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Statement of Japan

United Nations General Assembly, Sixth Committee, 78th SESSION,
Report of the International Law Commission on the work of its seventy-fourth session
Agenda item 79, Cluster III

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New York, 23 October - 1 November 2023

Thank you, Mr. / Madam Chairperson,

I have the honour to speak on behalf of the Delegation of Japan. I would like to comment on the substantial topics covered in Cluster 3.

Subsidiary means for the determination of rules of international law

First, I would like to comment on the topic of "Subsidiary means for the determination of rules of international law." Japan congratulates the Special Rapporteur Mr. Charles Chernor Jalloh for his first report. Japan welcomes the progress made on this topic and hopes that the Commission will continue its thorough deliberations on the questions involved.

In the draft conclusions, the category of subsidiary means of determining the rule of international law was presented as "any other means generally used to assist in determining rules of international law" in addition to judicial decisions and the teachings of the most highly qualified publicists of the various nations, which are provided in Article 38, paragraph 1 (*d*), of the ICJ Statute, not as examples but as an exhaustive list. Therefore, Japan believes that elements which are not included in the scope of the Article in the ICJ Statute as subsidiary means for interpretation cannot be added without amendment in principle. Therefore, Japan expects further explanation of what is included in "any other means" and the criteria for classification in the draft conclusions and commentary.

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Japan also expects that the general criteria used to assess the weight of subsidiary means for the determination of rules of international law will be further discussed and explained in detail regarding the relationship between each criterion and the differences in the weights.

Succession of States in respect of State responsibility

Mr. / Madam Chairperson,

Now, I would like to turn to the topic of “Succession of States in respect of State responsibility.” Japan recalls that the final form was changed from draft articles to draft guidelines given the limited State practice. Furthermore, Japan expects the Commission will focus on selected topics that are reflective of the needs of States and pressing concerns of the international community as a whole. On the way forward, Japan prefers adoption of a final report to be prepared by the working group for this topic.

Thank you.

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