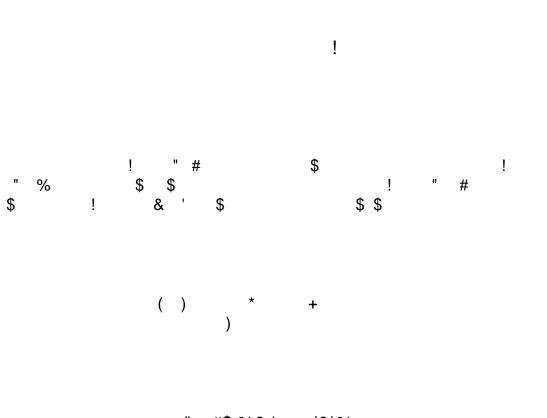
## SLOVENIA



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Mr Chairman,

At the outset, allow me to congratulate you on yellerction as Chairman of this year's Sixth Committee session. Let me also pay tribute the Chairman of the 65session of the

do, in fact, wait 12 months for the reservation becestablished before they treat the author of a reservation as a contracting State to the treativiers tion.

With your permission, Mr Chairman, in addition to treaties, we would also like to address some other chapters of the Repince my delegation will deliver only one statement under this agenda item.

## Mr Chairman,

Allow me to briefly turn to the topic of the Protiecn of persons in the event of disasters (Chapter VI of the Report). Slovenia has addressies dopic regularly in previous sessions of the 6th Committee and again, we would like to commende impressive progress made by Special Rapporteur Mr. Eduardo Valencia-Ospina and the Cisssion. We believe that this is one of the most topical and acute themes under the scrutirtheoflLC, dealing with an important area of international law and practice which has not yearbeodified in a comprehensive manner at international level. The eighteen draft articles pared so far accord with the main aim of the Commission's endeavour. The latter is based on to disaster victims, their lives and basic human rights, while at the same time remginimindful of the principles of sovereignty and non-intervention. Continuing to maintain the balance is of extreme importance if draft articles are to succeed and gain global accept in the future.

In commenting on this year's Sixth report of thee Sipil Rapporteur and the prepared drafts of articles 5 ter and 16, we welcome thet **that** the ILC has dealt with aspects of prevention in the context of this topic, including saster risk reduction. This corresponds to numerous current activities of the internationarhoocunity in this field

Close cooperation is of paramount importance in messluction endeavours. We therefore support the explicit mention of this aspect of **thus**y to cooperate in extended draft Article 5. We also believe that each individual State has to the trick of disasters by certain appropriate measures (draft Article 16). This destipased on the contemporary understanding of State sovereignty, encompassing not only rights, abso the duties of States towards their

citizens, and providing that the affected persomasulat not suffer unnecessarily for the sake of sovereignty. The duty to reduce the risk of disastase also in accord with States' obligation to respect, protect, and fulfil human rights, in **pauta**ir the right to life, which is the most fundamental human right. The contemporary undedistagen of the right to life places an obligation on States to ensure respect for thistridg individuals within their territory and within their prerogatives*Inter alia*, this implies an obligation of States to take vactime as and necessary steps to ensure the right to life anerdatasic human rights, also in the aftermath of natural disasters. Specifically, "taking all necessaryses?" means that a State has a duty to prevent disasters, to prepare for disaster and, abdivetoa request international humanitarian relief when national efforts are insufficient to proteote tives of victims of natural disasters. In this regard, we would like to underline that Slovenia, acknowledged by the ILC, has already adopted national legislation with the aim of implementing global strategies to reduce risk.

Mr Chairman,

As regards Chapter VII: Formation and evidencecoestomary international law, we would like to commend Special Rapporteur Sir Midhlakeood for his first report on the topic, which provides an excellent basis for our futurerkwow would also like to thank the Secretariat for drafting the Memorandum, with an overview of the taxisting findings of the Commission that could be particularly relevant to the topic. We accentriced the Memorandum will serve as a helpful reference document in future discussion the force.

The approach suggested by the Special Rapportegarding the scope and possible outcome of the topic has our support. While it been widely accepted that the existence of a rule of customary international law requires the be 'a settled practice' together within *juris*, it is much less clear how such a rule is to been tidled in practice. In consequence, the proposed approach to the topic, focusing on the matching and evidence of customary international law, should fill in some of the lacen in understanding and the application of customary international law, particularly on the topic non-international lawyers. It is also with

Let me now address Chapter VI<u>II: Provisional Applion of Treaties</u>. We would like to congratulate Special Rapporteur Mr. Gómez-Robledohiss First Report*on the provisional application of treaties*, in which he outlined the main elements of thischaenism and the issues to be discussed in the Commission. We also find ntheeenorandum of the Secretariat on the *travaux préparatoires* with respect to Article 25 of the Vienna Convention the Law of Treaties (VCLT) very useful.

In our view, the objective of the Commission should be analyse as comprehensively as possible the mechanism of provisional application diss legal implications, so that States will be able to understand it better, both when they contectureaties and agree to the mechanism and when they implement those treaties. As to the **possi** utcome of the consideration of this topic, we feel that it is perhaps too early to decide **orethver** guidelines, model clauses or some other form of outcome would be the most appropriate, esithetics will depend on the future work on the topic.

We would like to propose that the Special Rapporteounsiders another aspect of provisional application. The Vienna Convention one tSuccession of States in relation to Treaties, concluded after the VCLT, contains articl

as the Special Rapporteur himself recognised, degal concept with its accompanying international consequences. In this regard, it whole useful to include in the analysis the recent arbitral practice in the context of the Energy CheraTreaty.

Second, we are reluctant to ascribe great signification the change in terminology from "provisional entry into force" to "provisional appear tion", not least because this seems to appear from the *travaux préparatoires* with regard to the VCLT, in particular when comparthat on the draft article concerningacta sunt servanda and that on Article 25, from which it is possible to conclude that the *acta sunt servanda* rule applies to both concepts, which would meaturin that, from the perspective of this rule at lease, two concepts are identical.

Third, although we agree that the main focus of **Ciben** mission's work on the provisional application should be on its analysis from the **pectsive** of international law, we also believe that the decisions of States to use provisionalization are often very closely related to their constitutional rules and procedures. This is applatime method the discussions of Article 25 at the Vienna Conference for the adoption of the VCLT, **itnis** our speculation that this is likely to emerge also from the results of the questionnaire which States should reply by the end of January next year. Thus, the Commission will probate deither to expressly exclude this internal legal aspect from its considerations etablisted or decide how to include it. In the latter case, and in order to avoid an analysis of the rinate of States, which the Special Rapporteur correctly emphasised as not being the task of the rules internal legal "limitation clauses" in treaties which have been drafted in different variations **and** ereby provisional application is