

STATEMENT BY MR. *****
REPRESENTATIVE OF JAPAN
AT THE MEETING OF THE SIXTH COMMITTEE
ON THE REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS SIXTY-EIGHTH SESSION (PART THREE)

Protection of the environment in relation to armed conflicts

Thank you, Mr. Chairman.

As the first topic of today's statement, I would like to briefly raise some points regarding the topic of protection of the environment in relation to armed conflicts. Japan commends the Special Rapporteur, Ms. Marie Jacobsson, for her extensive work. We duly note the draft principles adopted by the Commission as well as those taken note by the Commission.

Japan welcomes the submission of the third report by the Special Rapporteur, which addresses rules of particular relevance in post-conflict situations. We note, however, that discussion in the Commission on this subject has revealed the complexity and diversity of the issues involved. For example, the current scope of this topic appears to include both international and non-international armed conflict, but it is difficult to identify principles and rules applicable to both. The draft principle attempts to address post-conflict environmental protection management, but it seems quite difficult to define generally applicable rules on post-conflict measures.

Japan hopes that the Commission will examine the scope of this topic carefully and focus on the areas where existing rules are likely to be identified so that the final products will be useful to Member States.

Immunity of state officials from foreign criminal jurisdiction

Mr. Chairman,

Turning to the topic of immunity of state officials from foreign criminal jurisdiction, allow me to first express our warm appreciation to the Special Rapporteur, Ms. Concepción Escobar Hernández, for her dedicated work on this complex and challenging subject. I would like to make some preliminary comments.

Firstly, Japan appreciates the Special Rapporteur's detailed analyses of various state practices as well as decisions of international courts and tribunals. The Special Rapporteur presents three instances in which the immunity of state officials from foreign criminal jurisdiction does not apply: (1) certain international crimes, (2) territorial tort exception, and (3) corruption. However, Japan is of the view that the Special Rapporteur's report does not provide sufficient evidence that these three categories are already established categories in which the immunity of state officials from foreign criminal jurisdiction does not apply. Therefore, Japan hopes that the Special Rapporteur can provide concrete examples to support her argument on this point.

Secondly, Japan is of the view that in-depth analysis and discussion in the Commission of the relationship and fundamental differences between immunity *ratione personae* and immunity *ratione materiae* is necessary. Because this issue is so fundamental, it is difficult to present coherent international norms on this topic without thorough discussion. In our understanding, this year's discussion in the Commission reflects the difference of opinions among Commission Members on this issue. Therefore, Japan hopes that the Special Rapporteur will further elaborate on this issue and promote discussion in the Commission on this point.

Finally, the law of immunity is one of the fundamental principles of international law, underpinning equality of sovereign states and stable inter-state relationships. Therefore, although Japan recognizes great practical value in this ongoing work, it is of the view that we must deal with the issue of limitations

and exceptions to immunity with caution.

Thank you, Mr. Chairman.