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UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,
AGENDA ITEM 81,
REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK
OF ITS SIXTY FIFTH SESSION: PART III (A/68/10)
CHAPTER VI (PROTECTION OF PERSONS IN THE EVENT OF
DISASTERS), CHAPTER VII (FORMATION AND EVIDENCE OF
CUSTOMARY INTERNATIONAL LAW), CHAPTER VIII (PROVISIONAL

topic should be of an essentially practical nature, in the form of a set of conclusions with commentaries. We see such conclusions as a useful tool for judges as well as for practitioners confronted with the question of identifying whether or not a rule of customary international law exists.

The UK considers that it would not be appropriate for the Commission to be consideration that any outcome of its work on this topic should not prejudice the flexibility of the customary process or future developments concerning the formation and evidence of customary international law.

The UK notes that the Commission has decided to change the title of the topic to Identification of customary international law. We have no comments on this change of name.

We look forward to studying the further work of the Commission, which will presumably begin to spell out the two-elements approach.

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Mr Chairman,

Turning now to the topic of **Provisional application of treaties**. The UK

We note that the Commission is surveying State practice and has requested information from States to be submitted in the New Year. This is to include information in relation to (a) the decision to provisionally apply a treaty; (b) the termination of such provisional application; and (c) the legal effect of provisional application. The UK welcomes this survey and looks forward to submitting information on UK practice in due course. We consider that State area.

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Mr Chairman,

Turning now to the topic of **Protection of the environment in relation to armed conflicts**, the UK has considered the proposal from the Special Rapporteur as to how this topic is to be taken forward.

We note that the Special Rapporteur intends to concentrate on what are described as Phases I and III (the pre and post conflict phases), whilst Phase II (the phase during conflicts) will be given less focus. The UK considers that the Special Rapporteur is right not to focus on Phase II: although obligations applicable during armed conflict are arguably the most important issue in this context, a great deal of relevant law already exists. The UK notes that the Special Rapporteur also proposes not to address the effects of certain weapons on the environment; and we welcome this conclusion.

We note the view of the Special Rapporteur that the topic is more suitable for the preparation of non-binding guidelines than a convention. We too remain unconvinced that there is a need for new conventions in this area.

We will look carefully at what the Special Rapporteur proposes in due course.

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Mr Chairman,

Turning to the topic of the **Obligation to extradite or prosecute** (*aut dedere aut judicare*), the UK thanks the Working Group of the Commission for its helpful report on this topic at Annex A of the C

arises as a result of a treaty obligation. That the substantive crimes in respect of which the obligation arises and the question of whether the custodial State has discretion as to whether to extradite or prosecute are governed by the terms of the relevant treaty.

note that whether the obligation can be regarded as such is not mentioned in the report of the Working Group. We consider that the Commission has wisely decided not to give further consideration to this aspect of its work on this topic.

The UK previously welcomed the excellent Secretariat Study from 2010 (A/CN.4/630) on multilateral treaty practice and welcomes the Working Group's report. In this respect, we support

prosecute under the relevant conventions should be analysed on a case-by-