



**PERMANENT MISSION OF SINGAPORE  
TO THE UNITED NATIONS**

318 EAST 48<sup>TH</sup> STREET, NEW YORK, NY 10017  
TEL: (212) 826 0840 FAX: (212) 826 2964

**STATEMENT BY MRS. NATALIE Y. MORRIS-SHARMA, COUNSELLOR,  
PERMANENT MISSION OF SINGAPORE TO THE UNITED NATIONS,  
ON AGENDA ITEM 83, ON THE PART III OF THE REPORT OF THE  
INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS SIXTY-  
SEVENTH SESSION (CHAPTERS IX-XI OF A/70/10), SIXTH COMMITTEE,  
9 NOVEMBER 2015**

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2. On the topic of “Protection of the environment in re  
delegation thanks the Special Rapporteur, Dr. Marie Jaco  
an incredibly complex topic. Further complexity i  
circumstances of armed conflict and environmental damag  
We are of the view that the most productive approach to

3. We note the draft introductory provisions and draft principles that were provisionally adopted by the Drafting Committee at its most recent session. We would suggest that paragraph 2 of draft principles II-1 and draft principle II-4 be phrased in less absolute terms. While the draft principles may have been inspired by existing treaty obligations, they are not generally accepted as rules under customary international law. In addition, we would caution against the broad statement embodied in draft principle II-2, as there may be differing views over the applicability, and manner and extent of application, of the various principles and



would be consistent with our understanding of the question of immunity being one that is procedural in nature.

8. On the attribution of the act to the State, while it was important that the Special Rapporteur's report addressed the question, we appreciate that this element was not introduced into the text of the draft articles proposed. We agree that the notion of attribution of the act to the State is not a helpful criterion in determining what constitutes an act performed in an official capacity.

9. Mr. Chairman, my delegation concurs that it would be useful for commentaries to deal with the relationships and distinctions between acts performed in an official capacity and in a private capacity; *acta jure gestionis* and *acta jure imperii*; and lawful and unlawful acts. We also hope that the Commission will address acts of persons acting under governmental direction and control, such as private contractors. We look forward to the Commission's further work on this topic.

#### Provisional application of treaties

10. On the topic of "Provisional application of treaties", we note the summary and examination in the Special Rapporteur's third report on the topic of the relationship of provisional application to the other provisions of the Vienna Convention on the Law of Treaties, and of provisional application of treaties by international organisations.

11. My delegation agrees with the general thrust of the Commission's discussions, that we would benefit from further substantiation regarding the conclusion that the legal effects of provisional application were the same as those after entry into force of the treaty. As we have previously stated in our comments on the

