



**United Nations General Assembly | Sixth Committee  
Report of the International Law Commission (Cluster II)**

Madam Chairperson,

Moving to the second cluster of items discussed in the report of the International Law Commission, Brazil would like to make some remarks regarding the topics contained in Chapters V and IX, namely: (i) Immunity of State officials from foreign criminal jurisdiction; and (ii) sea-level rise in relation to international law.

Brazil has been following with attention the work of the Commission on the topic of immunity of state officials from foreign criminal jurisdiction. I would like to thank the Special Rapporteur, Ms. Concepción Escobar Hernández, for her eighth report on the matter and for all her efforts to complete the consideration of the questions set forth in the workplan submitted to the Commission in 2012.

Madam Chairperson,

Turning to the general issues analyzed in the Special Rapporteur's eighth report, namely the relationship between the immunity of State officials from foreign criminal jurisdiction and international criminal tribunals, the possibility of establishing a mechanism for the settlement of disputes and the possible inclusion of recommendations of good practices in the draft articles, I would like to highlight two points. First, Brazil concurs with the approach of the ILC in circumscribing the scope of the topic to immunities from foreign criminal jurisdiction in domestic courts, without affecting the jurisdiction of international tribunals.

For Brazil, the immunity of State officials from foreign criminal jurisdiction is important to ensure that they can adequately perform their functions, particularly when they are not protected by the existing multilateral conventions. At the same time, the jurisdiction of international criminal tribunals has a different legal basis, which is linked to the objective of avoiding impunity for the most serious crimes and to the principle of complementarity.

Brazil agrees with the Special Rapporteur that the discussion of immunity of State officials from foreign criminal jurisdiction should not proceed without regard to the existence of international criminal tribunals. Proposed draft article 18, by adding a “without prejudice clause” to the articles, could provide a practical solution to the matter. It maintains the independence of both regimes applicable to immunities, while recognizing that they might eventually overlap. For Brazil, draft article 18 should not be read as creating a hierarchical relationship between different legal frameworks, but rather as recognizing that specialized treaty regimes may have a different treatment to immunities than customary international law provides for national jurisdictions.

The second point relates to the proposals for the settlement of disputes. Brazil takes note of the suggestions contained in draft article 17 and considers that further discussion is needed on the matter. At this stage, it is not clear whether a dispute resolution clause would be appropriate or desirable in the outcome of the work of the Commission. If included, such a clause should be general in nature, without the use of compulsory language.

Madam Chairperson,

I now turn to the topic of "sea-level rise". The issue of sea-level rise is a pressing one, as Brazil has highlighted in different occasions under the UN General Assembly. As a country with a coast of almost 8,000 km and a coastal population of over 50 million, Brazil considers it important to enhance our understanding of the legal impacts of sea-level rise.

We understand that sea-level rise poses an existential threat to some States and can have legal implications over existing maritime zones and borders. It can also threaten the livelihoods of communities and affect human mobility.

Thus, legal certainty over this topic can be key in preventing disputes between Member States. Brazil would like to express its appreciation for the work of the Commission on this topic, which pertains to issues related to the law of the sea, statehood, and protection of persons, some of which are linked to the very foundations of public international law.

We thank the co-chairs of the Study Group for their first issues paper focused on the law of the sea. Brazil considers that solutions to the complex problems arising from the topic should be in accordance with UNCLOS.

Brazil also looks forward to the future work of the Study Group on issues related to statehood and to the protection of persons affected by sea-level rise.

Thank you.