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STATEMENT BY

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Mr. Chairman,

First of all, allow me to express my personal congratulations on your election as Chairman of the Sixth Committee for this session. I had the privilege of working with you for several years in the past, and I had the opportunity to fully appreciate your competence and dedication. My congratulations go also to the other members of the Bureau.

Mr. Chairman,

This statement of the Italian delegation deals with the topics respectively discussed in Chapters IX, X and XI of the Commission's report: protection of the environment in relation to armed conflicts, the obligation to extradite or prosecute and the most-favoured nation clause. I am extremely grateful to the Chairman of the International Law Commission, Ambassador Niehaus of Costa Rica, for his presentation of the report on these topics.

As regards the protection of the environment in relation to armed conflicts, Italy supported the inclusion of this topic in the programme of work of the Commission and we are happy to see that work on the subject has advanced under the able guidance of the Special Rapporteur, Mrs. Marie Jacobsson. This year's report of the ILC indicates that an informal dialogue took place between the Special Rapporteur and the members of the Commission on a number of elements, including scope and methodology, the general direction and the timetable for future work.

Mr Chairman,

Rules pertaining to different areas of international law, including international environmental law, the law of armed conflicts, and the norms on the protection of cultural property, are by their very nature complex and interdependent. As a result, dealing with the protection of the environment in relation to armed conflicts requires a thorough and comprehensive examination of these bodies of law. In this regard, we note that the suggestion was made on the part of the Special Rapporteur to deal with the topic through a temporal perspective. In substance, the Commission would be called to address "legal measures taken to protect the environment before, during and after an armed conflict"; to identify legal issues relating to each stage; and develop concrete conclusions or guidelines. This could be one way of addressing the subject. At the same time, we are not fully convinced that a strict dividing line between temporal phases of the conflict is required for the consideration of the topic. In our view, it might be preferable to examine the interrelations between the different bodies of law involved having in mind, on the one side, the existing legislation and, on the other, the trends towards its further development.

For example, it has already been noted that the law of armed conflict, including international humanitarian law, consists of rules which are applicable before, during and after an armed conflict; with some principles (in particular, the protection of civilian population) representing a common element in all these different phases. The same applies to international environmental law, where leading features such as the precautionary principle, the principle of mutual assistance in case of

massive environmental damage and the polluter pays principle often need to be considered together in order to assess their effectiveness for the purposes of the topic before the Commission.

We would also like to emphasize that, for our purposes, the concept of protection of the environment should be intended in a rather broad sense that would include, as we have incidentally noted, areas such as the protection of cultural property, which is gravely put at risk in situations of international or internal conflicts. Recent examples of destructions, looting and illegal traffic of cultural goods during or after conflicts have shown how important is to focus the attention of the international community on this phenomenon and its lasting negative effects, both economic and spiritual, for the communities concerned. This is even more true, if we keep in mind that next year will mark the 60th anniversary of the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict.

Mr. Chairman,

In concluding my remarks on this topic, I wish to confirm the support of my delegation for the continuing engagement of the Commission in addressing the protection of the environment in times of armed conflicts. We also agree with the suggestion by the Special Rapporteur that the topic is more suited to the development of draft non-binding guidelines. The Commission should not aim at preparing a draft convention. Rather, what would be in our view important and useful is to provide a sort of handbook that would reflect, on the one side, existing basic norms in the various fields of the law involved; and, on the other side, the elements that signify a possible evolution of relevant State practice.

In line with this suggestion, it is also our hope that steady progress in the work of the Commission will allow to achieve substantial results in a reasonable period of time.

Mr. Chairman,

Turning now to the topic “Obligation to Extradite or Prosecute (*aut dedere aut judicare*)”, we wish to praise the work conducted within the Working Group chaired by Mr. K. Kittichaisaree and reflected in Annex A to this year’s report. In the Annex, a number of important aspects of the topics are summarized and underlined, particularly in light of the 2012 judgement of the International Court of Justice in the case of “*Questions relating to the Obligation to Prosecute or Extradite*” (*Belgium v. Senegal*).

Various elements in the Annex are of great relevance for the future work of the Commission. Firstly, the strict connection between the obligation to extradite or prosecute with the States’ duties to cooperate in the fight against impunity. Secondly, the review of the different types of provisions in multilateral instruments containing the formula “*aut dedere aut judicare*”, with special emphasis on the separate opinion of Judge Yusuf in the said ICJ judgement. Thirdly, the identification of gaps in the present conventional regime related to the obligation to extradite or prosecute. Moreover, the Annex contains a detailed reading of the 2012 judgement in *Belgium v. Senegal* with regard to the implementation of the duty to extradite or prosecute, including through the alternative of surrendering a suspect of grave international crimes to a competent international criminal tribunal.

Mr. Chairman,

We remain convinced of the usefulness of the work of the Commission on the topic of the obligation to extradite or prosecute. This normative mechanism, which is rooted in a long-standing tradition of conventional instruments to combat the most serious crimes, is in fact aimed at filling

the lacunae that may allow those responsible for these crimes to escape prosecution and punishment. We look forward to further progress in the ILC's analysis of the issues involved.

Mr. Chairman,

Finally, just a few remarks on the topic entitled "The most-favoured nation clause". We wish to express our appreciation for the work conducted by the Study Group on this matter. We share the view, expressed within the Group, that its final report, while focused on the area of investments, would also address broader aspects of international law which are relevant in respect of MFN clauses. As an alternative to developing guidelines and model clauses, it could be useful, as suggested by the Group, to simply catalogue the examples of clauses contained in relevant treaties and call the attention of States to the interpretation given to them by various arbitral awards.

Thank you, Mr. Chairman