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**Statement by the Republic of Korea
Sixth Committee, 73rd session of UNGA
Item 82 (Report of the ILC on the work of its 70th session) Cluster III
31 October 2018**

Thank you, Mr. Chairman.

I would like to commend the efforts of Special Rapporteur, Ms. Marja Lehto, who successfully submitted her first report on “**Protection of the environment in relation to armed conflicts**”. In the last session, the Republic of Korea expressed its support for the temporal approach that gives separate consideration to before, during, and after armed conflicts. Therefore, we support the position of the Special Rapporteur of not attempting to set forth a new methodology but seeking to ensure coherence with the work completed thus far.

My delegation welcomes the discussion on the situation of occupation in the first report of the Special Rapporteur. The situation of occupation is related to both the armed conflict phase and the post-conflict phase. It does not exclusively fall within either and depending on the phase it needs to be discussed separately. As noted by the Special Rapporteur, we support that the discussion on the issue would not seek to change international humanitarian law relating to occupation, but rather to fill the gaps relating to environmental protection.

Paragraph 2 of draft principle 4, formulated in a less prescriptive way to encourage voluntary measures, is suitable for a topic that would end up as “principles.” We also welcome that draft principle 6 emphasizes the rights of indigenous people, which should be respected when taking remedial measures after an armed conflict.

Regarding draft principle 8, my delegation supports delineating the scope of the draft principle and limiting it to a direct link with armed conflicts so that it would not be interpreted too broadly. Regarding draft principles 14 and 15, we also believe it important that restoration and protection of the environment, post-armed conflict assessments, and remedial measures are part of the peace process. Regarding draft principle 18, we support the emphasis on the importance of sharing information and granting access to information to facilitate remedial measures after an armed conflict. However, it is unclear how much, and until when, States and international organizations need to share information or grant access in order “to facilitate remedial measures after an armed conflict.”

My delegation welcomes the plan of the Special Rapporteur to address the extent to which the draft principles apply to non-international armed conflicts in her next report. In this regard, the Republic of Korea would like the Commission to examine carefully whether there are any principles or relevant practices applicable to both international or non-international armed conflicts.

Turning to the topic of “Succession of States in respect of State responsibility”,

my delegation would like to express our sincere thanks to Special Rapporteur Mr. Pavel Šturma for preparing his second report. My delegation recognizes that available State practice on the topic requires context-specific approaches and often involves political sensitivity. However, we believe that the work of the ILC on this topic can help fill the legal gap between State responsibility and State succession while enhancing predictability for resolving relevant problems.

Special Rapporteur suggested two articles on general matters and five specific articles on the special categories of State succession. Among these seven draft articles, the Drafting Committee provisionally adopted only two. My delegation believes that specific approaches to the specific categories of State succession are as important as deriving a general rule. We express our regret that the discussions have not yet led to the adoption of other draft articles.

Above all, we welcome the adoption of draft article 1(2), which stresses the subsidiary nature of the draft articles. My delegation supports the view that an agreement between the parties should be a priority when dealing with State succession in respect of State responsibility. The work of the Commission would provide a standard for resolving problems as well as for forming agreements, but these provisions should be applied only in the absence of an agreement between parties.

Provisionally adopted draft articles 5 and 6 deal with general issues that are less controversial in nature. My delegation supports the general position on the requirement of international legality of succession and its articulation in a

specific provision. However, we would like to point out that this issue assumes political sensitivity and that certain cases would fall within a grey area in terms of evaluating the legality of succession.

The Republic of Korea supports the general rule of non-succession to State responsibility. However, the formulation of draft article 6 is not a clear expression of the general rule of non-succession. Rather, draft article 6 consists of established rules on State responsibility per se, perhaps unnecessarily restating the rules. My delegation believes that this part should focus on reviewing the exceptions for continuing acts after succession, or composite acts, rather than the attribution of State responsibility before the date of succession.

Although draft articles 7 to 11 have not been adopted by the Drafting Committee this year, my delegation takes note of these draft articles on the specific categories of State succession suggested by the Special Rapporteur in his report. My delegation would like to emphasize the importance of categorizing State succession, as we did last year. We expect more in-depth discussion on the specific categories of State succession as an exception to the non-succession principle in the next session.

Mr. Chairman,

My delegation welcomes the Special Rapporteur's 6th report as it deals with the procedural aspects of immunity from foreign criminal jurisdiction and, in particular, provides an analysis of the three components of procedural aspects related to the concept of jurisdiction: namely (a) timing; (b) types of acts

affected; and (c) the determination of immunity. It is noted that the Special Rapporteur did not propose new draft articles and that the ILC's plenary discussion on the 6th report has not been completely finalized and will continue in the 71st session next year. Therefore, we will provide our comments after the completion of the ILC discussion.

I thank you, Mr. Chairman.