



Statement by
Mr. Octavino Alimudin
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Ministry of Foreign Affairs of the Republic of Indonesia
On Agenda Item 81
Report of the International Law Commission
on the work of its sixty-third and sixty-fifth sessions
New York, 30 October 2013

Mr. Chairman,

At the outset, my Delegation would like to express our appreciation to the International Law Commission for its laudable achievements in continuing its important contribution to the promotion of the progressive development of international law and its codification. I would like to express my appreciation to the Chairman of the ILC, Mr. Bernd H. Niehaus, for his eloquent presentation on the work of the Commission during its 65th session.

I would also like to express my appreciation to the two Special Rapporteurs for their outstanding efforts and contribution: Mr. Georg Nolte, the Special Rapporteur on

is concluded to serve the interest of the parties at the time of its conclusion as well as the interest of the parties that might be evolving over time.

In that sense, my delegation is of the view that there are three principles that must be adhered to in the evolutionary interpretation of treaties: (1) The need to preserve the stability of the treaty. Evolutive interpretation of the provisions of a treaty should not be too broad as to undermine or contradict the ordinary meaning of the terms of the treaty in their context and in the light of its object and purpose, as it would lead to the modification or amendment to the treaty under Article 39 of VCLT. (2) The need for express agreement of the parties in the case of subsequent agreements, and for tacit understanding in the case of subsequent practice. (3) As regards multilateral treaties, evolutive interpretation of the treaty must be grounded on the agreement or common understanding of all State Parties.

Pertaining to the "Attribution of subsequent practice", the Indonesian delegation agrees to the commentary on paragraph 2 of Conclusion 5 that subsequent practice by non-state actors should be understood in a broad sense. It serves only as a contributing factor in the assessment by State Parties whether there is a subsequent practice among the State Parties concerned.

Immunity of State Officials from Foreign Criminal Jurisdiction
Mr. Chairman,