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Statement by the Republic of Korea

73rd General Assembly Sixth Committee

(Agenda Item 82) ILC Cluster 1: Subsequent agreements and subsequent practice in relation to interpretation of treaties / Identification of customary international law / Other decisions

Mr. Jongin BAE

Director-General of the International Legal Affairs Bureau, MOFA

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Thank you, Mr. Chairman,

[redacted]

subsequent practice in interpretation). Treaty interpretation should be distinguished from treaty amendment or modification. Any substantial modification made by subsequent agreements or subsequent practice is not regulated by Articles 31 and 32 but by Article 39 of the 1969 Vienna Convention.

Regarding draft conclusions 12 and 13, my delegation would like to emphasize that the intention of state parties is the most important part of treaty interpretation. Draft

70th session of the ILC.

But we do have minor concerns about draft conclusion 6 and 10. It is only natural that the form of state practice listed in paragraph 2 of conclusion 6 and the evidence of acceptance as law listed in paragraph 2 of conclusion 10 overlap to a considerable degree, since in most cases acceptance as law should be identified through state behavior or relevant documentation. As my government already addressed in the previous comments, to avoid any possible confusion, it may be necessary to seek consistency in the use of terms as well as the order in which they are listed in both conclusions. An explanation may also be needed to clarify discrepancies, where they exist.

Draft conclusion 16 recognizes the existence of particular customary law other than [redacted]

[redacted]

[redacted] local or other" in Paragraph 1 as it is. In the era of globalization, "other" forms such as [redacted]

Regarding **"Sea-level rising in relation to international law",** which has been adopted as a long-term program of work, the Korean government notes that this topic reflects the current serious concerns of Small Island Developing States. My delegation is of the view that this topic reflects "new developments in international law and pressing concerns of the international community as a whole" mentioned in the ILC's 1998 recommendation concerning the categories for new topic selection.

In this point of view, my delegation would like to mention some points to consider when the ILC reviews this topic. First, sea level rise is an "inter-generation" issue: the current generation needs to accept that it is our obligation to make an effort to establish a legal system for sea-level rising. Second, in terms of the progressive development of international law, this issue should be dealt comprehensively from the perspectives of "*lex ferenda*", not limited to those of "*lex lata*". Third, the legal regimes of each area (environmental law, human rights law, humanitarian law, etc.) should be considered on an interdisciplinary basis.

Concerning the topic of **"universal criminal jurisdiction,"** my delegation has a mixed feeling. As a matter of fact, the Republic of Korea has already enacted a legislation to