

STATEMENT BY MR. TOMOYUKI HANAMI  
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ON THE REPORT OF THE INTERNATIONAL LAW COMMISSION ON  
THE WORK OF ITS SIXTY-THIRD AND SIXTY-FIFTH SESSIONS  
SIXTH COMMITTEE  
4 NOVEMBER 2013  
UNITED NATIONS, NEW YORK

(Check Against Delivery)

Protection of Persons in the event of disasters

Thank you, Mr. Chairman,

I will start from the topic of “Protection of persons in the event of disasters”. The delegation of Japan wishes to congratulate the Special Rapporteur, Mr. Eduardo Valencia-Ospina for his sixth report, and also on the adoption of draft articles 5 ter and article 16 in July.

Japan is in no way a stranger to disasters; in terms of assistance, we have been both on the providing end, as well as on the receiving end; the latter still vivid in our minds from the Great East Japan Earthquake in 2011. Given that the sixth report focused on the prevention phase of disasters, the delegation of Japan would like to reiterate the importance of disaster risk reduction, as it is closely related to the mitigation of any actual disaster that may occur. Draft article 16 provides for a general duty of states to reduce the risk of disasters. This general idea, in spirit, is one that Japan certainly can share, and we have a range of national legislation specifically targeting the prevention phase, such as the Act on Special Measures concerning Earthquake Disaster Management. The delegation of Japan understands that the examples of disaster risk reduction

measures provided in paragraph 2 of draft article 16 are not meant to be exhaustive; we think that that would be the only appropriate way to address it, since disaster risk reduction measures should vary depending on the type of disaster, the geographical characteristics, and so on.

The discussions on the relationship between domestic measures and the international legal framework concerning disasters, are still in their fledgling stages, and therefore the delegation of Japan looks forward to the continued progress of the work of the ILC on this topic.

### Provisional application of treaties

Mr. Chairman,

With regard to the topic of “Provisional application of treaties”, the delegation of Japan would like to express its gratitude to the Special Rapporteur, Mr. Juan Manuel Gómez-Robledo, for his first report, to the Secretariat for its memorandum which traced the negotiating history of article 25 of the 1969 Vienna Convention on the Law of Treaties, and to all the members of the Commission, for their discussion on this topic.

The members of the Commission conducted an important discussion, including whether it is appropriate for the Commission to seek to promote the provisional application of treaties, and whether the provisional application of treaties would circumvent domestic procedures, and in particular the constitution.

The delegation of Japan is looking forward to further discussion on this topic with a view to deepening the understanding of the topic. Japan expects that the second report to be submitted next year will explore the issues raised in this year’s Commission, including legal effects of the provisional application of treaties. Japan sincerely hopes that the Commission, led by the Special Rapporteur, will bring forth a valuable outcome.

## Protection of environment in relation to armed conflicts

Mr. Chairman,

I am turning to the topic of “Protection of environment in relation to armed conflicts”. The delegation of Japan would like to warmly congratulate Ms. Marie G. Jacobsson for her appointment to the Special Rapporteur on the topic.

The Commission endorsed the temporal phases that the Special Rapporteur raised in her initial consultations, with a view to addressing legal measures taken to protect the environment: i) before, ii) during and iii) after an armed conflict, respectively, Phase I, Phase II and Phase III.

With regard to Phase II, there already exist some relevant articles in the Geneva Convention of 1949 and additional protocols for protection of the environment. In the meantime, the phase has some important issues to be discussed, such as whether these articles will become customary law, whether there are any norms in non-international armed conflicts for protection of the environment, and whether peacetime environmental law would apply to armed conflicts.

The delegation of Japan is looking forward to the upcoming first report by the Special Rapporteur and further discussion on this topic.

## Other Topics

Mr. Chairman,

Now, I would like to briefly touch on other topics.

With regards to “Formation and evidence of customary international law”, the delegation of Japan recognizes that the first report was submitted by Special

Rapporteur, Sir. Michael Wood. In the Commission, several points were discussed; namely the scope of the topic, methodology, range of materials to be consulted, and future work on the topic. As a result of the discussion, the Commission decided to change the title of the topic to “Identification of customary international law”. The delegation of Japan favorably notes that there was a general agreement that the outcome of the work on this topic should be practical, so we are looking forward to seeing this next session.

For the topic of “The obligation to extradite or prosecute” (*aut dedere aut judicare*), it is certainly a positive development that the Commission took note of the report of the Working Group which explains the consideration by it. At the same time, the delegation of Japan should emphasize that a concrete outcome has to be addressed in the next few sessions.

The delegation of Japan understands that the Study Group on “The Most-Favored-Nation clause”, in the absence of the Chairman of the topic, continued to study the various aspects such as the relevant cases regarding the MFN clause. The delegation of Japan looks forward to the reopening of the discussions in the next session of the ILC.

Thank you, Mr. Chairman.