<table>
<thead>
<tr>
<th>Country</th>
<th>Statement</th>
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<tr>
<td>France</td>
<td>33. On the topic of protection of the environment in relation to armed conflicts, his delegation had doubts about the need to define “environment” and “armed conflict”. A specific definition of “armed conflict” — a concept taken from international humanitarian law — might well lend itself to a fragmentation of normative interpretations in that regard. At the current stage, uncertainties regarding such matters of definition could only add to uncertainties as to the feasibility of such a project.</td>
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<td>Italy</td>
<td>53. Italy also continued to support the Commission’s work on the topic of protection of the environment in relation to armed conflicts. Between the three-phased approach adopted by the Special Rapporteur and a thematic approach not based on a strict temporal division of phases of the conflict, his delegation continued to favour the latter, bearing in mind that the law of armed conflict and international environmental law were applicable before, during and after an armed conflict. The Commission’s main objective should be to identify relevant State obligations under customary and conventional law, taking into account the vast body of legislation that might be applicable. Further development of the topic could also result from a comprehensive survey of State practice. His delegation did not see the need to limit the substantive scope of the topic as some members of the Commission had suggested. In particular, the environment to be protected in situations of armed conflict should include cultural property; the need for such protection was demonstrated by the ongoing destruction of historic sites and trafficking in cultural objects in Syria and Iraq. Furthermore, considerations of human rights should also be included, particularly the right to a safe and satisfactory environment. His delegation continued to hold the view that the outcome of the Commission’s work on the topic should be a kind of handbook rather than a draft convention.</td>
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<tr>
<td>Hungary</td>
<td>38. With regard to the Commission’s request for information on national practice and legislation on the topic of protection of the environment in relation to armed conflicts, Hungary, as a State committed to environmental protection, was a party to several international treaties that directly or indirectly ensured protection of the environment during armed conflicts, including the first Protocol Additional to the Geneva Conventions, the Convention concerning the Protection of the World Cultural and Natural Heritage and the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques. It was also a party to the Rome Statute of the International Criminal Court. Its primary applicable laws were those treaties and the relevant standards of the North Atlantic Treaty Organization. In order to comply with the principles and requirements laid down in those instruments in the execution of defence-related tasks, the Ministry of Defence of Hungary had developed an environmental protection doctrine creating a comprehensive system of tasks related to environmental protection, based on domestic and European Union laws, as well as North Atlantic Treaty Organization standards.</td>
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<td>Israel</td>
<td>86. With regard to the topic “Protection of the environment in relation to armed conflict”, as a matter of principle Israel attached great importance to the protection of the environment, including in the context of armed conflict. With respect to the Special Rapporteur’s preliminary report (A/CN.4/674), it shared the view that the laws of armed conflict contained a body of rules and principles that adequately addressed the issue of environmental protection. Accordingly, it welcomed the Special Rapporteur’s decision to focus on identifying already existing legal obligations and principles, and it agreed that non-binding draft guidelines might be the preferred approach to the topic.</td>
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<td></td>
<td>87. Her delegation supported the approach of excluding from the scope of the research</td>
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certain issues such as the protection of cultural heritage, the effect of particular weapons and refugee law, all of which were fully addressed in other bodies of law. The scope of the discussion should not be expanded to include a broader analysis of the laws of armed conflict, but should focus instead on the defined subject matter. Her delegation agreed with the Special Rapporteur that human rights law was separate and based on different principles than international environmental law. Accordingly, the scope of the work should be limited to the matter at hand and not include other unrelated fields of law, such as the body of law on indigenous people.

**Russia**

99. With regard to the topic “Protection of the environment in relation to armed conflicts”, her delegation noted that the discussion in the Commission had not succeeded in clearly delineating its scope. The purpose of the study was not the general application of rules of international law in the area of the protection of the environment, but rather their application in relation to armed conflicts. For the moment, that relation was not clearly discernible.

**Austria**

109. With respect to the topic “Protection of the environment in relation to armed conflicts”, the Special Rapporteur, in her preliminary report (A/CN.4/674), sought to demonstrate that the entirety of international law on the protection of the environment would apply to phase I (the phase prior to an armed conflict). In his delegation’s view, it was not necessary to discuss the whole range of environmental law, which was under permanent development and review. Instead, the main emphasis should be placed on the relationship between environmental law and international humanitarian law.

110. Two terms of fundamental importance for the topic required further discussion: “environment” and “armed conflict”. Existing international legal instruments contained very different definitions of “environment”. The definition adopted by the Commission in the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities seemed to be an appropriate starting point. A definition that also related to the cultural heritage would be too broad for the topic. As to the term “armed conflict”, the definition used in international humanitarian law should also be applied in the current context. That definition encompassed international and non-international armed conflicts, but did not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

111. His delegation reiterated the need to coordinate the Commission’s work on the topic with the work of the International Committee of the Red Cross. Although specific weapons regimes were not included in the topic, they were nevertheless related to it. In that connection, his delegation drew attention to the upcoming Vienna Conference on the Humanitarian Impact of Nuclear Weapons, to be held on 8 and 9 December 2014.

**Peru**

122. **Mr. Horna** (Peru), referring to the topic “Protection of the environment in relation to armed conflicts”, said that Peru had no domestic legislation or commitments in international legal instruments that dealt specifically with the matter, nor was there any case law involving Peru regarding the direct application of international or domestic environmental law in disputes relating to situations of armed conflict. It should be noted, however, that in its resolution 56/4 the General Assembly had declared 6 November of each year the International Day for Preventing the Exploitation of the Environment in War and Armed Conflict. That resolution was based on the principle of the protection of the environment, since the consequences of an armed conflict had a long-term impact on ecosystems and natural resources that sometimes went beyond national boundaries.

123. Armed conflict unquestionably had an effect on sustainability, a principle recognized in a number of international instruments to which Peru was a party,
including, among others, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention concerning the Protection of the World Cultural and Natural Heritage, the Convention on Biological Diversity and the Vienna Convention for the Protection of the Ozone Layer. Thus, the framework of the obligation to protect the environment in peacetime was well established. It might therefore be appropriate to consider the topic on the basis of an analysis of the Geneva Conventions of 1949 as they related to the domestic and international environmental protection framework. In that connection, account should be taken of instruments relating to the trafficking of arms in wartime and their implications in relation to the above-mentioned conventions, given the effect of such trafficking on human lives, the environment, ecosystems, public health and sustainability.

124. It was important to examine all aspects of the impact that war had on the environment, biodiversity and ecosystems, including pollution due to leaks of fuel and chemicals caused by bombings; indiscriminate pillaging of natural resources by armed forces; dangers to land, homes and lives as a result of landmines, unexploded ammunition and other remnants of war; and the environmental degradation caused by mass settlements for displaced populations.

125. International instruments regulated nuclear, chemical and biological weapons, but the unknown threat of new technologies to the environment must also be taken into account. The parties to armed conflicts were responsible for complying with international norms and agreements on the rules of war, including the Geneva Conventions. Some of those norms, such as those concerning the deliberate destruction of farmland, were also of relevance for the environment.

126. The Special Rapporteur’s recommendations on applying the principles of prevention and precaution in the event of an armed conflict were recognized not only in the Stockholm and Rio Declarations, but also in Peru’s Constitution, which enshrined sustainability, the right to enjoy a balanced environment, as well as other rights relating to the protection of biodiversity, and in its national environmental protection legislation, policies and programmes.

131. As to the topic “Protection of the environment in relation to armed conflicts”, the Nordic countries considered it vital to enhance protection of the environment before, during and after armed conflict. Clarification of existing international law might help to achieve that goal. The Nordic countries therefore welcomed the Commission’s decision to include the topic in its programme of work.

132. In her preliminary report (A/CN.4/674), the Special Rapporteur noted that the protection of the environment in armed conflicts had until that point been viewed primarily through the lens of the law of armed conflict. The Nordic countries agreed with the Special Rapporteur that that perspective was too narrow, as modern international law recognized that the international law applicable during an armed conflict might be wider than the law of armed conflict. The Commission had clearly stated in its recent work on the effects of armed conflicts on treaties that the existence of an armed conflict did not ipso facto terminate or suspend the operation of treaties. Indeed, in its draft articles, the Commission included an indicative list of treaties the subject matter of which implied that they continued in operation during armed conflict.

133. Against that background, the Nordic countries endorsed the three-phase approach adopted by the Special Rapporteur. Her report on the environmental rules and principles applicable to the protection of the environment in peacetime (phase I) would provide the necessary basis for continued work and discussion on measures to be taken during armed conflict (phases II) and post-conflict (phase III). The Nordic
countries also agreed with the Special Rapporteur that there could not be a strict dividing line between the three phases. Identifying and clarifying the obligations that applied during armed conflict would be an important step towards reducing environmental damage in such situations. Furthermore, they concurred that the scope of the topic must be restricted for practical, procedural and substantive reasons, so that it was necessary to exclude certain issues. They agreed on the whole with the limitations proposed in the report. All in all, the preliminary report on the protection of the environment in relation to armed conflicts provided a very good basis for continued work on the topic.

134. The Governments of Denmark, Finland, Sweden and Norway, together with their National Red Cross Societies, were continuing their work on the issue, in line with joint pledge made during the 31st International Conference of the Red Cross and Red Crescent in 2011. Their work plan fell into two parts. The first part involved an empirical study of the effects of armed conflicts on the environment, based on a review of a cluster of representative contemporary armed conflicts. That study was well under way. Secondly, an international expert meeting would be organized to discuss the existing legal framework for the protection of the environment in relation to armed conflict and to identify any gaps in that framework, based on the empirical data collected in the report of the study. The conclusions of the expert meeting would be reported to the 32nd International Conference of the Red Cross and Red Crescent, to be held in 2015.

**Portugal**

6. With regard to the topic of protection of the environment in relation to armed conflicts, while preservation of the environment was the primary focus, it went hand in hand with disarmament, non-proliferation, conflict prevention and the progressive restriction, legally and politically, of recourse to armed conflict. Her delegation agreed with the Special Rapporteur’s proposal to approach the topic in three phases: before, during and after the armed conflict. However, that distinction should be made for analytical purposes only, to facilitate identification of obligations and effects at different points in time in relation to the protection of the environment. Without prejudice to an integrated approach, the most important phase was the second one — protection of the environment during an armed conflict — since it was chiefly then that environmental damage occurred.

7. The Commission should also take into consideration the law of armed conflict, which addressed environmental protection to a limited extent. If existing international legal obligations were insufficient, the Commission should consider embarking on a progressive development exercise. Moreover, since the impact of armed conflicts on the environment depended to a major extent on the type of weapons used, the issue of weapons must necessarily be addressed, even if only from a general perspective. The advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons* could provide useful guidance in that regard.

8. Non-international armed conflicts should not be overlooked in analysing the impact of armed conflicts on the environment, bearing in mind that most ongoing armed conflicts were intra-State conflicts, many of which had a link to natural resources. Armed conflicts between non-State actors, or between non-State actors and States, should therefore be included in the scope of the topic. However, since an armed conflict implied a minimum degree of intensity of hostilities, a reference should be added excluding “internal disturbances and tensions”, as provided in the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II) and the Rome Statute of the International Criminal Court.
9. A decision as to the final outcome of the topic would depend on how the Commission’s work in identifying existing law on the protection of the environment in relation to armed conflicts evolved; it was still premature to take a stance on that issue. Currently, her delegation did not rule out the need for progressive development.

**UK**

15. With regard to the topic of protection of the environment in relation to armed conflict, his delegation welcomed the Special Rapporteur’s confirmation that phases I and III remained the main focus of the work and that there was no intention to modify the law of armed conflict. In relation to phase II, the proposal to produce guidelines with examples of rules of international law that might be suitable for continued application during armed conflict could be a useful initiative, provided that the rules in question were confined to the environmental field and recognized the *lex specialis* nature of the law of armed conflict, which already contained rules relating to the protection of the environment.

16. His delegation supported the Special Rapporteur’s proposal to exclude from the scope of the topic such subjects as the exploitation of natural resources, the protection of cultural heritage and the effect of particular weapons. Internal disturbances and tensions, such as riots, should also be excluded from the topic. More generally, the topic should not address undecided and often controversial questions of international environmental law, human rights law, and the rights of indigenous peoples. Furthermore, it was not appropriate for States to be obliged to prepare environmental impact assessments as part of military planning. Lastly, his delegation shared the Special Rapporteur’s view that the topic was more suitable for the preparation of non-binding guidelines than a convention.

**Belarus**

26. On the topic of the protection of the environment in relation to armed conflicts, his delegation supported the comprehensive approach taken by the Special Rapporteur. Given that modern armed conflict often affected the interests of a large number of States, various norms in such areas as international humanitarian, environmental and human rights law could be applicable. However, the Commission should determine which area of law was *lex specialis* with regard to the topic, and then apply the principles and basic norms of that area of law accordingly. In its task of codification and progressive development, the Commission should also take into account levels of socioeconomic development. Not all States were able to implement fully the best practices described by the Special Rapporteur; consequently, some practically oriented minimum standards should be established.

27. While his delegation welcomed the temporal perspective adopted by the Special Rapporteur, the main focus of the Commission’s work should be on phase II. Care should also be taken to ensure that the language used did not change the classic definition of armed conflict; in that regard, the definition of armed conflict in international humanitarian law, or, at the very least, the definition contained in the articles on the effects of armed conflicts on treaties, should be used.

28. With regard to non-international armed conflicts, such as those occurring between two armed groups on the territory of a State, the question arose as to whether the participants had the capacity or willingness to comply with any kind of international legal obligations regarding the protection of the environment. States, as subjects of international law, generally had insufficient control over such situations to be able to influence the behaviour of the participants in the conflict, except through the possibility of holding them accountable afterwards. They therefore had to deal with the environmental consequences of such non-international armed conflicts occurring on their territory. The Commission should consider adapting the conclusions reached in the ongoing work on the protection of persons in the event of disasters and applying them to the topic of protection of the environment in relation to armed conflicts. In addition, it would be useful not only for the topic in question but also for the progressive development of international law as a whole to examine the legal content
of the concepts of sustainable development, the precautionary principle, and the principle of prevention.

**Greece**

32. On the topic of protection of the environment in relation to armed conflicts, her delegation supported the Special Rapporteur’s temporal, three-phased approach, which allowed for a unified consideration of the relevant applicable norms, irrespective of whether they arose under the law of armed conflict, international environmental law or human rights law. With regard to the scope of the topic, the issue of the protection of natural heritage, which was afforded special protection by the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage, could not be disregarded. The reference in the Special Rapporteur’s preliminary report (A/CN.4/674) to the definition of natural heritage provided in that Convention suggested that the matter would be further considered in subsequent reports. Her delegation would welcome that approach.

33. Some of the basic principles of international environmental law presented in the preliminary report as candidates for continuing application during armed conflict were unquestionably relevant to the topic. One such example was the precautionary principle, bearing in mind that article 57, paragraph 3, of Protocol I additional to the Geneva Conventions, among other international humanitarian law provisions, incorporated a precautionary approach. In contrast, the applicability of the sustainability principle was less obvious and deserved careful examination. The obligation of prevention was a due diligence obligation stemming from the much broader no-harm rule, which also encompassed obligations of control and reduction of environmental damage. In her delegation’s view, it was the no-harm rule in its entirety that should be scrutinized with regard to its application in case of armed conflict.

34. The obligation to disclose environmental information to the public, as mentioned in the Special Rapporteur’s report, had gained momentum since the adoption and entry into force of the 1998 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). The scope of application of the safeguard clause in that Convention, stating that a request for environmental information might be refused if the disclosure would adversely affect national defence, should therefore be thoroughly examined. Lastly, on the issue of human rights, future reports should take into account the debate about an emerging right to water.

**Czech Republic**

41. **Ms. Benešová** (Czech Republic), referring to the topic “Protection of the environment in relation to armed conflicts”, said that her delegation supported the three-phased approach adopted. The Commission’s work should primarily identify the rules and principles of international environmental law applicable to armed conflicts, without modifying the law of armed conflicts itself, and should determine whether such rules and principles might clarify and supplement principles of international humanitarian law relating to the protection of the environment during international and non-international armed conflicts. A clear distinction should be made between the protection of the environment and the protection of cultural heritage, having regard to existing legislation on the protection of cultural heritage in the event of armed conflict.

**Switzerland**

44. **Ms. Carnal** (Switzerland), referring to the topic of protection of the environment in relation to armed conflicts, said that her delegation welcomed the Special Rapporteur’s proposal to focus her next report on the law applicable during both international and non-international armed conflicts. In that regard, if a definition of the term “armed conflict” was required, it should be based on the definition used by the International Tribunal for the Former Yugoslavia in *Prosecutor v. Duško Tadić a/k/a “Dule”* and subsequent jurisprudence that considered armed conflicts between organized armed groups. Her delegation would appreciate more information on how the conclusions and recommendations relating to each temporal phase might be
synthesized, particularly in cases where there was not a clear division between the phases and rules would apply to more than one phase.

45. The general right to protection of civilian property under international humanitarian law, during both international and non-international armed conflicts, extended to the natural environment. Moreover, Additional Protocol I to the Geneva Conventions of 1949 provided for the special protection of the natural environment by prohibiting “widespread, long-term and severe damage to the natural environment” during international armed conflicts. In that regard, her delegation wondered whether the special protection accorded to the environment should be clarified or strengthened, as the terms were imprecise. In addition, it questioned whether the general rules on the protection of civilian property adequately guaranteed the effective protection of the natural environment in practice. If indeed no specific treaty rule provided for the protection of the environment during non-international armed conflicts, there were several rules of customary international law whose scope could be expanded or further articulated. Lastly, it would be of interest to clarify how other bodies of law, in particular human rights and international environmental law, could contribute to the topic.

**Netherlands**

52. Concerning the topic of protection of the environment in relation to armed conflicts, it was important to delineate the scope of the study while the project was still in its early stages in order to avoid including matters that would only complicate the Commission’s work. The cautious approach taken by the Special Rapporteur, including the possibility of the use of a “without prejudice” clause, was therefore welcome. Given that the overall purpose of the study would be to clarify the rules and principles of international environmental law in relation to armed conflicts, his delegation agreed with the Special Rapporteur that it should not modify the existing law of armed conflict. Any working definitions proposed by the Special Rapporteur to frame the subject matter of the study need not be included in the final text. The term “armed conflict” had been defined by international humanitarian law and should not be redefined by the Commission.

**Singapore**

66. The topic of protection of the environment in relation to armed conflicts was at an early stage and its scope and methodology required fine-tuning. The temporal, three-phased approach adopted by the Special Rapporteur as a conceptual delineation of the topic before, during and after a conflict would be helpful not only for the purposes of study and debate, but also in drafting the outcome document. His delegation agreed with the Special Rapporteur that there should not be a strict dividing line between the different phases and stressed that adequate attention should be paid to how the rules pertaining to the different phases overlapped. It also agreed that the study should not delve into considerations of the possible effects of particular weapons on the environment.

67. The rules and principles that might be applicable in peacetime to a potential armed conflict, as they were identified in the preliminary report (A/CN.4/674 and Corr.1), included some concepts that did not have the status of universally accepted principles. The Commission should continue to trace the development and degree of acceptance of such concepts, which would in turn affect the question of their applicability. Non-binding draft guidelines would be an appropriate outcome of the work on the topic.

**Japan**

77. On the topic of protection of the environment in relation to armed conflict, his delegation noted that the three-phase approach had garnered some support. Some members had argued that the Commission should not focus its work on phase II, given that the law of armed conflict was *lex specialis* and there were sufficient rules relating to the protection of the environment. Indeed, several instruments on international humanitarian law, such as the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, contained specific rules on environmental protection in armed conflicts. However, other members had correctly argued that the approved topic was about rules relating to the protection of the environment during an armed conflict, not about general...
The relationship between international environmental law and humanitarian law during the period of armed conflict, namely phase II, should be a major focus of discussion.

### Romania

86. The objective of the topic of protection of the environment in relation to armed conflicts should be to clarify the rules and principles of international environmental law applicable in relation to armed conflict. Her delegation agreed that there was no urgent need to address questions relating to the use of terms, such as “environment”. Closer examination of State practice and the practice of international organizations would be welcome. The practice of the Committee for Administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal might be particularly relevant.

87. Her delegation looked forward to the Special Rapporteur’s analysis of environmental impact assessments in the context of armed conflict. Although the International Court of Justice had found that such assessments were required under general international law for industrial activities in a transboundary context, the content of such assessments was not defined under general international law. Her delegation reiterated Romania’s position that there was no need to address the effects of specific weapons on the environment as a separate issue and supported the Special Rapporteur’s views in that regard. Should there be a need to address the treatment of cultural heritage, a careful approach was required so as to avoid unnecessarily expanding the scope of the topic or revising established international norms on the protection of cultural heritage, since it had already been agreed that the project would use definitions already established by international law.

### South Africa

96. On the topic “Protection of the environment in relation to armed conflict”, the Special Rapporteur had suggested that work should be divided into three phases, namely the relevant rules and principles applicable to potential armed conflict (peacetime obligations), measures during armed conflict and post-conflict measures. That fragmented approach had its merits, but it remained to be seen whether it would be more useful than a broader approach focusing on all applicable laws. In any event, the ultimate aim should be to ensure that the environment was protected before, during and after conflict. With regard to phase I of the topic (potential armed conflict), his delegation believed that rules outside the sphere of environmental law could also be relevant. Protection of the environment could in turn have implications with respect to potential sources of conflict, as many conflicts were caused by the need to access or benefit from natural resources. Phase II of the topic (measures during armed conflict) should similarly go beyond environmental principles to include human rights law, international criminal law and international humanitarian law. It was too early to decide whether the work should take a normative approach or aim to develop a soft-law instrument.

### Spain

104. The topic “Protection of the environment in relation to armed conflict” created a range of difficulties. In particular, it would not be easy to delimit the purpose of the topic or establish the dividing line between the three temporal phases proposed by the Special Rapporteur; the proposed timetable was also likely to prove too ambitious. The Special Rapporteur’s cautious approach was therefore welcome. However, his delegation failed to see the relevance of the term “sustainable development”, which referred to economic development in peacetime; and the reference to Principle 24 of the Rio Declaration was unconvincing. Moreover, it was unclear how the Commission could identify obligations to protect the environment in internal armed conflict, an area that was not currently covered by international law.

### India

110. The topic “Protection of the environment in relation to armed conflict” addressed an area that was in urgent need of clarification and coherence. The principle had been established in the arbitration award in the Trail Smelter case that each State had a duty not to allow its territory to be used in such a manner as to injure another. In the past two decades environmental laws had undergone major development as the urgency of the need for a
solution had become more and more apparent. His delegation supported the three-phase approach chosen by the Special Rapporteur, and considered that her work should encompass relevant areas of international humanitarian law, human rights law and refugee law as well as environmental law.

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**New Zealand**

Ms. Pierce (New Zealand), speaking on the topic of protection of the environment in relation to armed conflict, said that her delegation strongly condemned the use of nuclear, chemical and biological weapons; careful consideration of their environmental impacts was integral to managing the risk of lasting damage to the natural environment and those living in it. The New Zealand Military Manual of 1992 provided that care should be taken in warfare to protect the natural environment against widespread, long-term and severe damage and prohibited the use of methods or means of warfare intended or expected to cause such damage. The revised manual on the law of armed conflict currently being prepared would take into account the relationship between the protection of the environment and armed conflict. When finalized, its provisions would constitute orders issued by the Chief of Defence Force pursuant to the Defence Act of 1990.

3. The Special Rapporteur’s temporal, three-phase approach to the topic would be useful for isolating complex legal issues. However, it might not be possible to adhere to it strictly, as many of the issues were relevant to more than one phase of conflict. It was important, in any event, not to duplicate the existing international rules on the law of armed conflict.

4. Her delegation encouraged the use of a broad working definition of the term “armed conflict” in order to ensure that harm to the environment was included irrespective of the parties to the armed conflict or the location of the damage. It was important not to limit the consideration of the topic at the early stages; in that connection, her delegation supported the current working definition of the term “environment” contained in the report. That definition would allow the Committee to express its support for a broad definition of “environment” in the future, with the aim of preventing overlap with other areas of international humanitarian law. In further reports, the Special Rapporteur should address the need to minimize environmental degradation during armed conflict and consider reparation and compensation by those responsible, for which principle 13 of the Rio Declaration on Environment and Development might prove useful.

**Iran**

11. Under the topic of protection of the environment in relation to armed conflict, further study of the environmental obligations in armed conflict might be warranted, not least because it would provide an opportunity to fill existing gaps in international humanitarian law concerning the protection of environment. An example of such a gap was the illustrative but not exhaustive list of vital infrastructure that must not be made the object of attack under article 56 of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I). In fact, the failure to mention oil platforms and other oil production and storage facilities was contrary to the intent of the drafters of the Protocol to protect the environment. Since the adoption of Protocol I, attacks on such structures with consequent environmental damage for which there was no legal remedy had revealed the gap in the law.

12. The provision in article 56, paragraph 2 (b), of the Protocol allowing for the cessation of the special protection against attack accorded to nuclear electrical generating stations had been repeatedly described as inappropriate in view of the dangerous nature of nuclear installations. Advances had been made since to achieve full prohibition of such attacks, including the adoption of United Nations General Assembly resolutions 40/6 and 45/58, as well as resolutions GC(29)/RES/444 and
The debate on the issue since the 1985 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and its evolution into a serious proposal — included in the final document of the 2010 Review Conference — to adopt a legally binding instrument to prohibit any military attacks on nuclear facilities dedicated to peaceful purposes suggested that the lifting of special protections as provided for in article 56, paragraph 2 (b), should be described as outdated.

13. The suggestion that the Commission should define the term “armed conflict” in order to facilitate consideration of the topic was acceptable if the definition was confined to the term “international armed conflict” and was considered merely a working definition. Expanding the scope of the definition of armed conflict to include non-international armed conflict would be problematic. The Commission would need to consider the legal obligations of non-State actors, on the basis of a definition already fraught with ambiguities and disagreements; such an endeavour would also entail further attempts to determine the threshold of non-international armed conflicts. In either case, the relevant provisions of the international law of armed conflict would need to be changed, which was far from the purpose of the work in question. The inclusion of refugee matters, on the other hand, was clearly relevant. One of the immediate consequences of large-scale war was the displacement of persons, which could result in the mass influx of refugees. Provision for settlement in the event of a surge of refugees necessarily involved issues relating to the protection of the environment.

24. On the topic of protection of the environment in relation to armed conflicts, his delegation was concerned about the Special Rapporteur’s attempt, in her first report, to determine principles and concepts of international law that might continue to apply during an armed conflict. The identification, extraction or application of broad concepts from international environment law was less useful than the assessment of provisions of the law of armed conflict relating to the protection of the environment. Moreover, such an approach would unnecessarily draw the Commission into issues regarding the concurrent application of bodies of law other than the law of armed conflict during armed conflict that would be difficult to resolve. The manner in which the report characterized some of those concepts, including the so-called “principles of prevention and precaution”, did not reflect international law. References to the concept of sustainable development and other issues, such as indigenous peoples and environmental rights, were less useful for identifying legal protections of the environment with regard to armed conflict.

25. Notwithstanding such concerns, his delegation welcomed the Special Rapporteur’s decision to focus her second report on identifying existing rules and principles of the law of armed conflict relating to the protection of the environment, which might reflect how concepts and principles relevant in peacetime had been adapted to circumstances of armed conflict. The task of identifying existing rules might, however, prove less helpful should the Commission attempt to determine whether provisions of certain treaties reflected customary international law. The Commission should not seek to modify existing legal regimes.

47. With regard to the topic “Protection of the environment in relation to armed conflicts”, the focus should be on identifying the legal issues involved in environmental protection that arose during each phase of armed conflict, with the aim of developing future guidelines or conclusions, rather than addressing issues such as internally displaced persons, refugees, cultural heritage and environmental pressure as a cause of armed conflict, or attempting to modify existing legal rules and regimes under international humanitarian law, human rights law or international criminal law. Although those legal issues might be relevant to the topic at hand, they should be
48. Despite the broad support for the proposal to develop working definitions of “armed conflict” and “environment” to facilitate discussion, there was no urgent need to develop a conclusive definition in the early stages. In particular, the debate on the definition of “armed conflict” should be preceded by a determination of which actors would be covered by the guidelines or conclusions and the scope of protection that would be afforded. In relation to linkages between environmental principles, human rights law and armed conflict, issues such as “sustainable development”, the “principle of prevention”, the “polluter pays” principle and the obligation to conduct environmental impact assessments would be relevant for the development of guidelines to encourage the adoption of environmentally sound measures in military or defence planning and operations.

49. In response to the Commission’s request for State practice on the topic, his delegation noted that the measures taken by the Malaysian armed forces to protect and preserve the environment in their administrative and operational structures were generally based on domestic legislation, including the Environmental Quality Act of 1974, the National Forestry Act of 1984 and the Wildlife Conservation Act of 2010. The construction of military bases and installations by the Malaysian armed forces required compliance with the Environmental Quality Act, including the need for environmental impact assessment reports prior to such construction, the proper placement of explosives and fuel storage installations so as not to adversely affect water tables, and respect for the safety of populations and preservation of the surrounding environment. The Malaysian armed forces also took part in incidental tasks to support civilian enforcement agencies such as the police, customs, and forestry and wildlife departments, since a number of Malaysian border security areas were adjacent to national wildlife or forest reserves. An example worth mentioning was the enforcement measures taken by the Royal Malaysian Navy through its manned facilities on the Layang-Layang atoll on the South China Sea to maintain the area as a marine reserve, for both economic and security purposes.

Indonesia

67. On the topic of the protection of the environment in relation to armed conflicts, her delegation welcomed the temporal approach adopted by the Special Rapporteur, which allowed for the consideration of protective measures before, during and after an armed conflict. The primary focus should, however, be on protective measures during an armed conflict. True, there could not be a strict dividing line between the different temporal phases and, as the work progressed, it would become evident how the legal rules pertaining to the different phases blended into one another. Therefore, there should be no attempt to assign different weights to each phase.

68. With regard to the scope of the topic, the Commission should address situations of non-international armed conflicts as well as those of international armed conflict. Even though the United Nations Educational, Scientific and Cultural Organization (UNESCO) had adopted legal instruments concerning the protection of cultural heritage, the Commission should examine the issue with a view to filling any gaps in those instruments. While supporting the principles and concepts of sustainable development, prevention, polluter pays, environmental impact assessment and due diligence, which the Commission had discussed extensively, her delegation believed that the Commission should examine them further in order to determine their proper applicability in the context of the topic.

ROK

73. On the topic of protection of the environment in relation to armed conflicts, his delegation hoped that the work of the Commission would contribute to more constructive discussion concerning the prevention of environmental degradation. It concurred with the Special Rapporteur’s view that different problems arose and different rules were applicable before, during and after an armed conflict but thought that it might be difficult in practice to determine exactly when the
pre-conflict phase ended and the post-conflict phase began. His delegation also supported the inclusion of organized armed groups in the topic, based on the definition adopted in the Commission’s previous work on the effects of armed conflict on treaties.

74. His delegation noted that the definition of “environment” had been taken from the Commission’s previous discussions on the principles of the allocation of loss in the case of transboundary harm arising out of hazardous activities but considered that the concept of environment needed to be defined with reference to context. The context of hazardous activities was different from that of armed conflict; accordingly, the appropriateness of the concept should be carefully examined and constructively discussed within the Commission. The anticipated discussions during the Commission’s next session on protection of the environment during the actual conflict should include a theoretical examination of the existing principles of such protection; the Commission should also focus on preventive measures and international cooperation and the development of guidelines.