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STATEMENT BY

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United Nations General Assembly

(I, II, III (specific issues), IV (crimes against humanity) V (provisional application) and XI (other decisions and conclusions))

1. Mr Chairman, let me begin by expressing my Government's appreciation for the work of the International Law Commission. Today, I will address

2. Our Comments and Observations resulting from the specific issues raised by the Commission with respect to its work.

of appropriate provisions on mutual legal cooperation and assistance

between States crucial for the effectiveness of the proposed convention.

We were therefore pleased to see the additional draft Articles covering these areas. The incorporation and discussion in this report of additional manners of cooperation and assistance provides added value.

6. In this context, please allow me to recall the joint initiative led by

9. Although there are convergent qualities between the MLA initiative and the ILC's ongoing work on...

application. We therefore consider that both initiatives are complementary and that the

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provisional application by a State adversely affects third parties, including

individuals, acting in good faith, obligations emanating from the provisional application of a treaty may well outlive its formal ending. This may require a transitional regime with respect to, or even the continuation of, obligations arising from the period of provisional application with respect to third parties acting in good faith.

character of general principles of law has been the subject of discussion. Therefore, my Government would welcome further research into this question.

17. Thirdly, we would fully agree with the Commission that the relation between general principles of law and customary international law deserves further clarification. In particular, we would support further analysis whether general principles can arise and develop in separation from customary international law.

Evidence before International Courts and Tribunals

18. My Government would also welcome the inclusion of the topic of evidence before international courts and tribunals in the long-term programme of work of the Commission. In particular, my Government would agree with the notion that the uncertainty faced by States in international judicial settlement mechanisms as to the standard of evidence that is required is undesirable.
19. However, the Netherlands would like to some of the elements included in the proposal. First, it is not obvious that the same standard of evidence should apply to all international courts and tribunals. Due to the difference in nature of international disputes, the standard of evidence

It therefore welcomes the inclusion of the practice of the international

criminal tribunals, where appropriate.

21. Thirdly, my Government considers the practice of the various human rights instruments in individual complaints procedures relevant and would not support their exclusion for the mere reason that they are not courts. Just as the practice of the African, European and Inter-American Courts of Human Rights is relevant, so is the practice of the human rights