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**Statement**

**by**

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**of the Permanent Mission of Thailand to the United Nations**

**before the Sixth Committee**

**of the 76<sup>th</sup> Session of the United Nations General Assembly**

**Agenda item 82**

**Report of the International Law Commission**

**on the work of its seventy-second session (Cluster I)**

**New York, 27 October 2021**

**As delivered**

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**Madam Chair,**

1. On behalf of my delegation, I wish to thank Mr. Mahmoud Hmoud, current Chair of the International Law Commission, for his comprehensive report on the work of the seventy-second session of the Commission. We are glad to witness the election of the first chairwoman of the drafting committee in the ILC history, Ms. Patrícia Galvão Teles, and commend her for the work done in special conditions. We would also like to express our appreciation to all members of the Commission, including a newly elected member to fill the vacancy, for their contribution to further the progressive development and codification of international law. We welcome the resumption of ILC work and congratulate the Commission for its successful conclusion of the session in the “new normal” setting.

2. With respect to the designated Cluster I of the ILC Report, Thailand welcomes the adoption of **the Draft Guidelines on the Protection of the Atmosphere** and **the Draft Guide to Provisional Application of Treaties** with their respective commentaries. We express our deep appreciation to the Special Rapporteurs, Mr. Shinya Murase and Mr. Juan Manuel Gómez Robledo, respectively, for their hard work.

CHAPTER IV

PROTECTION OF THE ATMOSPHERE

**Madam Chair,**

3. Thailand views that the contribution of the ILC in rather technical issues such as the protection of the atmosphere can be useful and can **enrich the discussion in other fora**. The Draft Guidelines on the Protection of the Atmosphere is a good example of in-depth analysis of key principles of international law that apply to often complex and cross-cutting issues, including due diligence, obligation to cooperate and peaceful settlement of disputes, which can address the fragmentation of international law.

CHAPTER V  
PROVISIONAL APPLICATION OF TREATIES

**Madam Chair,**

4. Turning to the topic of **provisional application of treaties**, allow me to highlight the following points:

5. First, Thailand wishes to echo **the rationale of the Draft Guideline 12 and its commentary**. Given the fact that the provisional application of treaties might not be possible at all under the internal law of States,<sup>1</sup> it is essential and proper that the Draft Guide **unambiguously reflects the consensual nature** of the provisional application of treaties.

6. Second, while facilitating the entry into force of treaties, the provisional application should not undermine or delay consent-to-be-bound processes of negotiating parties. In order **to prevent the potential challenges of the provisional application**, Thailand shares the view of other delegates that the provisional application of treaties should have **a fixed time period of implementation**. The negotiating parties should resort to the provisional application of treaties only when **there is a real necessity** to begin implementation of treaties before their entry into force, including primary factors,<sup>2</sup> such as to address urgency<sup>3</sup> and to ensure continuity of the implementation of treaties.

7. Thailand believes that the completion of the Draft Guide to Provisional Application of Treaties at this stage will provide mutual understanding and uniformity for state practice in this regard. Thailand therefore would like the ILC to continue its work on various aspects of treaty law and to facilitate States in their treaty-making process as treaties continue to be one of the most prolific sources of international law.

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<sup>1</sup> A/76/10, page 86

<sup>2</sup> A/CN.4/664, paragraph 25 - 35

<sup>3</sup> A/CN.4/658, paragraph 38

CHAPTERS I, II, III, X (OTHER DECISIONS)

**Madam Chair,**

8. Concerning Chapter X of the report, Thailand takes note of the inclusion of the topic “**Subsidiary means for the determination of rules of international law**” in the long-term programme of work of the Commission to complete the work on sources of international law as defined in Article 38 paragraph 1 of the Statute of the International Court of Justice. The contribution of the ILC regarding sources of international law is unique and valuable; however, the limited use of the subsidiary means for the determination of rules of international law might pose some challenges to gain interest and inputs from Member States.

9. Thailand welcomes the new format of this ILC session in **a hybrid setting** which has allowed long-distance participation of its members, despite the travel restrictions, and accessible via UN Web TV. We believe that the webcasting, at least for the plenary session, represents a good practice as it provides wider access to the ILC’s work by Member States and interested parties. Therefore, we would also like to encourage the continuation of this practice and the use of technology and electronic format of documents **as a subsidiary means** to facilitate the work and documentation of the ILC.

**Madam Chair,**

10. Thailand hopes that the ILC will **re-engage with other international and regional organisations**, including the Asian-African Legal Consultative Organization (AALCO) when the pandemic situation improves. Such engagement significantly helps to synchronise and create synergies between the international and regional efforts in promoting the wider appreciation of international law.

11. We also hope that the International Law Seminar will be able to resume next year. It has provided a great opportunity for young international lawyers, especially those from developing countries, to enhance their knowledge about the work of the ILC. In this regard, we wish to thank Member States that continue to make voluntary contributions to the **United Nations Trust Fund for the International Law Seminar**.

**Madam Chair,**

12. Today, the United Nations must step up its efforts to strengthen the international legal framework and advance the rule of law. Many emerging challenges require practical and adequate legal principles to cope with rapid changes and global transformation. The ILC's vital role in the codification and progressive development of international law must continue to provide **clarity, predictability and universality** of the positive law. The work of the ILC should also be reflective of all voices and responsive to the concerns of all States.

13. It is therefore our hope that **the ILC will be more accessible**, that the interaction between the ILC and the Sixth Committee will be further enhanced through formal and informal channels, and that the work of the ILC will be more inclusive with increased participation of all interested parties.

I thank you.

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