



CZECH REPUBLIC

Permanent Mission of the Czech Republic to the United Nations

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REPORT OF THE INTERNATIONAL LAW COMMISSION
PROTECTION OF THE ENVIRONMENT IN RELATION TO ARMED CONFLICTS
IMMUNITY OF STATE OFFICIALS FROM FOREIGN CRIMINAL JURISDICTION

Statement by

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Mr. Chairman,

In the present statement the Czech Republic would like to focus on the Chapters X and

Commission that there appears to be a clear trend in the practice of States, reflected also in the doctrine, which supports the existence of an exception to immunity *ratione materiae* from foreign criminal jurisdiction when crimes under international law, namely the crime of genocide, war crimes and crimes against humanity, as well as other official crimes defined in relevant treaties, are committed. In our opinion, this trend seems to be, in principle, duly reflected in draft article 7 (a), as presented by the Special Rapporteur.

As regards the “territorial tort exceptions”, referred to in draft article 7, paragraph 1, subparagraph (c), as presented by the Special Rapporteur, it seems that the decisive factor for its application would be the territorial aspect, i. e. the connection to the territory where such an „official crime“ was committed, rather than the gravity of such crime, as in the case of the

*definition of “acts performed in an official capacity”. It seems that such an analysis should take into account the principle which was expressed in previous discussions of the Commission and according to which the essence of immunity *ratione materiae* is the nature of the acts performed, rather than the individual who performs them.*

*To conclude, as regards the draft Article 6 on the scope of immunity *ratione materiae*, the delegation of the Czech Republic fully agrees with the main principles expressed in the draft article 6 and in the commentary, which describe the scope of immunity *ratione materiae* including its temporal element and relationship to immunity *ratione personae*.*

Thank you, Mr. Chairman.