escobar Hernández for her recent report on this subject.

Immunity for state officials from foreign 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 so that all draft articles could be adopted by consensus.

Mr. Chairman,

4. This Delegation takes note of the proposal by the Commission's Working Group on the long-term programme of work contained in paragraph 369 of the ILC Report A/73/10 for consideration of two additional topics, namely universal criminal jurisdiction and sea-level rise in relation to international law.

At this point, my Delegation believe that the Commission should exercise caution in considering the topic of universal criminal jurisdiction which is being discussed at the Sixth Committee. In addition, we observe that the Commission is currently being occupied with other topics concerning criminal matters such as immunity of state officials from foreign criminal jurisdiction and *jus cogens*. In short, we would like to express our reservations to the necessity as well as viability of the topic of universal criminal jurisdiction.

With regard to the topic of sea-level rise in relation to international law, this Delegation is of the view that the topic would touch on one of the greatest challenges of our time. Indeed, sea-level rise has become a global phenomenon and thus creates global problems, impacting on the international community as a whole. Accordingly, we are positive with a forthcoming Study Group on this topic and in favor of including this topic to the work programme of the Commission at its coming sessions.

Thank you, Mr. Chairman./.