



PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS

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**STATEMENT BY MR KENNETH WONG,
DELEGATE TO THE 76TH SESSION OF THE UNITED NATIONS
GENERAL ASSEMBLY, ON AGENDA ITEM 82, ON THE REPORT OF
THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS
SEVENTY-SECOND SESSION (CLUSTER 2: CHAPTERS VI and IX OF
A/76/10), SIXTH COMMITTEE,
28 OCTOBER 2021**

Mdm Chair,

- 1 My delegation is pleased to address Chapters VI and IX of the Report.
- 2 With regard to **Chapter VI on the topic “Immunity of State officials from foreign criminal jurisdiction”**, Singapore reaffirms the importance of safeguarding the immunity of State officials, where applicable, in the interests of stability of international relations and the sovereign equality of States. At the same time, a margin of appreciation and flexibility must be accorded to States when addressing such matters.
- 3 My delegation has the following comments on the draft articles and commentaries provisionally adopted by the Commission at this year’s session.
- 4 Draft article 8, paragraph 2, deals with the forum State’s obligation to examine the issue of immunity before taking coercive measures that may affect an official of another State. We appreciate the Commission’s efforts to strike an appropriate balance between the forum State’s exercise of sovereignty in criminal matters and certain procedural guarantees arising from the immunity of foreign State officials. In our view, it would be helpful if the commentaries address the realities of the circumstances in which States take coercive measures in the exercise of their criminal jurisdiction. In particular, it would be helpful to clarify that the obligation in draft article 8, paragraph 2, does not preclude, for instance, the taking of necessary and proportionate measures to prevent harm in response to an imminent and unlawful use of force. The same comment applies to draft article 9, paragraph 1, concerning the obligation to notify the State of a foreign official, including before taking coercive measures that may affect that official.

5 In addition, Singapore understands that the forum State's obligations to examine the issue of immunity and notify logically only arise when it becomes aware that the relevant individual is a foreign State official whose immunity may be affected. The draft articles and commentaries should make this clear.

6 Regarding draft articles 17 and 18, which were referred to the Drafting Committee, first, Singapore understands that draft article 17 is not intended to provide for compulsory dispute settlement. As such, it is inappropriate to set time limits for negotiations or prescribe specific procedures. Further, the draft article should not limit the range of dispute settlement mechanisms to which States may have recourse. In view of the bilateral contexts in which many issues of immunity of State officials arise, it is important not to unduly restrict the options for peaceful means of settling disputes.

7 On draft article 18, Singapore agrees with the Commission's observation that any question of immunity before international criminal tribunals is outside the scope of this topic. If it is necessary to address the relationship between this topic and the immunity of State officials before international criminal tribunals, draft article 18 should be limited to stating this. Given that this draft article is meant to clarify the scope of the draft articles, we agree with those Commission members who preferred including this provision in draft article 1 instead.

8 Singapore notes that there remain issues on which there are diverging views among the Commission members. These include exceptions to immunity *ratione materiae* under draft article 7 and possible exceptions to the irrevocability of waivers of immunity under draft article 11, paragraph 5. Thus, it is important for Member States to be given the opportunity to comment on the full set of draft articles at the conclusion of the first reading. Singapore looks forward to the Commission's further work on this topic.

Mdm Chair,

9 I turn next to **Chapter IX on the topic "Sea-level rise in relation to international law"**. Like other small, low-lying island States, the threat posed by rising sea levels is an existential one for Singapore. We strongly support efforts to identify possible solutions for the plight of vulnerable island-States. My delegation has reviewed with great interest the first issues paper on issues related to the law of the sea, as well as the Study Group's discussion on this paper.

10 We note that the Study Group is still considering many of the issues identified in the first issues paper. We fully appreciate the need to examine in further detail the complex issues involved, on which there is a diversity of views. These include the issues of ambulatory versus permanent baselines and the preservation of maritime zones under the United Nations Convention on the Law of the Sea, as well as whether and how State practice is relevant to customary international law on law of the sea or the interpretation of the Convention.

11 My delegation is heartened that the Study Group will be undertaking further in-depth studies, including into principles and rules of international law underpinning the Convention, on a priority basis. A workable way forward for the international community could be to take into account the different equities that may apply in varying circumstances and ensure that the balance of rights and obligations under the Convention is preserved. We think that the principle of equity could be particularly relevant when considering the impact of climate change-induced sea-level rise on the development needs of Small Island Developing States. In addition, these considerations may operate differently depending on the types of maritime zones and the rights exercisable within them, the types of baselines involved, whether the areas in question involve overlapping entitlements, and the extent to which the interests of third States and the freedom of navigation are engaged.

12 With respect to agreed and adjudicated maritime boundaries, Singapore supports the view that, in general, maritime boundary delimitation treaties and the decisions of international courts or tribunals should not be easily re-opened. That being said, we acknowledge that each treaty needs to be interpreted in accordance with its terms in their context and in the light of its object and purpose and surrounding circumstances.

13 Singapore commends the efforts of the Study Group and its Co-Chairs to engage with delegations across different geographic regions. We strongly encourage the Commission to continue its active engagement with delegations in its future work on this important topic in order to take into account the diverse views and interests of all States.

14 Thank you.