



SLOVENIA

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STATEMENT

BY

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Agenda item 82: Report of the International Law Commission on the work of its seventy-third session

Cluster II:

**Chapter VI Immunity of State officials from foreign criminal jurisdiction
Chapter IX Sea-level rise in relation to international law**

**77th Session of the General Assembly
Sixth Committee**

New York, October 2022

Mr Chairman,

It is my pleasure to address the Sixth Committee in relation to the work of the International Law Commission on Cluster II, namely Chapter VI on Immunity of State officials from foreign criminal jurisdiction and Chapter IX on Sea-level rise in relation to international law.

Mr Chairman,

Referring to Immunity of State officials from foreign criminal jurisdiction, Slovenia appreciates the Commission's efforts to conclude the consideration of the remaining draft articles and adopt the draft articles and comments on its first reading. We would especially like to thank Special Rapporteur, Ms. Concepción Escobar Hernández for her outstanding and detailed work on this topic. Given the fact that governments were requested to submit their comments and observations by December 2023, this intervention will be limited to some initial remarks.

Slovenia would like to reiterate the importance of this complex and sensitive topic that requires a thorough examination and clear understanding. It touches upon the need to respect the principle of sovereign equality of States and the functioning of a State, in particular international cooperation of States, on one hand, and . the principle of accountability and the fight against impunity on the other hand. The latter are important elements in contemporary international community that have been repeatedly mentioned by

many scholars and also at the General Assembly. Immunity is not of an absolute nature, and has its limitations. The question is where and how these two sets of principles are set to enable coexistence, mutual respect and human rights.. With that being said, a proper balance should be found foremost in the substantive articles of this topic to allow for the exercise of criminal jurisdiction and the invoking of individual criminal responsibility of officials of another State in certain cases and/or under certain conditions while providing the necessary safeguards for international cooperation of States. In this regard a proper administration of justice and mechanism for settlement of disputes is of crucial importance.

As to crimes under international law in respect of which immunity *ratione materiae* shall not apply, we fully support the inclusion of draft article 7. It is not the gravity of acts that demands the exception, it is the core values of the international community that need to be protected. However, we note that the Commission did not include the crime of aggression on the list of crimes. In this respect, we would like to point to the draft conclusions in Chapter IV of the Commission's Report on Peremptory norms of general international law (*jus cogens*). The prohibition of aggression is listed as one of such norms, which means that it reflects the common and overarching values shared by the entire international community. We therefore suggest for further thorough consideration of the possibility to include the crime of aggression in draft article 7, and for comprehensive and in-depth comments on this question. Moreover, we see considerable merit in additionally examining the

criteria supporting the inclusion of crimes under international law on the list beyond the exclusive criteria of an existing treaty.

In conclusion, regarding the requests for information in draft article 13, a broader approach to sources would merit consideration, as well as the inclusion of temporal elements.

Mr Chairman,

Turning to the topic of Sea-level rise in relation to international law, the Republic of Slovenia aligns itself with the statement delivered by the European Union and would like to contribute further to this debate in its national capacity.

Slovenia commends the Study Group on the progress made during this session. We would especially like to express appreciation for the preliminary observations contained in the second issue paper on the topic of statehood and the protection of persons affected by sea-level rise, which was drafted by the Co-Chairs Ms Galvão Teles and Mr Ruda Santolaria. The paper presents a thorough and systematic analysis comprising the all-encompassing and highly relevant information that serves as an excellent basis for further deliberations.

The sea-level rise is one of the most significant direct consequences of global warming, and its rate is accelerating. The recent report of the Intergovernmental Panel on Climate Change cautions that sea-level rise could directly affect more than one billion people by 2050 in all aspects of their lives. As such, sea-level rise is a global phenomenon posing a serious threat to all States. However, as noted in the second issue paper, its impacts will be distributed unevenly,

disproportionately affecting low-lying coastal countries and Small Island Developing States and, in some cases, threaten their very survival. To provide protection to those most adversely affected, commitment to solidarity and enhanced, coordinated and collaborative international cooperation are urgently needed.

The effects and implications of sea-level rise precipitate complex and sometimes completely novel situations that reveal the gaps in, and the fragmentation of, the applicable legal framework. This is comprehensively illustrated in the subtopic Protection of persons affected by sea-level rise in the second issues paper. The Commission's future work on this topic will be instrumental in addressing these gaps and will require further examination of principles that could be applicable to the protection of persons affected by sea-level rise, especially the principle of the protection of human dignity and the principle of international cooperation. We should thoroughly address the unprecedented effects of climate change on populations and their territories since very likely territories of some populations will be permanently uninhabitable with no prospect of regaining them in the foreseeable future. We should find answers to what will be their status and how are we going to protect their human rights and fundamental values?

Slovenia appreciates the Commission's integrated approach to this topic that strives to address the interconnectedness of the various legal issues arising from the impact of sea-level rise. Slovenia would like to express its appreciation for the Co-Chairs' wide and varied outreach efforts on the topic and the fruitful discussion by the Study

Group, and looks forward to the Commission's further work on this extremely pertinent and pressing issue.

Thank you.