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## Statement of Japan

United Nations General Assembly, Sixth Committee, 76<sup>th</sup> SESSION,  
Report of the International Law Commission on the work of its seventy-second session  
(Agenda item 82), Cluster II

Statement by KAWASE Taro, Counsellor, Legal Advisor, Permanent Mission of Japan

New York, 25 October - 3 November 2021

Thank you, Madam Chair,

I have the honour to speak on behalf of Japan. I would like to comment on the substantial topics covered in Cluster 2.

### Immunity of State officials from foreign criminal jurisdiction

Madam Chairperson,

Japan has high regard for the work of the International Law Commission in the 72<sup>nd</sup> session concerning the topic “Immunity of State officials from foreign criminal jurisdiction”. The Commission provisionally adopted draft articles 8 to 12 in the plenary sessions. This is great progress compared to the previous two sessions of the Commission.

The outcome of the Commission regarding procedural rules sufficiently takes into account the rights of the State of the officials and it may contribute to clarify procedural aspects on the immunity rules.

It is unclear, however, if the Commission thoroughly analyzed State practices when it drafted articles which stipulate the obligation of the forum State. Japan is of the view that it is useful for Member States if the Commission explains in detail the rationale in relation to the obligation of the forum State.

Japan welcomes that the Commission addressed in the report the necessity of analyzing the relationship between inviolability and immunity of officials as Japan mentioned in the previous Sixth Committee session.

Lastly, Japan is of the view that the divergent views among members of the Commission regarding crimes which do not apply immunity *ratione materiae* (draft article 7) have been affecting the entire discussion on this topic including the drafting of article 8 *ante*. Japan expects that this issue will be resolved, and that the Commission will show the Member States a persuasive explanation concerning draft article 7.

Sea-level rise in relation to international law

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Madam Chair,

I would like to address the topic of “Sea-level rise in relation to international law”. Japan highly appreciates the Commission’s dedicated work on this issue for the last few years, fully recognizing how pressing the issue of sea-level rise is, especially for small island States.

As shown in the Declaration on Preserving Maritime Zones in the Face of Climate Change-Related Sea-Level Rise that was issued by the Pacific Islands Forum in August, climate change-related sea-level rise can imperil the livelihoods and wellbeing of peoples particularly in island countries and undermine the full realization of a peaceful, secure and sustainable future for their region. In light of this urgency, we look to the Study Group furthering in-depth discussion on the identified topics on a priority basis, and would like to emphasize that Japan is determined to engage on this serious issue and is committed to working closely with relevant countries including the PIF members.

It is significant and encouraging that a number of countries have agreed with the primacy of the UN Convention on the Law of the Sea even in tackling climate change-related sea-level rise. We appreciate that the mentioned PIF declaration is also in line with this understanding. As we are all aware, UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out. Whatever our discussions on this issue may result in, we should always remember the importance of establishing maritime zones in accordance with the relevant provisions of UNCLOS. We also emphasize the importance of addressing the issues of sea-level rise in the context of the law of the sea, considering the delicate balance of rights and obligations stipulated in UNCLOS.

I thank you.

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