



**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. Piranaj Thongnopnua Yvard

First Secretary

Permanent Mission of the Kingdom of Thailand

**before the Sixth Committee
of the 73rd Session of the United Nations General Assembly**

**Agenda Item 82:
Report of the International Law Commission
on the work of its seventieth session (Cluster II)**

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Thank you, Mr. Chair, for giving me the floor.

Chapter VII **Provisional application of treaties**

With regard to Chapter VII on the topic of provisional application of treaties, Thailand wishes to thank the Special Rapporteur for his fifth report. Thailand also welcomes the adoption of the draft Guide to Provisional Application of Treaties adopted by the Commission on the first reading and looks forward to the development of draft model clauses. These guidelines help clarify the scope of application of article 25 of the Vienna Convention on the Law of Treaties, in particular questions regarding the provisional application of international organizations and the legal effects of the provisional application of a treaty or a part of a treaty, among others.

With regard to the commencement of provisional application, Thailand is a country with a dualist system. Therefore, the application of a treaty or the provisional application of a treaty or a part of a treaty will not automatically form part of Thai law unless properly legislated domestically through internal procedures.

Finally, Thailand welcomes the approach concerning the termination and suspension of provisional applications in Guideline 9. Since the provisional application of a treaty would produce the same legal effect as if the treaty were in force, it is only rational therefore that the relevant rules governing the termination and suspension of the operation of treaties as set forth in the Vienna Convention on the Law of Treaties should apply *mutatis mutandis* to the provisional application of a treaty or a part of a treaty.

Chapter VIII **Peremptory norms of general international law (*jus cogens*)**

Mr. Chair,

On the topic of peremptory norms of general international law (*jus cogens*), Thailand would like to thank the Special Rapporteur for his third report on the subject and welcomes the proposal of thirteen additional draft conclusions.

Thailand would like to reiterate the comments made by our delegation last year. First, that the threshold for the identification of *jus cogens* needs to be higher and more precise than simply “a large majority of States”, which, at least in the view of our delegation, is lower than what the term “as a whole” would require.

Second, that establishing an illustrative list of *jus cogens* may actually hinder the development of *jus cogens* itself, which may and should evolve over time. We would be interested to study the proposals by the Special Rapporteur on this issue in his next report.

Regarding the question of whether or not regional norms of *jus cogens* exist, my delegation is of the view that the acceptance of the existence of regional *jus cogens* would contradict and undermine the notion of *jus cogens* being norms “accepted and recognized by the international community as a whole”, and therefore would not be possible under international law.

I thank you, Mr. Chair.
