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Statement by
The Delegation of Indonesia
before the Sixth Committee of the General Assembly
on
Agenda item 82:
Report of the International Law Commission (Cluster II)
October 2021

Mdm./Mr. Chair,

Thank you for giving us the floor.

Allow me to make a few comments and observations on Chapters VI and IX of the Report, under Cluster II.

On the issue of “**Immunity of State Officials from Foreign Criminal Jurisdiction**”, I would like to thank the Special Rapporteur, Ms. Escobar Hernandez, for her tireless work on this complex topic.

Indonesia reiterates its position that there should be no impunity for grave international crimes.

We appreciate the fact that the Commission has been working cautiously on this contentious topic to strike a balance between the fight against impunity and the need to foster inter-state relations through the principle of sovereign equality.

The complexity and sensitivity of this topic was particularly reflected in how the members of the Commission addressed the draft article. The differing observations on several important subjects such as on ‘definitions’, ‘dispute settlement’ and draft article 18 relating to ‘relationship with internationalized tribunal’ or ‘relationship to specialized treaty regimes’, make them worth revisiting.

Finally, Indonesia is of the view that given the divergent views among member States and the interconnectedness of this topic with national legal systems, which are varied, it is desirable to have a more extensive study and analysis of the draft articles.

Mdm./Mr. Chair,

With respect to the topic of “**sea level rise in relation to international law**”, Indonesia notes with appreciation, the report provided by the Commission, and thanks the co-chairs of the Study Group, Mr. Bogdan Aurescu and Ms. Nilüfer Oral, for their outstanding work in preparing the first issues paper.

As the largest archipelagic State, we believe that while the oceans hold an overarching role in sustaining numerous facets of life, it could also pose considerable risks due to climatic changes, particularly sea level rise. Among the potential risks in this regard are loss of territory and resources, which could lead to loss of sovereignty and jurisdictional rights.

Against this backdrop, we see the merit of further studying and deliberating on this topic, including through the long-term program of work of the Commission.

My delegation, nevertheless, recommends that this issue be approached with caution due to its sensitivity, particularly in relation to the border or delimitation matter. It is worth stressing too that such deliberation must not undermine the existing regime on the law of the sea under the UN Convention on the Law of the Sea (UNCLOS) and relevant international law

Mdm./Mr. Chair,

In considering the topic of sea level rise in relation to international law, we concur that the principles of certainty, security and predictability and the preservation of the balance of rights and obligations should be maintained.

My delegation therefore is of the view that stability of boundary agreements should be upheld regardless of sea-level rise. In support of this view, existing maritime boundary agreements shall be respected and that the law of treaties shall prevail.

In this respect, charts or lists of geographical coordinates of baselines that have been deposited with the Secretary General pursuant to Article 16 (2) and 47 (9) of UNCLOS shall continue to be relevant.

We believe that while maintaining existing maritime baselines and limits corresponding to the principles of certainty, security and predictability, it also reflects the interests of many States in connection with the effects of sea level rise as expressed during the past session of this Committee.

To conclude, my delegation welcomes and encourages further consideration by the international community, including the Commission, to seek an acceptable ‘best solution’ in addressing and settling the international legal dilemma relating to baseline and maritime boundaries impacted by sea level rise.

I thank you.

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