Thank you for giving me the floor. As I am speaking in this Committee for the first time, let me first congratulate you and other members of the bureau on your election. I assure you of full cooperation of my delegation.

Let me join others in offering condolences on the untimely death of Paula Escarameia. She was an active participant in the work of the International Law Commission and
made significant contribution to its work. She will be fondly remembered by her colleagues in the Commission as well as in the Sixth Committee as a voice for the integrity of international law and proponent of its core values, particularly as regards human rights and the role of civil society.

We also express our deep sorrow on the passing away of Professor Ian Brownlie, former member of the International Law Commission, in a tragic accident at the beginning of this year. Sir Ian Brownlie made a significant contribution to international law and to the work of the Commission, especially as a Special Rapporteur on the topic of ‘effect of armed conflict on treaties’. His untimely death is a great loss to international law.

Madam Chairperson,

I thank the Chairman of the International Law Commission for his lucid and comprehensive presentation of the report on the work of the Commission at its 62nd Session and especially on the detailed discourse on the guidelines. The Commission, at its last session, has made considerable progress in the work of various matters on its agenda, including the identification of possible new topics. We also welcome the new member who has joined the Commission this year, Mr. Huikang Huang of China.

Madam Chairperson,

The rule of law constitutes the essence of the Commission’s work. India attaches high importance to the debates and exchange of views between the Commission and Member States in the Sixth Committee and considers that these debates are important tools not only for the progressive development of international law but also for the promotion of the rule of law at the national and international levels.

The Commission has a symbiotic relationship with the International Court of Justice, the highest judicial organ of the United Nations. Time and again, the Court has relied on treaties as binding instruments in themselves and other documents prepared by the Commission as evidence of customary international law. Conversely, the Commission has formulated draft articles on many subjects taking into account the jurisprudence developed through Court’s decisions. While the General Assembly has recognized the importance of the draft articles adopted by the Commission on different subjects, such rules have been relied on by national and international courts and tribunals in their work.

Madam Chairperson,

Coming to the topic of reservation to treaties, my delegation would like to congratulate Special Rapporteur Mr. Alain Pellet for his hard work that has led the Commission to provisionally adopt the complete set of draft guidelines with commentaries, constituting
the Guide to Practice on Reservation to Treaties. We find his explanation to the
guidelines immensely useful. The Draft Guidelines will serve as a comprehensive
manual and would provide guidance to States and legal advisers on this subject.

The Commission intends to adopt the final version of the Guide to Practice during its
sixty-third session in 2011 taking into consideration the observations of States and
international organizations. India will be submitting comments on the guidelines
separately as requested by the Commission. However, I would like to make very
preliminary comments at this stage on reservations to treaties.

Madam Chairperson,

It may be recalled that quite early in its work on reservation, there was consensus in
the Commission that there should be no change in the relevant provisions of the Vienna
Convention on the Law of Treaties and that the Guidelines would only serve to
elaborate and elucidate those rules. However in dealing with the issue of impermissible
reservations the proposed guidelines appear to have gone beyond the provisions of the
Vienna Convention, particularly in paragraph 4.5.2 which provides a new concept of a
general presumption in the case of an impermissible reservation. In such a case, under
the proposed guideline, the reserving State becomes a party to the treaty without the
benefit of the reservation made by it unless it clearly indicates that under these
circumstances it does not wish to be bound by the treaty in question. We have serious
concerns about this concept as it may bring uncertainty to international treaty relations.

On the question of succession to treaties, we note that the guidelines generally follow
the 1978 Vienna Convention.

We appreciate the decision to make the edited summary records of the Commission’s
proceedings (incorporating the corrections of members of the Commission, and editorial
changes by the Yearbook editors and in the form prior to typesetting and publication)
up to 2004, available on a pilot basis, on the Commission’s website. Considering the
delay in the publication of the Summary Records, this will be of great assistance to
member States and others in following the Commission’s work. Further, priority
should be accorded to expedite preparation of the summary records of the
Commission.

Madam Chairperson,

We also support the Commission’s views concerning the question of honoraria, resulting
from the adoption by the General Assembly of its resolution 56/272 of 27 March 2002.
The decision to discontinue the honoraria especially affects Special Rapporteurs from
developing countries, as it compromises support for their research work. The Special
Rapporteurs should also be given the opportunity to participate in the Meetings of the
Sixth Committee and interact with delegations during the consideration of their topics. This would give them the opportunity to acquire a more comprehensive view of existing positions, to take note of observations made and to begin preparing their reports at an earlier stage.

Thank you, Madam Chairperson.