

(Check against delivery)

STATEMENT OF THE CHAIR OF THE INTERNATIONAL LAW COMMISSION,

MR. PAVEL ŠTURMA

28 October 2019

Mr. Chair,

I wish to thank you most sincerely for your generous and kind sentiments addressed to the International Law Commission, which on this occasion I have the honour to represent as its chair at its ~~presently first session. Please accept warm felicitations to you all and the best wishes from the Commission~~

Mr. Chair,

programme during its session. First, the Commission concluded the second reading of the topic "Crimes
against humanity." It adopted a full set of draft articles and commentaries thereto. Second, the Commission

adopted two years ago. The fourth report addressed the comments and observations made by

adopted on first reading and made recommendations for each draft article.

The draft articles before you follow the pattern of existing criminal law enforcement

proposed preamble, the prohibition of crimes against humanity is a peremptory norm of general international law (*jus cogens*). Crimes against humanity are among the most serious crimes of concern to the international community as a whole. The obligation rests on the international

community to ensure that they must be prevented and punished in conformity with international law. An end to impunity is realizable when the international community acts together.

Mr Chair

With respect to the topic “**Peremptory norms of general international law (*jus cogens*)**”, which is addressed in **chapter V** of the report, the Assembly has before it a set of 23 draft conclusions and a draft annex, adopted on first reading, together with commentaries thereto. The Commission decided, in accordance with articles 16 to 21 of its statute, to transmit the draft conclusions, through the Secretary-General, to Governments for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by **1 December 2020**. Since 2015, the Commission, with the outstanding contribution and tireless efforts of Special Rapporteur Dire Tladi, has been elaborating the content of these draft conclusions. This is the first time that the Sixth Committee sees them in their entirety. It will be recalled that last year the Commission presented to the Assembly draft conclusions on the

their acceptance and recognition, as well as subsidiary means for their determination. As concerns

~~the draft conclusions, the draft conclusions address a number of aspects. First, they consider~~

matters concerning treaties conflicting with *jus cogens* norms, including inter temporal questions; questions of separability; consequences of invalidity and termination; and the effect of reservations. Second, the conclusions address situations where rules of customary international

law conflict with *jus cogens* norms. Third, the draft conclusions consider aspects of conflict as they may relate to obligations created by unilateral acts or by resolutions, decisions and other acts

chapter VI of the report. In accordance with articles 16 to 21 of its statute, the Commission

Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict.

From the onset, the Commission decided to approach the topic bearing in mind three temporal phases, namely before, during, and after armed conflicts. The 28 draft principles before you are accordingly follow that structure even though there is no strict dividing line between the

different phases. The draft draft principles are divided into five parts. The "Introduction" contains draft principles on the scope and purpose of the draft principles. The draft principles seek to clarify the rules and principles of particular relevance, directly relevant, and/or applicable in relation to the environment and armed conflicts. The purpose is not to modify the law of armed conflict but rather to enhance the protection of the environment in relation to armed conflict, including through

harm caused by them to the environment, including in relation to human health, in an area of armed conflict or in a post-armed conflict situation.

Part Three concerns the protection of the environment *during* armed conflict. **Draft principle 12** is inspired by the Martens Clause that originally appeared in the preamble to the 1899 Hague Convention (II) with Respect to the Laws and Customs of War on Land referring to “the laws of humanity, and the requirements of the public conscience.” The draft principle similarly provides that even in cases not covered by international agreements, the environment remains ~~under the protection and authority of the principles of international law derived from established~~

custom, from the principles of humanity and from the dictates of public conscience. **Draft principle 18** restates the prohibition of pillage of natural resources, while **draft principle 19** on environmental modification techniques draws on the 1976 Convention on the Prohibition of Military or Any Hostile Use of Environmental Modification Techniques.

Mr. Chair

addressed in **chapter VII** of the report. The has been on this topic since 2017 and I am honoured
to be the Special Rapporteur of the Commission on the topic. The orientation of the topic is to

They give priority to agreements between States, considering in particular that State practice on the subject is “diverse, context-specific and sensitive”. The Commission also took note of the interim report of the Chair of the Drafting Committee on draft articles 7, 8 and 9 provisionally adopted by the Committee, which was presented to the Commission for information only.

It is anticipated that in the future work, the Special Rapporteur will address forms of responsibility (e.g. restitution, compensation and guarantees of non-repetition) in the context of

It is worthwhile to recall that debate on the sixth report was uncompleted from last year

and the report itself offered an analysis of three components of procedural aspects related to the

immunity. The seventh report completes an examination of these aspects and delves further into questions concerning invocation of immunity and waiver of immunity. It also examines aspects concerning procedural safeguards related to the State of the forum and the State of the official, considers the procedural rights and safeguards of the official. Overall, nine draft articles, that is draft articles 8 to 16, were proposed and the debate on these matters is reflected in **paragraphs 122 to 201 of the report**. Following the debate in plenary, the Commission decided to refer the

Commission related to general principles of law thereby providing an overview of the

aspects of the topic and future work on the topic. The debate of the Commission on the subject is contained in **paragraphs 203 to 262 of the report.**

Following the debate in plenary, the Commission decided to refer draft conclusions 1 to 2

to international law.

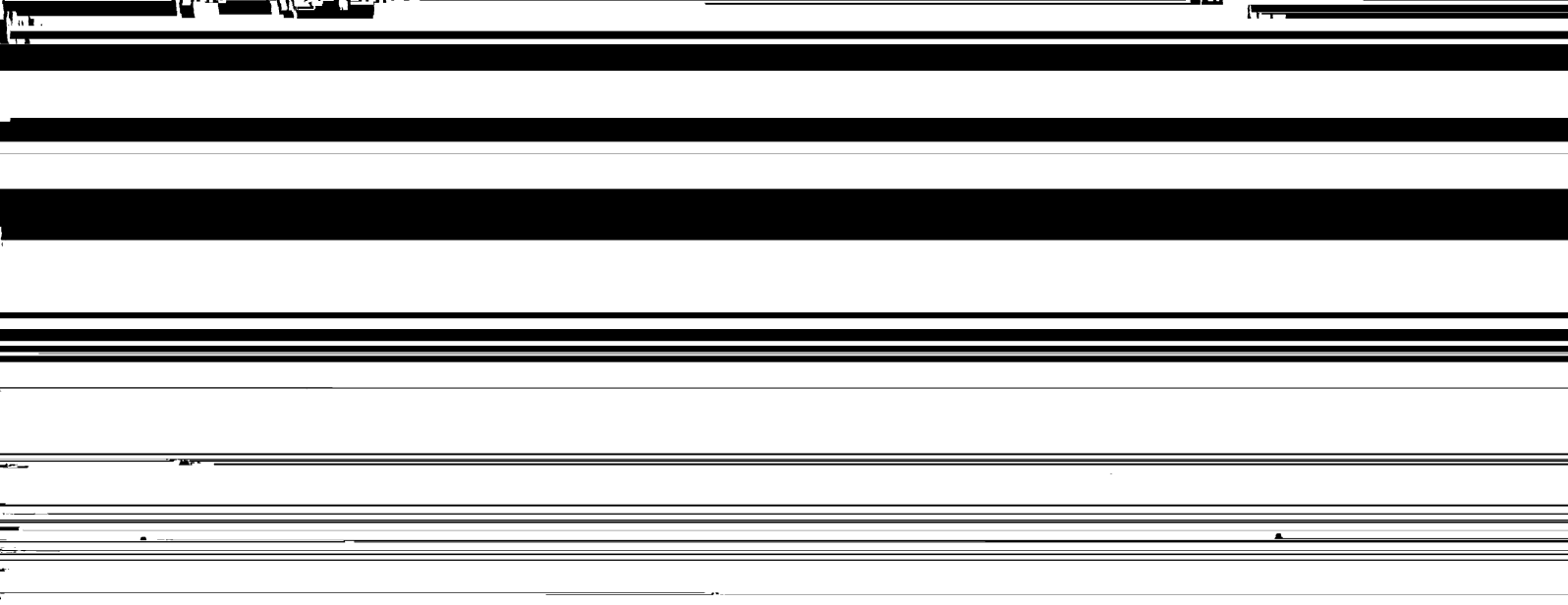
In 2020, the Study Group is expected to focus on the subject of sea-level rise in relation to the law of the sea. In this connection, the Commission would appreciate receiving, **by 31 December 2019**, examples from States of their practice that may be relevant (even if indirectly) to sea-level rise or other changes in circumstances of a similar nature. Such practice could for

made during both the plenary debate and in the Drafting Committee. To this end, the Special Rapporteur on the topic, Juan Manuel Gómez Robledo, convened informal consultations to

consider the draft model clauses, the summary of which is reflected in paragraphs 274 to 284 of

the Report. The proposed draft model clauses were presented to the Drafting Committee on

Commission. The Commission is most appreciative of the Secretariat for its memorandum on information on treaties which may be of relevance to the future work of the Commission on the topic "Succession of States in respect of State responsibility" (A/CN.4/720). It has further been



requested to prepare a memorandum surveying the case law of inter-State arbitral tribunals and international criminal courts and tribunals of a universal character, as well as treaties, which would be particularly relevant for its future work on the topic "General principles of law".

This concludes my presentation of the report and I thank you very much for your kind attention.