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Ministry of Foreign Affairs of the Republic of Korea

Report of the International Legal Commission on the work of its 76th session (Agenda 80)

Sixth Committee, 80th session of UNGA, New York, 28 October 2025

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My delegation would like to begin its intervention by expressing its gratitude for the excellent work done by the Commission at its 76th session. We understand that this year's session was drastically shortened to just 5 weeks. Under these highly challenging circumstances, the Commission did its best to carry out its mandate as efficiently as possible, for instance, successfully completing the consideration of the important topic of 'sea-level rise in relation to international law'. My delegation would also like to convey its gratitude to the Secretariat of the ILC, whose contribution was essential for this year's ILC session. It is hoped that the circumstances surrounding the Commission will improve in a speedy manner so that the Commission will be able to effectively carry out its mandate established under Article 13 of the United Nations Charter.

Sea-level rise in relation to international law

First, my delegation would like to express deep appreciation for the excellent final report of the Study Group, which successfully concludes the consideration of the topic. With regard to the issue of 'climate change-related sea-level rise', the Study Group has conducted a broad-ranging and in-depth discussion in a prompt and effective manner. This Study Group will serve as a template for the Commission's future work in the progressive development of international law and its codification with respect to the topics that require a prompt and comprehensive response by the international community, such as sea-level rise.

In connection with the issue of sea-level rise, the Republic of Korea fully shares the concern of the international community, in particular low-lying island States, which are confronted with grave challenges posed by climate change. It was in this context that, in May 2023, my government expressed its support for the 2021 Declaration on Preserving Maritime Zones in the Face of Climate Change-related Sea-Level Rise adopted by the Pacific Islands Forum. The Korean

Government's serious commitment to addressing this issue is also demonstrated by its active participation in, among others, C-SET (Coalition for Addressing Sea-Level Rise and its Existential Threats) and RNI (the Rising Nations Initiative).

Turning to the final report of the Study Group, my delegation highly appreciates the Study Group for bringing together the three sub-topics in a cohesive and integrated way by highlighting interlinkages and cross-cutting issues among the three subtopics, such as stability, predictability, and certainty. This final report provides the international community with a solid normative roadmap with which to tackle the issue, which poses a serious global challenge.

My delegation welcomes the fact that some conclusions contained in the final report have been endorsed by the international community. For instance, the ICJ specifically referred to the final report of the Study Group in paragraph 361 of its advisory opinion rendered on 23 July of this year. It is true that there appears to be some divergence of views among the ICJ judges concerning some conclusions contained in the final report, for instance, the presumption of continuity of statehood in cases of sea-level rise.

In this connection, it should be recalled that my delegation, in its previous statements at this Committee, pointed out that the Study Group's work could enhance persuasiveness and acceptance by paying more attention to the distinction between *lex lata* and *lex ferenda*, in particular by properly "situating" the "soft law instruments" when addressing the topic of sea-level rise.

It is expected that some of the conclusions of the final report will be developed into international treaties or consolidated into the body of customary international law, while other conclusions will continue to be debated as to their status within international law. It is beyond doubt that this landmark report will continue to serve as a source of inspiration and also a solid blueprint for an effective response to the global challenge of climate change-related sea-level rise.

General Principles of Law

My delegation would like to express its gratitude for the excellent work done by the Special Rapporteur, Mr. Marcelo Vázquez-Bermúdez, and the ILC members on this topic. It is regrettable that the adoption of draft conclusions by the Commission had to be postponed to the next session, due to the shortage of time resulting from the reduced length of the session. It is hoped that, through its work, the Commission will bring greater clarity to this topic, also known as the 'third' source of international law, which is not without a certain degree of ambiguity, as was

demonstrated by the discussions within the Commission.

Let me first address the central question of the topic, that is, the existence or otherwise of the second category of general principles of law. We will proceed to discuss the ramifications of the existence of general principles of law “that may be formed within the international legal system”. Then, we will make comments on some of the draft conclusions.

Concerning the key question of the existence of the second category of general principles of law, it is not surprising that draft conclusion 3(b) and draft conclusion 7 received the most comments from States. Having carefully considered the Special Rapporteur’s Fourth Report and the discussions held within the Commission, my delegation could be open to recognizing the existence of the second category of general principles of law, subject to the following conditions.

First, the existence of the second category needs to be established by State practice, jurisprudence, and doctrine. Although the Special Rapporteur does not mention doctrine or teachings in his Fourth Report, it would be worthwhile to further elaborate on this subsidiary means for the determination of rules of law, as is provided for in draft conclusion 9.

Secondly, it was frequently pointed out by States and by some members of the ILC that the second category of general principles of law should be more clearly delineated from the principles of customary international law. Unless the Special Rapporteur provides a lucid and convincing explanation on how these two categories of principles distinguish themselves from or interact with each other, the necessity and legitimacy of the second category of general principles of law will continue to be called into question.

Thirdly, my delegation shares the often-expressed view that the examples cited as falling under the second category of general principles of law do not appear to correspond to the relevant provisions, such as draft conclusion 3(b) and draft conclusion 7(1). My delegation previously raised the question of whether the principle of *uti possidetis*, which operates in the specific context of (colonial) independence, could be characterized as a general principle of law “intrinsic to the international legal system”.

Next, we would like to address the ramifications of the existence of the second category of general principles of law for the other draft conclusions, in particular, draft conclusion 10 and draft conclusion 11, which deal with “functions of general principles of law” and the “Relationship between general principles of law and treaties and customary international law” respectively. Given the substantial differences between the first and second categories of general principles of law in

terms of their formative process and function, if the existence of the second category of general principles of law is admitted, then draft conclusion 10 and draft conclusion 11 need to be formulated in a way that reflects these differences between the two categories. For instance, in terms of function, the first category of general principles of law performs primarily the “gap-filling” function, while the second category of general principles of law is more geared toward ensuring the coherence and systematicity of international law itself. However, the current draft conclusion 10 is formulated in a rather syncretic manner without paying sufficient attention to the differences between the two categories. A similar comment can be made on draft conclusion 11.

Now, we would like to offer comments on some draft conclusions. First, concerning draft conclusion 7(1), there is still some ambiguity over the phrase “intrinsic to the international legal system”. The Commission is invited to shed more light on this important, but somewhat nebulous language. Secondly, as regards draft conclusion 7(2), my delegation has reservations about the necessity and substantive clarity of the provision and welcomes the Drafting Committee’s decision to delete it. Thirdly, one may wonder whether the newly proposed draft conclusion 12, providing for “general principles of law with a limited scope of application,” is compatible with the second category of general principles of law, which, according to draft conclusion 7, “the community of nations has recognised ... as intrinsic to the international legal system”. One could accept the compatibility of draft conclusion 12 with the first category of general principles of law. However, the applicability of draft conclusion 12 to the second category of general principles of law needs to be carefully considered.

Hoping that the Commission will continue to make progress on this topic, the Republic of Korea expresses its willingness to fully cooperate with the Commission.

Other decisions and conclusions of the Commission

Finally, regarding “Other decisions and conclusions of the Commission”, my delegation takes note of the inclusion of 2 new topics, that is, “Compensation for the damage caused by internationally wrongful acts” and “Due diligence in international law” in its programme of work. My delegation extends its congratulations to Mr. Mārtiņš Paparinskis and Ms. Penelope Ridings on their appointment as Special Rapporteurs and assures them of its willingness to work with them on these important topics.

I thank you.