



Check against delivery

Mr. Chairman,

Permit me to start with the topic of **“immunity of state officials from foreign criminal jurisdiction”**. We wish the new Special Rapporteur, Ms. Concepción Escobar Hernández, full success in the further elaboration of this topic. Her preliminary report submitted to the Commission this year already showed remarkable insight in this topic which in Austria’s view is of particular importance, reflected also in various recent judicial decisions.

*In her preliminary report, the Special Rapporteur pointed out several issues that, in her view, deserve particular attention and were intensively discussed in the Commission. Although the Commission has not yet presented specific draft articles which could be commented upon, Austria nevertheless would like to contribute to the discussion already at this moment.*

As to the fundamental approach to be taken by the Commission, i.e. restatement of *lex lata* or progressive development *de lege ferenda*, Austria has already stated last year that the starting point must be the identification of the existing norms of international law. Once this has been done, the Commission should embark on a possible progressive development in accordance with the present needs of the international community.

*Therefore, Austria gives priority to the inductive*







*It seems that the view prevails that there is no duty to extradite or prosecute under present customary international law and that such obligations only result from specific treaty provisions. These individual treaty provisions can be of a different content so that a harmonization would hardly be feasible. Therefore, Austria would not object to terminate this topic.*

*However, should the Commission decide to pursue this topic, Austria recommends to consider also the result of the working group established in 2009, which constituted a valuable supplement to the work of the Special Rapporteur.*

Mr. Chairman,

