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National Statement of Hungary

on

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Intervention by

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Madam Chair,

Hungary aligns itself with the statement delivered by the European Union. Now I would like to make some remarks in our national capacity.

Turning first to the topic of **Immunity of state officials from foreign criminal jurisdiction**, let me start by expressing Hungary's appreciation to Special Rapporteur Concepción Escobar Hernández for her excellent work and to the Commission for the progress it made at the last session.

Madam Chair,

The complex relationship between international crimes and sovereign immunities poses a great challenge to international legal order. We need to strike a balance between the sovereign equality of States and the interest of the international community in preventing and punishing the most serious crimes under international law. The fundamental principle of sovereignty in international law means that the courts of one State shall not have jurisdiction over the acts of another State. Therefore, we welcome the provisional adoption of **draft article 10**, which sets out the procedural requirements for the invocation of immunity.

Hungary supports the proposed **draft article 17** in the eighth report of the Special Rapporteur, submitted to the Commission, which aims at creating an effective system for the settlement of disputes. This model, while subject to the general rules on dispute settlement in force in contemporary international law, would give States a useful instrument to protect their respective rights and interests. Hungary welcomes the inclusion of the International Court of Justice in the draft article as a potential dispute resolution forum.

We also welcome the addition of a specific time-period for negotiation. However, more clarification might be necessary with regard to cases where it becomes apparent within the 6/12 months period that the negotiations will yield no result, and so the States may turn to judicial or arbitral settlement. We note with appreciation that the possibility of resorting to judicial or arbitral settlement is optional. While Hungary is a firm believer in judicial and arbitral dispute

settlement, making this a possibility rather than an obligation in the draft articles may have a more encouraging effect for States.

Hungary is of the view that the complex nature of immunities should not diminish the protection of the fundamental interests of the international community. We agree that the rules on immunity should not be considered in isolation, but in their interaction with other norms of international law.

Referring to provisionally adopted **draft article 11**, we believe that the waiver of immunity is a right, not an obligation of the State of the official. As the holder of this right, a State can give consent to the exercise by another State of criminal jurisdiction over one of its officials. Therefore, Hungary welcomes the adoption of paragraph 5, which states that the waiver of immunity is irrevocable. In our view, the text of this paragraph is in line with the general rules of immunity and supports legal certainty.

Madam Chair,

Addressing now the question of **sea-level rise**, we would like to highlight the importance of climate change adaptation, the way we adjust to the harmful, most of the time irreversible effects of climate change. One of these important effects is sea-level rise, the rate of which depends in a large extent on our policy choices.

A slower rate of sea-level rise might allow better adaptation outcomes, and help us to avoid and mitigate other human crises such as forced migration, human displacement, economic and non-economic losses and damages.

The main driver of observed sea-level rise during the past decades is most likely anthropogenic, but we are also the ones who can influence it for the better with fast mitigation and robust resilience focused policies and supporting legal framework.

This is why Hungary welcomes the first issues paper of the ILC Study Group on the implications of sea-level rise for the law of the sea, and we express our support to the elaboration of the second paper focusing on statehood and protection of persons.

Hungary as a landlocked country is not in a position to provide examples of state practice to the questions raised by the Commission. However, we would like to reiterate our position that sea-level rise is a crucial problem not only for states that are directly affected by it, but for the entire international community. All countries are or will be affected by its primary or secondary effects, therefore it is of utmost importance that we pay due attention to this problem. Furthermore, the issue of sea-level rise brings forward dilemmas that touch upon well-established paradigms, questions concerning not only law of the sea, but also statehood, rights of persons primarily affected by sea-level rise as well as rights and obligations of states suffering secondary effects.

Thank you, Madam Chair.