PERMANENT MISSION OF THE REPUBLIC OF BULGARIA TO THE UNITED NATIONS

11 East 84th Street, New York, NY 10028, Tel: (212) 737 4790, Fax: (212) 472 9865, e-mail: bulgaria@un.int

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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS SEVENTY-SECOND SESSION

CLUSTER I – Chapters: I, II, III, IV (Protection of the Atmosphere), V (Provisional Application of Treaties) and X (Other Decisions)

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Delivered by

Tzvety Romanska, Counsellor/Legal Advisor

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Madame Chair,

As this is the first time my delegation is taking the floor, allow me to congratulate you and the distinguished members of the Bureau of the Sixth Committee on your election and to assure you of my delegation's full support. We trust that under your able and exemplary leadership the Committee will successfully proceed with its deliberations and will achieve its goals during the current challenging times.

We would like to thank Mr. Mahmoud Hmoud, the Chair of the International Law Commission for his presentation of the Commission's report and all the members of the Commission for the high quality of their inputs.

Bulgaria aligns itself with the statement delivered by the European Union.

Protection of the atmosphere

Madame Chair,

Bulgaria expresses its satisfaction with the adoption of the twelve guidelines, together with a preamble and commentaries to them on the topic of the Protection of the atmosphere. The work of the Commission and the Special Rapporteur on the topic has made a significant contribution to clarifying the subject matter of these guidelines. Bulgaria supports the Commission's suggestion for the General Assembly to take note of the preamble and the guidelines, as well as their submission as an annex to the resolution of the GA for widest dissemination.
We are grateful for the devoted work of the Special Rapporteur, Mr. Shinya Murase, on the topic.

We find the provision of guideline 9 para. 1 particularly valuable by providing that the rules of international trade and investment law, the Law of the Sea and the international human rights law among other relevant norms of international law should be interpreted and applied in order to give a single set of compatible obligations hence avoiding conflicts and in conformity with the rules set down by Articles 30 and 31, para.3 (c) of the Vienna Convention on the Law of the Treaties, and the principles of customary international law.

It should be noted that the Commission makes it clear that, although the polluter-pays principle and the precautionary principle do not apply for these guidelines, their legal relevance is not disputed in any way by the text.

In line with the high relevance of the debate on global deterioration of atmospheric conditions, including climate change at the current moment, we agree with the understanding of the Commission that the term “atmospheric pollution” excludes possible causes that are a subject of current debates and discussions at the political level. In this regard, the understanding that due care with regard to the obligation to protect the atmosphere is an obligation of conduct rather than an obligation of result, should also be supported.

At the same time, we consider the text of guideline 5 para. 2 which envisages combining the need for economic development with the need to protect the atmosphere to be balanced and pragmatic.

We approve the widespread use and application of scientific expertise in the application of the provisions governing the peaceful settlement of disputes, namely guideline 12, that may arise in connection with the protection of the atmosphere from atmospheric pollution and atmospheric degradation. This approach is in line with the modern standards in the field of international environmental law and with the means for peaceful settlement of disputes.

Provisional application of treaties

Madame Chair,

With regard to Chapter V of the Commission's report on the topic of Provisional application of Treaties, Bulgaria is grateful to the Special Rapporteur Mr. Juan Manuel Gomez Robledo for his excellent work in preparing the text of the guidelines and the commentaries thereto.

We find the Special Rapporteur's effort to provide detailed examples from both bilateral and multilateral treaties on the various elements of the provisional application of treaties, and practice from all geographical regions, to be extremely fruitful. We highly appreciate the potential practical effect of the guidelines, as they provide guidance and clarity on questions left unanswered by Article 25 of the 1969 Vienna Convention on the Law of the Treaties. The present guidelines were used by the time of the drafting in a legal opinion with regard to a decision of the Constitutional Court of the Republic of Bulgaria in relation to a preliminary question concerning the concept of “the provisional application”. It should also be noted that the dynamics of drafting international instruments during the pandemic provided space for the practical application of this concept.

We welcome the broad scope embraced by the Guide with regard to the inclusion of international organizations in guideline 1 and the purposeful clarification

regarding responsibility for breach in guideline 8 and termination procedures in guideline 9.

We are also supportive of the preparation of a compilation of the practice of States and international organizations in the provisional application of treaties. In this regard it is worth mentioning that Bulgaria formulated the opt-in clause for the provisional application of the Protocol for amendment of Convention 108 of the Council of Europe by using the guidelines prepared by the Commission.

Other Decisions

Madame Chair,

With regard to Chapter X of the Report "Other decision and conclusions of the Commission", at first, we would like to express our gratitude to the members of the Commission on the occasion of the virtual memorial meeting in honour of the memory of Judge Alexander Yankov. Judge Yankov was a former Chair of the Commission and Special Rapporteur on the topic “Status of the diplomatic courier and the diplomatic bag not accompanied by the diplomatic courier”. He is one of the most respected and prominent Bulgarian lawyers, with a long diplomatic career in the field of international law, who has contributed significantly not only to the work of the International Law Commission, but to other fields from which we can particularly distinguish the Law of the Sea. Bulgaria expresses its gratitude to the members of the Commission who honoured the memory of Professor Yankov, not only as a distinguished lawyer and diplomat, but also as a respected colleague and friend. In practical terms, based on the work done by the Commission on the topic of the diplomatic courier and the diplomatic bag, Bulgaria significantly amended its internal legislation in adapting it for the challenges presented by the COVID-19 pandemic.

Next, we would like to express our appreciation for the efforts made by the honourable members of the Commission and the satisfactory results achieved by implementing the hybrid format for the Commission's meetings at its 72nd session. The combination of in person meetings in the Palais des nations and online zoom discussions with simultaneous interpretation into all official languages of the Organization has contributed to the successful holding of the 72nd session of the Commission in the context of an ongoing pandemic and to the significant progress on its agenda and tasks. We note the difficulties encountered by the members of the Commission in applying the new working methods and hope that, with the assistance of the Commission’s Secretariat and the lessons learned from its last session, these methods could be applied in the future, if necessary.

Turning to the forthcoming elections of members of the Commission, we believe that this year presents us with an important opportunity to move its membership closer to the goal of achieving better gender parity.

Last but not least, we would like to express our gratitude and appreciation to the experts of the Secretariat of the Sixth Committee of the General Assembly, who also perform the functions of the Secretariat of the ILC for their persistent efforts, including in recent times of unprecedented difficulties caused by the global pandemic, in order to ensure the smooth running of the Commission's meetings and to provide the much-needed contacts and dialogue with Member States' delegations.

In concluding, Bulgaria hopes that the International Law Seminar will reconvene during the next session after its interruption for the last two years. The seminar has proven over the years as a unique platform for the practical introduction into the field of international law for young lawyers from all geographical regions and especially those from developing states and in this sense is one of the most successful achievements of international cooperation in the field of international law.

Thank you.