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**Report of the International Law Commission
on the work of its seventy first session**

Part II

Agenda item 79

S T A T E M E N T

BY

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Mr Chairman,

Protection of the environment in relation to armed conflicts

Poland notes that during this year session the Commission provisionally adopted, on first reading, the entire set of the draft principles on protection of the environment in relation to armed conflicts. My delegation would like to thank the Special Rapporteur, Ms. Marja Lehto, for her second report and for her engagement. We would also like to express our appreciation for the valuable contribution of the previous Special Rapporteur, Ms. Marie G. Jacobsson. As the Commission decided to transmit the draft principles for written comments and observations, we shall strive to transmit more detailed comments concerning the entire set of the draft principles in the future.

Immunity of State officials from foreign criminal jurisdiction

Now, allow me to turn to the topic “Immunity of State officials from foreign criminal jurisdiction”. My delegation would like to thank the Special Rapporteur, Ms. Concepción Escobar Hernández, for her seventh report. We take note of article 8 ante, provisionally adopted by the Drafting Committee, and draft articles 8 to 16 proposed by the Special Rapporteur’s in her seventh report, with respect to which we would like to provide some preliminary observations. Namely, we believe that some more consistency would be warranted in draft articles concerning the identification of entity responsible for determination of the immunity. While in draft article 9 para 1 these are the courts that are mentioned in this respect, in draft article 10 para 5 and 6 the term “competent organs” is used, which seems to resemble terminology of draft article 8 concerning only consideration and not determination of the immunity. As regards article 10 para 6 we are of the view that appropriate state authorities should *proprio motu* decide on the application of immunity in respect of all State officials who enjoy it, without any distinction. Concerning article 11 para 4 we would like to express our doubt whether the treaty provision applicable between the forum State and the State of the official could be interpreted as an implied or express waiver. Finally, in our view there is a need for insertion in draft article 14 para 2 of a “reasonable period of time” clause as the suspension of the criminal proceeding in the forum State can be indefinite where there is no decision of the State of the official.

Sea-level rise in relation to international law

Mr Chairman,

During the last year's Sixth Committee debate on the ILC report Poland supported the inclusion of the topic "Sea-level rise in relation to international law" in the International Law Commission's program of work. Our position in this respect was dictated, in particular, by the conviction that this issue is indeed significant and its inclusion would speak to the preoccupations and realities faced by a large number of States.

We would, however, like to supplement this view with the following observation. The issue of "Sea-level rise in relation to international law", contrary to other topics that are on the Commission's agenda has not been accompanied by considerable amount of practice of states yet, neither there seems to exist significant treaty-based practice. Similarly, we lack decisions of international courts and tribunals in this respect. Therefore, in our view, the Commission has to be particularly careful in formulating its views. We would like to recall at this juncture a recent resolution of the International Law Association that stated "any proposals in this area should aim to facilitate orderly relations between States and, ultimately, the avoidance of conflicts, bearing in mind that one of the principal motivations of the United Nations Convention on the Law of the Sea is to contribute to the maintenance of international peace and security". My delegation shares that view.

Thank you Mr. Chairman.