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Report of the International Law Commission on the work of its seventieth session

Statement by: Mr. Jeem Lippwe, Deputy Permanent Representative of the Federated States of Micronesia to the United Nations

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Mr. Chair,

In this Cluster, Micronesia wishes to focus on the Commission's consideration of the topic of the protection of the environment in relation to armed conflicts. In that connection, Micronesia welcomes Ms. Lehto's first report on the topic and extends its gratitude to Ms. Jacobsson for her extensive and dedicated work on the topic during her time on the Commission.

In this statement, Micronesia wishes to make two points about the Commission's consideration of the topic of the protection of the environment in relation to armed conflicts.

First, with respect to draft principle 6, as provisionally adopted by the Commission during its seventieth session, Micronesia strongly supports the notion expressed in the commentary to draft principle 6 that there is a "special relationship between indigenous peoples and their environment." Such a relationship is rooted in centuries of close interactions between indigenous peoples and the natural environments they inhabit. Terrestrial and maritime areas and resources are typically of great importance for indigenous peoples, being closely linked to their cultural practices, socio-political rankings, traditional identities, and basic sustenance in a unique manner. International law—including major international instruments, State practice, and jurisprudence—is replete with recognition of the rights of indigenous peoples in various forms, including the right to enjoy their natural environments for long-standing purposes that are unique to those indigenous peoples and central to their identities. Armed conflict—especially when waged by foreign powers—typically disrupts the connections between indigenous peoples and their natural environments in profound ways, threatening their identities as peoples rooted in their natural environments. Micronesia echoes the call in draft principle 6 for States to undertake effective consultations and cooperation with indigenous peoples about how best to remedy the

harms inflicted by armed conflict on the territories they inhabit. Such consultations and cooperation must continue for as long as it is necessary to cure the existential harms inflicted by armed conflict on the natural environments to which indigenous peoples are so closely linked.

Micronesia wishes to note, however, that there is a growing understanding in international law that attention must be paid to the needs and interests of so-called “local communities” along with indigenous peoples. This is the language used in, for example, the Convention on Biological Diversity and its Nagoya Protocol as well as in the Paris Agreement on climate change. It is Micronesia’s view that there is an important distinction between indigenous peoples and local communities, in the sense that an indigenous people typically descends from a population that inhabited a country at the time of the country’s conquest or colonization by a foreign entity, is currently subservient to or at a remove from the dominant population in the country, and retains socio-economic, cultural, and political institutions that date to pre-conquest and pre-colonization eras; whereas a local community is typically a population with long-standing historical, cultural, and political roots in a country and is not subservient to or at a remove from any other population in the country. In Micronesia’s view, such local communities exhibit many of the same connections to the natural environment as indigenous peoples, but the local communities have the benefit of being integral components of States, whereas indigenous peoples are not necessarily integrated in the same manner. Micronesia is interested in whether the content of draft principle 6 can be applied to such local communities. Micronesia will welcome the Commission’s consideration of this question.

Second, with respect to draft principle 19, as provisionally adopted by the Drafting Committee, Micronesia supports the Drafting Committee’s revision to Ms. Lehto’s original draft principle 19 in order to reflect the relationship between the protection of the natural environment and the enjoyment of certain human rights. Human rights to shelter, sustenance, health, religious practices, cultural activities, political engagement, and other core aspects of humanity are dependent in part on healthy, thriving, intact natural environments, especially for those peoples with close links to their natural environments. This is in line with Micronesia’s earlier discussion about the links that indigenous peoples and local communities have to their natural environments and the rights that flow from those links, including core human rights. Micronesia would prefer that draft principle 19 or some other draft principle explicitly draws such a link between the protection of the natural environment and the enjoyment of core human rights. In any case, Micronesia looks forward to an expanded discussion of this in the commentary that will be produced for draft principle 19, as promised by the Drafting Committee.

To conclude, Micronesia notes the request of the Commission for States to provide any information concerning responsibility, liability, or reparation for harm caused to the environment in relation to armed conflict. Our written Comments to the Commission in January 2016 contained some information pertaining to that request. Micronesia will endeavor to supplement those Comments in a timely manner.

I thank you, Mr. Chair.