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## Statement of Japan

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Report of the International Law Commission on the work of its seventy-fifth session  
Cluster II

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Thank you, Mr. Chair.

I have the honour to speak on behalf of the delegation of Japan. Japan is pleased to address the topic “Subsidiary means for the determination of rules of international law.”

First, Japan would like to comment on draft conclusion 5, which was provisionally adopted with commentary for the first time this year. In the Commission’s previous works, the phrase “may serve as” was used to describe the role of teachings as a subsidiary means. However, the more direct formulation that teachings “are” a subsidiary means is used instead in draft conclusion 5.

In this regard, Article 38 of the Statute of the International Court of Justice stipulates a strict criterion of “the teachings of the most highly qualified publicists of the various nations”. By contrast, draft conclusion 5 gives a wider description of “especially those generally reflecting the coinciding views of persons with competence in international law from the various legal systems and regions of the world.” Hence, if the text remains as “Teachings, ..., are,” then it would imply that a wide range of other teachings will be accepted as subsidiary means, making the outer limits unclear.

Turning to draft conclusion 8, which builds on the general criteria for the assessment of subsidiary means for determining rules of international law contained in draft conclusion 3, Japan welcomes further discussion on the relationship between each criterion in draft conclusion 3 and the differences in their respective weights.

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In conclusion, with regard to future work on this topic, while Japan understands that there is a plan to consider other subsidiary means in addition to teachings, it should be recalled that, last year, several States expressed their views that called for caution against expanding the scope to other subsidiary means.

Thank you.

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