

STATEMENT BY *****
REPRESENTATIVE OF JAPAN
AT THE MEETING OF THE SIXTH COMMITTEE
ON THE REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS SIXTY-NINTH SESSION (CLUSTER ONE)

Introduction Parts/Other Decisions and Conclusions

Thank you, Mr. Chairman.

At the outset, the delegation of Japan would like to extend our wholehearted congratulations on your assumption of the Chairmanship of the Sixth Committee. Our agenda includes several important subjects this year, and the Report of the International Law Commission raises important points for consideration. We assure you of Japan's full support and active contribution to the discussions.

As Article 13 of the UN Charter stipulates, the General Assembly is mandated to encourage the progressive development of international law and its codification, which is a foundation of the role of the Sixth Committee and the ILC. Indeed, for the past seven decades, these two organs have played major roles in the development of international law by drafting articles and conventions.

While some have suggested that the ILC has exhausted deliberations on most fields of international law and that other multilateral forums now play a larger role in law-making in late years, the ILC maintains a unique and important role. One role that we deem particularly important is the clarification of the basic principles of international law in order to avoid its fragmentation. In today's world, rules are created almost daily, which accelerates this fragmentation of international law. In order to maintain consistency in the international legal framework, the Commission can identify and codify established and emerging principles of international law deriving from individual norms.

In the consideration of the current topic, “Protection of the atmosphere”, the Special Rapporteur invited members of the Commission to the dialogue session with scientists. This effort facilitated members’ scientific understanding related to the topic, which enabled the Commission to study this scientific topic from a general international law perspective. This represents a good model for when the Commission seeks to extract general rules of international law from technical scientific topics.

It is of course important for the Commission to select practical topics which reflect real international concerns. It is therefore essential that States give adequate guidance on possible topics to be discussed by the ILC. In this sense, it would be useful, for example, to have a session at the Sixth Committee devoted solely to exploring new topics to be addressed by the ILC.

Close cooperation between the ILC and the Sixth Committee is essential in carrying out the progressive development of international law and its codification. In this respect, Japan welcomes the commemorative sessions planned during the 70th anniversary of the ILC next year, which will provide an opportunity for greater interaction between the Commission and Member States.

Mr. Chairman,

In the sixty-ninth session, the Commission decided to include two new topics in its long-term programme of work, namely “*General principles of law*” and “*Evidence before international courts and tribunals*”. Regarding the first topic, it is important that the Commission identify the nature and function of this notion through careful examination of State practice, including international and domestic judicial decisions, as well as the development of relevant legal theories. It would be useful for courts, tribunals, and practitioners of international law if the Commission could provide an illustrative list of such principles in the course of the consideration of the topic.

Regarding the second topic, while the judgments of the ICJ and other international tribunals are critical references for States when confronting legal issues, objective analysis and evaluation of their rules of evidence contribute to

consistent judgements and the avoidance of the fragmentation of jurisprudence. In this regards, we sincerely hope the Commission will carry out the deliberation on this topic in a practical manner.

Crimes against humanity

Mr. Chairman,

I would now like to address the topic of Crimes against humanity. The fight against impunity for the most serious crimes is an important issue for the international community as a whole. Japan acknowledges the importance of the work initiated by the Special Rapporteur, Mr. Sean Murphy, in drafting articles on "Crimes against humanity", which is one of the remaining issues in the fight against impunity. We also recognize its important role in filling the legal gaps between obligations of prevention and punishment of crimes against humanity, as demonstrated most notably by our consistent support for the work of the ICC.

We thus commend the Special Rapporteur's contribution through his third report, which served as the basis for fruitful discussions among ILC members, and congratulate him on the provisional adoption of a series of draft articles. We would also like to express our deep appreciation for the constructive efforts of all members of the Committee to successfully conclude its first reading of the draft articles on "Crimes against humanity".

Since the third report mainly addressed procedural matters, the Commission's discussion especially focused on the matter of mutual legal assistance during this session. This discussion will help strengthen the horizontal relationship between states concerning the prevention and punishment of those crimes from a procedural aspect.

However, there were different views among members of the Commission about the inclusion of the provision on immunity. After the discussion, the provision on the irrelevance of official capacity was included in paragraph 5 of

draft article 6, while the question of immunity had not been addressed in the draft articles. We will closely follow future discussions on how to maintain consistency between these provisions and the ICC regime.

We sincerely hope that the Commission will continue deliberation on this topic in a balanced and constructive manner, taking into account the relationship with existing regimes, including the ICC among others.

Thank you, Mr. Chairman.