



PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS

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**STATEMENT BY MS DAPHNE HONG,
SOLICITOR-GENERAL OF SINGAPORE, ON AGENDA
ITEM 77, ON THE REPORT OF THE INTERNATIONAL
LAW COMMISSION ON THE WORK OF ITS SEVENTY-
THIRD SESSION (CLUSTER II: CHAPTERS VI and IX OF
A/77/10), SIXTH COMMITTEE,
28 OCTOBER 2022**

1 Mr Chair, my delegation is pleased to address Chapters VI and IX of the Report.

2 First, on **Chapter VI on the topic of “Immunity of State officials from foreign criminal jurisdiction”**. My delegation reiterates our appreciation to the Special Rapporteur, Ms Concepción Escobar Hernández, and to the Commission, for their work on this topic.

3 The work of the Commission on this topic remains of significant interest to my delegation, because it touches on practical aspects of Members’ international relations. Procedural safeguards are important to ensure that the immunity of State officials, where applicable, is respected in the interests of stability of international relations and sovereign equality of States. At the same time, a margin of appreciation and flexibility must be accorded to States when addressing such matters to respond to the realities of the circumstances in which law enforcement measures may have to be applied. We congratulate the Commission on its provisional adoption of the draft articles on first reading. My delegation will study the draft articles carefully and provide our comments in due course.

4 We thank the Commission for taking onboard some of the suggestions my delegation outlined in our intervention at last year’s Sixth Committee debate on the Report of the ILC. These related to: immunity before international criminal tribunals, currently reflected in draft article 1, paragraph 3; the obligation to examine immunity when the forum State becomes aware that the relevant individual may be an official whose immunity may be affected, currently reflected in draft article 9; and the settlement of disputes, currently reflected in draft article 18. We reiterate our view that it would be helpful for the commentaries to clarify that the obligation in draft article 9, 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. This should apply similarly to the obligation in draft article 10, paragraph 1, to notify the State of a foreign official before taking coercive measures affecting that official. We note that our comments along these lines at last year's Sixth Committee debate have yet to be taken onboard in the draft articles and commentaries.

5 I turn next to **Chapter IX of the Report on the topic “Sea-level rise in relation to international law”**. Singapore joins other small island developing States in underlining the very real and existential threat posed by sea-level rise.

6 We have closely reviewed the second issues paper on the subtopics “statehood” and “the protection of persons affected by sea-level rise”, as well as the subsequent discussion within the Study Group, as summarised in Chapter IX.

7 On the subtopic “statehood”, we support the view expressed by members of the Study Group that a distinction should be drawn between the criteria for the establishment of a State and those for its continued existence. That said, this issue and its implications require deeper examination. In particular, we acknowledge that the prolonged or permanent loss of territory would, as a practical matter, almost inevitably affect the capacity of a State to exercise its rights and fulfil its obligations under international law. In this regard, we also appreciate the efforts of the Study Group in identifying and exploring various modalities by which a State may continue to preserve or maintain some territory. We consider it useful to examine the practical options that may be considered by vulnerable States whose very existence is currently under threat by rising sea-levels, and the potential legal implications and consequences flowing therefrom.

8 On the subtopic “the protection of persons affected by sea-level rise”, we commend the extensive efforts of the Co-Chair in identifying the patchwork of legal frameworks, as well as soft-law instruments, that could apply to such persons in different scenarios and to varying degrees. We agree with the Co-Chair and the Study Group that additional study is required to evaluate the applicability of these different frameworks, instruments and principles in the sea-level rise context. The proposal to separate matters relating to the protection of persons *in situ* and in displacement may be a sensible way forward.

9 On procedural aspects, we have taken note of the Study Group's intention to revert to the subtopic of the law of the sea in 2023, and to the subtopics of statehood and the protection of persons affected by sea-level rise in 2024, with a view to finalising a substantive report in 2025. With respect to outcomes, we have suggested that the examination of practical options for vulnerable States would be a useful outcome, amongst other possibilities. We also note that

different outcomes may be appropriate or useful, depending on the subtopic in question. We look forward to further progress of the Commission's work on potential outcomes on this important topic as soon as possible.

10 Thank you for your attention.

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