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Report of the International Law Commission on the work of its sixty-ninth session**

**Statement by Mr. Jeem S. Lippwe
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Mr. Chairman,

At the outset, Micronesia aligns itself with the statement delivered in this Cluster by the Republic of the Marshall Islands on behalf of the Pacific Small Island Developing States.

In this national statement, Micronesia wishes to focus on the Commission's consideration of the topic of the protection of the atmosphere. In that connection, Micronesia welcomes Mr. Shinya Murase's fourth report on the topic and takes note of the Commission's provisional adoption of draft guideline 9 and several preambular paragraphs, as well as their commentaries, during its sixty-ninth session.

Mr. Murase's fourth report presents a highly informative examination of the interrelationships between international law related to the protection of the atmosphere and various other fields of international law. Micronesia fully endorses this approach. To guard against the dangers of fragmentation in international law, it is crucial for the Commission to establish, with authority, that the numerous fields of international law do not exist in silos, but instead link to and interact with each other with regularity, depth, and intensity. Mr. Murase's fourth report underscores that reality with rigor and clarity.

In that regard, Micronesia supports the notion, as presented in Mr. Murase's fourth report, that fields of international law should—and frequently do—operate in the spirit of mutual supportiveness. Harmonizing efforts across the numerous fields of international law will, among other things, ensure the equitable participation of developing countries with limited capacities like Micronesia in the development, interpretation, and application of international law. This is particularly true for fields of international law related to the protection of the atmosphere, a topic that is by definition global and far-reaching in legal as well as practical impacts.

In that spirit, Micronesia acknowledges the Commission's provisional adoption of draft guideline 9 regarding the interrelationship between the rules of international law relating to the protection

of the atmosphere and other relevant rules of international law. Micronesia notes that the draft guideline 9 provisionally adopted by the Commission is a consolidation of Mr. Murase's original draft guidelines 9, 10, 11, and 12. It is unfortunate that this consolidation has deprived the draft guidelines and their commentaries of the rich and dedicated discussions and conclusions about international trade law, international investment law, international human rights law, and the law of the sea featured in Mr. Murase's fourth report. Nevertheless, the Commission retains some aspects of those discussions and conclusions in its commentary for draft guideline 9 and also acknowledges that the listing of relevant fields of international law in draft guideline 9 is non-exhaustive. Micronesia considers draft guideline 9 and its commentary, as provisionally adopted, to be a major outcome of the Commission's work on this topic.

Micronesia, as a small island developing State with a sizable maritime entitlement, is pleased that the commentary for draft guideline 9 specifically recognizes that "[t]he protection of the atmosphere is intrinsically linked to the oceans and the law of the sea," to the extent that "effective implementation of the applicable rules of the law of the sea could help to protect the atmosphere . . . [and] the effective implementation of the rules on the protection of the environment could protect the oceans." Micronesia also welcomes the Commission's provisional adoption of a preambular paragraph recognizing the "close interaction between the atmosphere and the oceans." The greenhouse gases and other harmful substances that humankind pumps into the atmosphere eventually lead to the warming and acidification of the Ocean, resulting in coral reef bleaching, unpredictable migrations of valuable fish stocks, and deep disruptions of the maritime food chain, among other major impacts. Similarly, indiscriminate exploitation of certain Ocean resources and other irresponsible uses of the Ocean could unleash greenhouse gases that have long been locked in the Ocean. Given the large number of multilateral legal regimes that govern activities in the Ocean and address potential harms to the atmosphere, there is a pressing need for the international community to harmonize its consideration and implementation of rules of international law across those regimes. The upcoming 23rd Conference of the Parties to the United Nations Framework Convention on Climate Change will be an excellent opportunity to begin harmonizing those approaches, and draft guideline 9 can be a valuable aid in that effort.

Micronesia appreciates and welcomes paragraph 3 of draft guideline 9, as provisionally adopted by the Commission, with respect to according special consideration to persons and groups particularly vulnerable to atmospheric pollution and atmospheric degradation when identifying, interpreting, applying, and developing rules of international law relating to the protection of the atmosphere and other relevant rules of international law. Paragraph 3—along with a preambular paragraph provisionally adopted by the Commission—highlights the particular vulnerabilities of people of small island developing States who are affected by sea-level rise. As a small island developing State with numerous low-lying atolls and coastal areas, Micronesia is keenly aware of the profound and complex challenges posed by sea-level rise, including the loss of land and forced relocations, and Micronesia firmly believes that the Commission should analyze the legal dimensions of those challenges across all relevant fields of international law.

Toward that end, in the Committee's consideration of Cluster 1, Micronesia announced its intent to submit a written proposal to the Commission for the inclusion of the topic of the legal implications of sea-level rise on the Commission's long-term programme of work. That proposal

will highlight, in the spirit of harmonization, numerous international instruments and other sources of international law relevant to the Commission's potential assessment of the legal implications of sea-level rise, including with respect to the circumstances of people of small island developing States like Micronesia. And, as previously noted, Micronesia associates itself with the statement of the Pacific Small Island Developing States in this Cluster regarding this proposed topic on sea-level rise. It is Micronesia's view that Mr. Murase's reports on the protection of the atmosphere and the Commission's provisional adoption of draft guideline 9 and its commentary lay a strong foundation for the Commission's eventual consideration of the legal implications of sea-level rise.

Finally, Micronesia welcomes the Commission's acknowledgement in its commentary for draft guideline 9 that "environmental degradation, including air pollution, climate change and ozone layer depletion, 'has the potential to affect the realization of human rights.'" Micronesia notes the Commission's discussion in the commentary about the challenge of linking the protection of the atmosphere with human rights law, in the sense that human rights law traditionally involves the obligation of a State to ensure its own citizens' enjoyment of their rights and might not necessarily include the obligation of a State to refrain from acts that prevent the citizens of a different State from enjoying their rights. However, as Micronesia noted last year in this Committee, it is Micronesia's view that the protection of the atmosphere is an obligation *erga omnes*, and so an individual State is obligated to refrain from acts that pollute or degrade the atmosphere to the detriment of the international community as a whole, including the citizens of other States and their enjoyment of certain human rights that are undermined by climate change and other consequences of the harming of the atmosphere.

Mr. Chairman,

In light of the Commission's acknowledgement of the complex interrelationships between the rules on the protection of the atmosphere and the rules for numerous other fields of international law, Micronesia believes that compliance with those rules is vital. Creating and implementing those rules in a harmonious manner will be a major challenge for the international community, and disputes will arise frequently. Toward that end, Micronesia looks forward to Mr. Murase's fifth report and its discussion of dispute settlement processes and other related matters of compliance and implementation.

Thank you, Mr. Chairman.