



STATEMENT
By the Delegation of Viet Nam
at the Sixth Committee of the 78th Session of the General Assembly
*Agenda item 79 ³Report of the International Law Commission on the work of its
seventy-third and seventy-fourth sessions*

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Mr. Chair,

My delegation would like to thank the International Law Commission for the comprehensive report on the work of its seventy-fourth session. Viet Nam appreciates the contribution of the Commission in promoting universal respect for international law, including through the codification and progressive development of international law.

In the first cluster, our delegation would like to deliver observations on Chapter III, IV and VIII of the Report.

Mr. Chair,

1. With your kind permission, I would like to deliver observations on the part of my delegation would like to extend our appreciation to the Commission for the completion of the first reading of the draft articles as well as look forward to the continuation of this topic. We would like to thank the Commission for inviting States to submit comments, observations and practices on this topic and would like to make the following observations.

The exercise of criminal jurisdiction and the principle of territoriality are matters of domestic law, while the principles of sovereign equality, non intervention in the domestic affairs of States belong to international law principles. Therefore, in our view, criminal jurisdiction of foreign officials should only be exercised after resorting to consultation and exchange with the concerned

government, through diplomatic or other official channel, with due regard to related rules of international law. Perhaps for this reason, Viet Nam experiences few practices in the exercise of criminal jurisdiction on foreign state officials.

Mr. Chair,

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commend the Commission for its dedicated efforts, with the valuable support of the Special Rapporteur, Mr. Marcelo Vasquez, that led to the adoption on 11 draft conclusions on the first reading, within a relatively short period of time since this topic was included in the program of work of the Commission in 2018. In our view, the set of 11 draft conclusions and commentaries thereof would provide a broader perspective of the topic and allow States to come up with more relevant comments and observations.

My delegations would begin with comments on certain individual draft conclusions and later, examine the set of draft conclusion by applying it to a particular example.

international law. For this purpose, we choose the principle of interpretation
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addition to the text of the agreement, the intentions of the parties in concluding that
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The application of the draft conclusions consists of three steps. Firstly,
Conclusion 4 (a) and 5 require in order to be considered a general principle of law,
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principle of taking intentions of the parties into account when interpreting
agreements meets this criteria. Secondly, this principle of interpretation of
agreements is transposable to the international legal system system based on
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Conclusion 6 that the community of nations has recognized that a principle is
transposed in the international legal system.

However, the truth is that the principle of taking into account intentions of
parties in the interpretation of agreements was not supported by the drafters of
Article 31 of the Vienna Convention on the Law of Treaties 1969. As you know,
the Vienna Convention on the Law of Treaties favors the text as authentic means
of interpretation and prescribes specific steps for interpretation of treaties.

Thus, in this example, the application of the draft conclusions leads to
unsatisfactory result as it creates more uncertainty and conflict rather than reduce
them. Draft Conclusion 11 which rejects hierarchy between general principle
law and other sources of international law and suggests the application of the
generally accepted techniques of interpretation and conflict resolution in
international law does not seem to help solving the problem.

In light of the above, my delegati suggests the Commission to revisit the
set of draft conclusions, particularly draft Conclusion 6 and draft Conclusion 11.
Higher threshold for transposition of a principle formed in domestic legal system
to general principle of law as a source of international law may be necessary.
Transposition should be made through the explicit consent of the community of
nations. In case of conflict between a principle formed in the domestic legal system

and a treaty based principle, the transposition must be considered not being recognized and the treaty based principle must prevail.

Mr. Chair,