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Statement by Mr. Dongkyu Moon (First Secretary)
Permanent Mission of the Republic of Korea to the United Nations
Report of the International Law Commission on the work of the seventy-third session (Agenda
77)
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Immunity of State officials from foreign criminal jurisdiction

The Korean government welcomes the adoption of the first reading text on the topic of “Immunity of state officials from foreign criminal jurisdiction,” which has been under consideration since 2007. We highly appreciate the work of the two successive special rapporteurs on this topic, namely, Mr. Roman Kolodkin and Ms. Concepcion Escobar Hernandez, and send our thanks to the Commission, in particular the Drafting Committee chaired by Professor Ki-gab Park.

My delegation takes note that, during this session, the Commission provisionally adopted Article 14 (determination of immunity), Article 15 (transfer of the criminal proceedings), and Article 16 (fair treatment of public officials), Article 17 (consultations, consultations) and Article 18 (settlement of disputes). These articles intend to ensure equity and fairness for State officials who would be affected by foreign criminal jurisdiction. My delegation also takes note that the suggestion regarding the relationship between this topic and the International Criminal Court and tribunals, originally proposed by the Special Rapporteur as a stand-alone article, has been inserted into para.3 of Article 1 (Scope). Such relocation seems appropriate. My delegation has reviewed the commentaries to the draft articles adopted this year, but there was no clear explanation as to whether these provisions are firmly based on sufficient State practices or whether the Commission has intended to create desirable procedures. Within next year, the Korean government will try to submit its comments after carefully examining whether any part of the current text is in conflict with relevant Korean domestic laws or related international treaties concluded by the Korean government.

Sea-level rise in relation to international law

The Korean government appreciates the work of the Study Group on the Sea-level rise in relation to international law amid the COVID-19 pandemic.

The Korean government had emphasized on the importance of a careful approach to the suggested three issues, namely, the law of the sea, Statehood, and protection of persons affected by sea-level rise, in consideration of the complexity and sensitivity of the topic.

My delegation welcomes the structured and interactive debate, drawing upon the contents of the second issues paper presented by the Co-Chairs, Ms. Patrícia Galvão Teles and Mr. Juan José Ruda Santolaria, which covers a range of issues related to statehood and the protection of persons affected by sea-level rise.

My delegation regards that the loss of territory due to sea-level rise raises the fundamental question of international law, particularly concerning State continuity. Considering the reality of submerging territories that small island States are facing right now, we cannot too much emphasize the importance of this issue.

My delegation regards that the role of the ILC on this topic should be limited to considering the legal issues that may arise from sea-level rise rather than finding definitive solutions to resolve these issues. Moreover, my delegation would like to emphasize that the ILC should consider the different phases that the lapse of time may bring since sea-level rise is a gradual phenomenon.

We know that, during the next quinquennium, the Study Group is scheduled to examine the law of the sea in 2023 and statehood and protection of persons affected by sea-level rise in 2024. Then, in 2025, the final report will be submitted. The Korean government hopes that the ILC Study Group will deliver fruitful results to the world in responding to the challenges caused by sea-level rise and climate change.

Once again, the Korean government expresses its deep gratitude to the Co-Chairs of the Study Group and the ILC members who participated in the Study Group for their invaluable contribution to the progress of the discussion about this important topic.

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