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**Statement**

**by**

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**before the Sixth Committee  
of the 74<sup>th</sup> 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 I)**

**New York, 29 October 2019**

**Check against delivery**

**Mr. Chair,**

1. My delegation wishes to begin by congratulating the International Law Commission for the successful conclusion of its seventy-first session and to express our appreciation to Mr. Pavel Šturma (พาวเวล ชเตอร์มา) for his chairmanship and the comprehensive presentation of the ILC report.

2. With regard to the topic of “**Crimes against humanity**”, Thailand wishes to commend the Special Rapporteur, Mr. Sean Murphy, for his outstanding contribution to the work of the ILC on this topic and take note of the adoption of the entire set of the draft articles on prevention and punishment of crimes against humanity on second reading by the Commission.

3. Thailand reiterates its support for the Commission’s work on this topic. My delegation is positively considering the recommendation by the Commission for an elaboration of a convention by the General Assembly or by a diplomatic conference on the basis of the draft articles. We are of the view that such a convention will help facilitate national prosecutions, end impunity and strengthen international cooperation in the suppression of crimes against humanity.

4. We emphasise the need for the prevention of heinous crimes and the strengthening of the rule of law. Therefore, Thailand recognizes the necessity of draft article 4, concerning effective preventive measures and international cooperation to prevent crime against humanity in conformity with the rules of international law.

5. Thailand wishes to express its support for draft article 10 on the obligation to prosecute or extradite (*aut dedere aut judicare*) as well as draft articles 13 and 14 on extradition and mutual legal assistance, particularly, the rationale behind paragraph 3 of draft article 13 where the political offence exception is precluded.

6. We see the value in draft article 10 as it contains essential elements that may assist States in fulfilling their obligations under international law in the manner that they consider to be most appropriate for each particular context. It is our firm belief that these elements are critical in closing jurisdictional gaps, preventing alleged perpetrators from going unpunished and fighting against impunity.

7. On these notes, we will continue to follow the further development of this topic closely.

Mr. Chair,

8. On the topic of “**Peremptory norms of general international law (*jus cogens*)**”, Thailand would like to thank the Special Rapporteur, Mr. Dire Tladi (ดิเร ทลาดิ), for his fourth report on the subject. We welcome the adoption of the draft conclusions by the Commission on first reading.

9. Thailand agrees with the general approach of using the definition of *jus cogens* as stipulated in Article 53 of the 1969 Vienna Convention on the Law of Treaties (VCLT) as basis for draft conclusion 2, which is the most widely accepted definition of *jus cogens* today.

10. With respect to draft conclusion 7 on identification of *jus cogens*, because of its extraordinary legal effects, we need to be very careful about the “acceptance and recognition by the international community of States as a whole” criterion. Now that the threshold has been raised to “a very large majority of States”, it still needs to be further clarified and deliberated upon in order to determine whether or not it is sufficient, noting that the subjective nature of this type of threshold is a real challenge. At the outset, in our view, it still does not accurately reflect what the negotiators of Article 53 of the VCLT had intended. The term “as a whole” requires a much higher threshold than simply a “large majority” or even “a very large majority”. However, generally, we would agree with the Commission that it is not only about a matter of numbers. Indeed, what also needs to be taken into account is the universality of acceptance and recognition across regions, legal systems and cultures, among other things.

Mr. Chair,

11. With regard to draft conclusion 23 and the annexed non-exhaustive list of *jus cogens*, my delegation expressed our views at the 72<sup>nd</sup> session that creating a list might hinder the dynamic evolvement of *jus cogens*. We note that the draft conclusion clearly states that the list is not exhaustive and is without prejudice to the existence or subsequent emergence of other peremptory norms. However, we interpret such list

as merely a set of examples which states can observe when developing criteria for the universal acceptance of *jus cogens* rather than codifying them.

12. Once again, Mr. Chair, Thailand will continue to follow the work of the Commission with great interest and look forward to the exchange of views with other Member States on this very important issue.

Mr. Chair,

13. Turning now to Chapter XI, we appreciate the Commission's decision to include the topic "**Sea-level rise in relation to international law**" in its programme of work and to establish an open-ended Study Group. The initial stage of work on this topic will be very critical, in particular the legal implications of sea-level rise with respect to the law of the sea, including in relation to maritime boundaries and the protection of persons affected by such phenomenon. We trust that this work of the Commission will benefit not only coastal States, but also the international community as a whole.

I thank you.