

ISRAEL

68th Session of the General Assembly

Check Against Delivery

Statement by

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Agenda Item 81

Report of the International Law Commission on the work of its sixty- third and
sixty fifth sessions

United Nations, New York

29 October 2013

Mr. Chairman,

At the outset, Israel would like to express its appreciation to the ILC for its ongoing work. We believe that the dialogue between the Commission and the Sixth Committee is of great value and we welcome once again the opportunity to share our observations relating to the ILC report on the work of its sixty-fifth session.

Turning to the subject of "**Subsequent agreements and subsequent practice in relation to the interpretation of treaties**", Israel congratulates the Special Rapporteur, Professor Nolte, on the First Report on the subject.

With respect to the attribution of treaty-related practice to a State and the scope of relevant State practice under Draft Conclusion 4, Israel favors the approach that conduct may be attributed to a State where undertaken or deemed to be acceptable by those organs of a State Party which are both internationally and nationally regarded as being responsible for the application of a treaty.

Also under subsequent practice in relation to the interpretation of treaties, with regard to the practice of other actors as reflected in reports by international organizations or non-governmental organizations, Israel is of the view that the reliability of said organizations must be assessed and taken into account in a cautionary manner.

With regard to the topic of "**Immunity of State officials from foreign criminal jurisdiction**", first, concerning "Part I", Israel understands the term "criminal jurisdiction" to include any act of authority which might hinder the official in the performance of his duties, or any "measures imposing obligations" upon the official, or the former official "in connection with his official activity". As stated by the ICJ, such acts of authority include acts which expose the official to the mere risk of being subject to legal proceedings.

Regarding "Part II", Israel notes that the position of the ICJ in the *Arrest Warrant Case* is commonly recognized as reflecting the scope of immunity *ratione personae* under customary international law. Accordingly, the group of high-ranking State officials who enjoy immunity *ratione personae* is not limited to the *troika*. Therefore, in our view it is important that Part II is not formulated in a manner that might inadvertently misrepresent or be interpreted as limiting, the scope of personal immunity as it currently stands under customary international law.

We are of the view, therefore, that it would be more accurate if the inclusive language used by the ICJ is adopted, for example, by adding at the outset of Draft Article 3 the words "High-ranking State officials such as".

This approach will not only reflect customary international law as it currently stands, but will also take into account developments in the conduct of international relations – a sphere in which senior State officials other than the *troika* frequently represent their State in the fields of their activity in international forums and are frequently required to travel abroad in discharging their duties.

Finally, concerning Draft Article 4(2), even though the term "acts" is understood to include omissions, a clarification is suggested in Draft Article 4(2) that immunity cover "all acts *and omissions*". This will remove any doubts in this regard and also help to harmonize the language of the draft article with other legal texts.

Thank you.