



**PERMANENT MISSION OF THAILAND
TO THE UNITED NATIONS
351 EAST 52nd STREET · NEW YORK, NY 10022
TEL (212) 754-2230 • FAX (212) 688-3029**

Statement

by

**Mrs. Vilawan Mangklatanakul,
Director-General,
Department of Treaties and Legal Affairs,
Ministry of Foreign Affairs of the Kingdom of Thailand**

**before the Sixth Committee
of the 74th Session of the United Nations General Assembly**

**Agenda Item 79:
Report of the International Law Commission on the work of
its seventy-first session (Cluster II)**

New York, 1 November 2019

Check against delivery

Mr. Chair,

1. Following the fruitful discussion on the current work of the Commission in Cluster I, my delegation wishes to share its views on Chapters VI, VIII and X of the ILC Report, which have been assigned to Cluster II.

2. On the topic “**Protection of the environment in relation to armed conflicts**”, we would like to express our appreciation to the Special Rapporteur, Ms. Marja Lehto, for her second report. We would also like to thank the previous Special Rapporteur, Ms. Marie G. Jacobsson for her valuable contribution to the work on this topic.

3. Thailand wishes to congratulate and commend the Commission for the provisional adoption of the draft principles and the commentaries on the protection of the environment in relation to armed conflicts on first reading.

4. My delegation supports the idea behind draft principle 25 which calls for the cooperation among relevant actors, including international organisations, such as UNEP, UNESCO, and ICRC, with respect to post-armed conflict environmental assessments and remedial measures. Interaction and engagement with these actors, given their vast experiences and expertise in different areas, will help us understand the environmental consequences of armed conflicts and determine the most appropriate preventive and remedial measures that must be taken, for instance, the inclusion of environmental recovery programmes in national development plans of the concerned State.

5. Additionally, the draft principles acknowledge the dependence of the people on the environment for their survival and livelihood as well as their health, both in times of peace and conflict. Thus it is incumbent on mankind to be accountable for actions that have a detrimental impact on the environment. This is particularly the case for draft principle 9 regarding responsibility of the State resulting from an internationally wrongful act that causes damage to the environment to make full reparation for the damage done. This is the most important element of accountability.

6. Thailand will continue to follow the development of the work of the Commission in this area closely, with the hope that these draft articles will be further refined in order to address the gaps when concurrently implementing these existing bodies of law.

Mr. Chair,

7. Turning now to the topic “**Immunity of State officials from foreign criminal jurisdiction**”, my delegation wishes to commend the Special Rapporteur, Madame Concepción Escobar Hernández for her seventh report on the remaining procedural aspects of immunity.

8. Thailand wishes to once again stress the need to strike the right balance between according immunity to and ending impunity of State officials in foreign criminal jurisdiction.

9. We see the value of the elements in draft articles 8 to 11 for further clarifying the steps in relation to immunity of a State official, and clearly distinguishing the consideration, determination, invocation and waiver of immunity. In addition, the elements on procedural safeguards are useful in support of such application of immunity, aimed at maintaining friendly relations between the forum State and the State of the official and protecting their interests by encouraging communication and cooperation between the forum State and the State of the official to ensure transparency and due process.

10. With regard to the determination of immunity, my delegation is of the view that the principle of sovereign equality of States should be underlined and taken into due consideration. Therefore, the forum State court would be competent to exercise jurisdiction to determine whether immunity can be invoked or not, by taking into account also whether the State of the official has invoked or waived immunity.

Mr. Chair,

11. Turning to the topic “**sea-level rise in relation to international law**”. My delegation fully supports the proposed programme of work of the Study Group over the next two years. This topic must be taken up urgently. My delegation looks forward to following the work of the Study Group and the Commission on this topic very closely. We expect great work to be accomplished, which has life changing implications for small island and low-lying states.

12. The rise of the sea-level will impact territories, maritime jurisdiction and baselines, and consequently have repercussions on existing maritime boundary agreements. A question then arises as to whether a State, in certain cases, can invoke the principle of “fundamental change of circumstances” in accordance with Article 62 of the 1969 Vienna Convention on the Law of Treaties to terminate or

withdraw from such an agreement. In principle, and in line with Article 62 (2) of VCLT, we are of the view that existing entitlements should be upheld in order to maintain peace, stability and friendly relations among nations – therefore, a fundamental change of circumstances should not be invoked in relation to maritime boundaries. The rights of Member States in relation to maritime zones and boundaries guaranteed by UNCLOS must be protected.

13. It is also important for the Commission to take into consideration the progress of the work of other relevant fora on the law of the sea to ensure consistency and complementarities between various tracks.

I thank you Mr. Chair.