

74th Session of the General Assembly, Sixth Committee

Agenda Item 79, Report of the International Law Commission (Cluster III)

**Statement by Ms. Ju Yeong, Jang, Second Secretary for International legal
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Mr/Madam, Chairperson,

On the topic of “**Succession of States in respect of State Responsibility**”, the Korean government would like to express its sincere gratitude to Special Rapporteur Mr. Pavel Šturma for preparing the third report. My delegation also extends our appreciation to the Secretariat for preparing the Memorandum, which provides information on treaties that may be of relevance to the future work on this topic.

Acknowledging the importance of the succession of States in respect of State responsibility, my delegation expresses our gratitude to ILC Members for leading the discussions effectively despite insufficient State practices on this topic. Considering that the topic has to be discussed without sufficient State practice, my delegation emphasizes that the Commission should take enough time to review, rather than draw hasty conclusions.

The Korean government positively views Draft Articles 1, 2, and 5 adopted by the Commission this year. My delegation supports that the work on this topic is taking the form of “draft articles” consistent with the previous work of the Commission on matters of State succession. My delegation also supports the subsidiary nature of the draft articles and agrees that priority should be

given to agreements between the States concerned, as indicated in Paragraph 2 of Draft Article 1.

The Korean government supports Draft Article 2, which provides usages of terms identical to the definitions laid out in the 1978 and 1983 Vienna Conventions and in the previous work undertaken by the ILC, namely the 1999 Articles on Nationality of Natural Persons in relation to the Succession of States. My delegation also agrees with Draft Article 5, which sets forth the requirements for international legality of State succession in line with the long-established practice of the Commission on matters of State succession and the principle of *ex injuria jus non oritur*.

The Korean government takes note of the approach taken in the third report that deals with questions relating to the transfer of rights separately from those relating to the transfer of obligations and put them in a different set of draft articles. Considering that the present draft articles may eventually turn into a treaty, as in other areas of work on State succession by the Commission, my delegation is concerned that such an approach would inevitably make a long list of draft articles with much overlaps in effort.

Mr/Madam, Chairperson,

Turning to the topic “**general principles of law**”, the Republic of Korea welcomes the initiation of work on this topic by the ILC, which will contribute to the progressive development of international law. The Korean government expresses its special thanks to Special Rapporteur Vasquez-Bermudet for his effort on this topic.

With regard to Draft Conclusion 3, the Special Rapporteur categorizes the general principles of law into two types. That is, (a) those derived from the domestic legal system and (b) those formed within the international legal system. However, in our view, there was no consensus among members on the second category of general principles of law. In this regard, my delegation suggests conducting further in-depth study since Conclusion 3 is one of the most critical elements in determining the concept and content of general principles of law. We want to emphasize that the wording of Article 38(1) (c) of the ICJ Statute ought to be deemed as the standard, and if the ILC wants to make an exception, a clear and persuasive justification should be provided.

In regard to the issue of providing an illustrative list, having an illustrative list may be beneficial in understanding and identifying the general principles of law. However, my delegation would like to note that the ILC should exercise caution when drawing up an illustrative list as this might unintentionally expand the study and weaken the key objective of this topic.

The Korean government recognizes that this topic will have a significant impact on the development of international law. The Korean government will proactively participate and cooperate in the discussions on the topic.

Thank you, Mr/Madam, Chairperson,