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68th Session of the United Nations General Assembly

6th Committee

Agenda Item 8.1

Report of the International Law Commission on the Work of its 63^d and 65th Session

Partl (Chapters-III, IV, V und XII)

Statement by

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and Malawi of 12 and 1B ecember 2012 are indicative in this respect, clear guidance by the Commission would be helpful. We believe that a solution should be found is hirch interest of the fight against impunity and spects the rule of law.

Austria understands para. 2tbfs draft article as a neexhaustive enumeration of leges speciales concerning immunity. However, it must be clarified whether these special rules take precedence over the draft articles only if the relevant person enjoys a broader scope of immunity under those special rules or also if the special rules provide a lesser amount of immunity than the present draft articles.

Another question is whetherese draft articles envisageoviding immunity only if persons are present in the state of the forum or alsthey are absenting our view, the draft articles at least the commentars hould be very clear in this respective are of the pinion that such immunity applies also if the person is not in the territor the forum state

Mr. Chair, permit me to turn to draft article 3:

Austria supports the mitation of immunity ratione personae to the three categories of persons referred to in the present draft article. Although we cannot deny that other personarry out similar functions, they only enjoy immunity members of special missions. Assuchthey fall under the exception of draft articlepara 2.

A still open issue, so far not addressed by the Commission definition in the relevant persons would also benefit from this immalisity in this context Austria suggests that the Commission follow the approach of the immunity of special missions.

As to draft article 4, there is no doubt that this immulisity njoyed only during the term of office as expressed in parta Immunity as a procedural device would bar tempnal proceeding during this time, even if the evant acts were committed prior to the taking of office.

(Protection of the atmosphere)

We take note with great interest that the topic "Pronthe agenda of the Commission award are looking forward to seeing the first repoblue to the limits of this topic decided by the Commission as seems that only are stricted humber of issues can be addressed. However, it will be avoidable to address in this context also some of the issue surrently excluded from the mandas each as liability of the precautionary principle.

(Crimes againstumanity)