

PLEASE CHECK AGAINST DELIVERY

(translation)

Statement by Mr. XU Hong

Representative of China and Director-General

Mr Chairperson,

This year marks the 70th anniversary of the International Law Commission. Over the past seven decades, the Commission has completed the consideration of 36 topics, and as many as 17 multilateral conventions have been concluded on the basis of the Commission's outcomes. Some important conventions, such as those in the fields of laws of diplomatic and consular relations, the law of treaties and the law of the sea, have become universally applicable international legal norms. They play an important role, in their respective fields, in maintaining healthy and stable relations between

possible, make a clear distinction between *lex lata* and *lex ferenda*. When interacting with States, the Commission should show greater commitment to heeding and taking on board the positions voiced by Member States in the Sixth Committee of the UN General Assembly and in other fora, to ensure that the outcomes of the Commission's work can best reflect the consensus and needs of States.

Mr Chairperson,

This year, the Commission adopted, on second reading, draft conclusions and commentaries thereto on two important topics, "Identification of customary international law" and "Subsequent agreements and subsequent practice in relation to the interpretation of treaties". We would like to congratulate the Commission and applaud the efforts of Special Rapporteurs Sir Michael Wood and

The topic “Identification of customary international law” is one that China has been closely following. Through our statements at the Sixth Committee, our written comments and so on, we made known our position on a range of important issues covered in the draft conclusions, such as “specially affected States” and “persistent objector”. Our inputs contributed constructively to the finalisation of the draft conclusions. Now that these conclusions have been adopted on second reading, we would like to re-emphasise that customary international law is an important source of international law and therefore its identification must be done in a rigorous and systematic manner by scrutinising general practice of State across the whole spectrum, while refraining from selectivity or recourse to a lowered threshold in favour of State-specific interests or needs. Admittedly, under certain circumstances, it is necessary to consider how the resolutions of international organisations, international judicial decisions and the teachings of authoritative publicists may be relevant to the identification of customary international law, but the primacy of State practice does and should apply at all times.

Mr Chairperson,

On the topic “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”, China’s position has been articulated in the past. Chinese delegation also notes that the concept of “

