

Statement on behalf of Latvia

at the Sixth Committee on Agenda item 82 "Report of the International Law Commission of its seventy-second session"

United Nations New York

1 November 2021

Cluster II -- Chapters: VI (Immunity of State officials from foreign criminal jurisdiction) and IX (Sea-level rise in relation to international law)

Madam Chair,

I have the honour to speak on behalf of Latvia.

Immunity of State officials from foreign criminal jurisdiction

Madam Chair,

I will begin the substantive statement today by addressing the topic "Immunity of State officials from foreign criminal jurisdiction".

Latvia is grateful to the Special Rapporteur, Ms. Concepción Escobar Hernández, for the eighth report on immunity of state officials from foreign criminal jurisdiction, and to the International Law Commission for provisionally adopting at this session draft articles 8 *ante*, 8, 9, 10, 11, and 12 and commentaries thereto. Latvia encourages the Commission to make every effort to follow the Special Rapporteur Escobar Hernández's suggestion expressed in paragraph 62 of her report to adopt the draft articles on this topic on first reading next year. That would allow states to reflect upon the full first reading text and provide comments in the usual space of two years, and the newly elected Commission will be able to engage in the second reading already in 2024.

Latvia has three comments regarding the eighth report of the Special Rapporteur Escobar Hernández. First, Latvia agrees with the general point made in section I.C regarding the importance of clarifying the relationship of the topic under consideration with immunity from international criminal tribunals. Secondly, section II of the report addresses settlement of disputes, where much is likely to depend upon the final form of the Commission's work on the present topic. If that form were to be draft articles with a view to becoming a convention, Latvia as a strong supporter of the International Court of Justice would encourage the Commission to adopt rules on dispute settlement that recognize the leading role played by the Court in this area. One helpful example is the so-called "opt-out procedure" provided for in Article 15 of the 2019 ILC Articles on prevention and punishment of crimes against humanity and Article 27 of the 2004 United Nations Convention on Jurisdictional Immunities of States and Their Property. Thirdly, Latvia agrees with the Special Rapporteur's decision not to formulate specific proposals regarding the issue of "recommended good practices".

Sea-level rise in relation to international law

Madam Chair,

I will now address the topic “Sea-level rise in relation to international law”.

Sea-level rise is a topic of direct interest to Latvia as a coastal State. The international community and United Nations’ concern about the sea-level rise is reflected in, among other things, its discussion this June in the twenty-first meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea and last Monday’s Arria-Formula meeting of the Security Council, in which Latvia took part.

Latvia is grateful to the Co-Chairs of the Study Group on sea-level rise in international law Mr. Bogdan Aurescu and Ms. Nilüfer Oral for the first issues paper, and to members of the International Law Commission for engaging in the general exchange of views on the topic summarised in Chapter IX of the report. The report raises important questions regarding sources and interpretation of international law, the role of states and groups of states in changing international law, interaction between sea-level rise and key concepts of law of the sea reflected in the United Nations Convention on the Law of the Sea, as well the impact on navigational practicalities such as charts. Some, however, may think it slightly suboptimal that the ILC, having raised these key questions and stimulated the broader discussion, does not seem to plan to return to them before 2023 at the earliest. The views of states suggest that this topic is of great importance and urgency for many actors; the Declaration on Preserving Maritime Zones in the Face of Climate Change-related Sea-Level Rise adopted by the Pacific Islands Forum this August is but one if a particularly prominent example. If the schedule of the next session permits, Latvia would therefore encourage the ILC to continue the discussion of sea-level rise in relation to law of the sea in 2022.

Latvia has also taken note of the Study Group’s intention to prepare a second issues paper relating to statehood and to the protection of persons affected by sea-level rise, under the co-chairpersonship of Ms. Patrícia Galvão Teles and Mr. Juan José Ruda Santolaria. In light of Latvia’s experience of continuing statehood since foundation in 1918 and membership of the League of Nations, it endorses the view that factual control over territory is not always a necessary criterion for continued juridical existence of states. We will follow the way in which state practice of and in relation to Latvia is addressed in the second issues paper with considerable interest.

I thank you.