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STATEMENTS  
BY  
THE DELEGATION  
OF  
INDIA  
ON  
AGENDA ITEM  
"REVISION OF THE  
AGENCY FOR  
CULTURAL CO-OPERATION"  
AT THE  
SIXTH SESSION OF THE  
GENERAL ASSEMBLY OF THE  
UNITED NATIONS

NEW YORK

Mr. Chairman,

At the outset, I would like to express my appreciation for the sixty-fifth session of the International Law Commission. For the introduction of the report of the session and for the Commission at this session, I would like to thank all members of the Commission for their valuable contribution to the work of the Commission.

Mr. Chairman,

The first cluster of articles in the report is titled "Subsequent agreements and subsequent practice in relation to treaties"; and "Immunity of State officials from criminal jurisdiction".

We express our appreciation to the Special Rapporteur for his presentation of his first report on the topic "Immunity of State officials from criminal jurisdiction". The Special Rapporteur has done an extensive and thorough analysis of the topic. He has also prepared a number of draft articles and proposals for commentaries which resulted in the report.

Mr. Chairman,

We agree with the observation that the Vienna Convention on the Law of Treaty is an important instrument in the field of international law. The practice is an important factor in the interpretation of the terms used in the Convention. The Commission should consider the practice as conclusive or legally binding.

There is a clear distinction between a subsequent agreement and subsequent practice. We agree with the Commission that "subsequent agreement" is a concept which is distinct from "subsequent practice". The Commission should consider the practice as conclusive or legally binding. The Commission should also consider the practice as a factor in the interpretation of the terms used in the Convention. The Commission should also consider the practice as a factor in the interpretation of the terms used in the Convention.

means of interpretation of a treaty in the particular context by an Parties to the treaty.

Similarly, in the evolution of international law, it has already occurred that merely a matter of the presumption of *ius cogens* is not enough unless there is a clear acceptance by parties to the same. In such interpretation, a particularity in regard to the law lay down the specific rights of each Party. Therefore we do feel that note of the Treaty may be relevant for determining whether more or less weight should be given to certain provisions.

Mr. Chairman,

Turning to the topic of "Immunity from Jurisdiction" we appreciate the Euro-Asian States Committee's contribution. Escobar Hernandez has indicated that in the draft articles, wherein six draft articles were elaborated, which were recommended in the articles by the Drafting Committee, the Commission will be commenting.

We agree with the understanding of the Commission's draft articles 10 of the Convention regarding the immunity from foreign criminal jurisdiction. Specific rules of international law, which the special rules fall, would provide the nature of immunity.

Mr. Chairman,

Regarding the immunity ratione personae. It is universally accepted that the Heads of State, Heads of Government and the Foreign Ministers, the so called Troika, are entitled to the immunity from criminal jurisdiction in the virtue of their representation for the State abroad and functional necessity.

We consider that, were the same criteria applied, a few other high level Officials especially Ministers of Defence and Ministers of the Interior





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**Thank you**