



United Kingdom Mission  
to the United Nations

One Dag Hammarskjold Plaza  
(885 Second Avenue)  
New York, NY 10017

Tel: +1 (212) 745 9200  
Fax: +1 (212) 745 9316

Email: [uk@un.int](mailto:uk@un.int)  
[http://twitter.com/UKUN\\_NewYork](http://twitter.com/UKUN_NewYork)

## UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,  
SEVENTY-SIXTH SESSION, AGENDA ITEM 77,  
REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK  
OF ITS 73RD SESSION: PART 2 (A/77/10)  
CHAPTER VI (IMMUNITY OF STATE OFFICIALS FROM FOREIGN  
CRIMINAL JURISDICTION)  
CHAPTER IX (SEA LEVEL RISE IN RELATION TO INTERNATIONAL LAW)

STATEMENT BY MS DEBRA GERSTEIN  
ASSISTANT LEGAL ADVISER  
FOREIGN, COMMONWEALTH & DEVELOPMENT OFFICE

**28 OCTOBER – 2 NOVEMBER 2022**

Check against delivery

Chair,

1. The United Kingdom notes the progress that the Commission has made on the topic of '**Immunity of State officials from foreign criminal jurisdiction**', including the adoption on first reading of 18 draft articles with commentaries. We thank the Special Rapporteur, Ms Concepción Escobar Hernández, for her hard work over the years, which has brought this important, but difficult, topic to this stage. The United Kingdom looks forward to undertaking detailed consideration of the first reading text and thanks the Commission for its invitation to submit written comments and observations to the Secretary-General by 1 December 2023. In that regard, we would encourage States to consider submitting comments on this important topic.
2. We encourage the Commission to consider carefully all the comments from States, both those made from the floor in this Committee this year, and in the past, and those submitted in writing, and to ensure that the views of States are fully taken into account as work proceeds in 2023.
3. The United Kingdom welcomes the Commission's clarification in draft article 1 of the scope of this topic,

including its relationship to specific international agreements and other special rules of international law. We are also grateful to the Commission for the attention that it has given to making proposals for procedural provisions in Part 4 of the draft articles: we note that such general procedural provisions could have significant practical implications for national authorities and that the Commission will need to take full account of the observations of States to ensure that any final version of these draft articles respects, and is capable of application across, diverse national legal systems.

4. The United Kingdom recalls that the status of the exceptions to immunity being proposed to States in draft article 7 and its associated annex remains contested both within the Commission and even more so among States, and that - exceptionally - the provision was only adopted by a vote of the Commission on 20 July 2017. It was again clear this year that there were a range of legal positions amongst members of the Commission, just as there is a diversity of views amongst States in this Committee.
5. The United Kingdom reiterates that it is of vital importance that the Commission clearly indicates those draft articles which it considers to reflect existing international law and those which it does not. We also

repeat our long-standing view that, if the Commission's work on this topic is going to contain proposals for the progressive development of the law or new law, the appropriate form for the outcome of the Commission's work should be draft articles which could form the basis for a negotiated convention.

\*\*\*

Chair,

6. Turning to the topic of '**Sea-level rise in relation to international law**', the United Kingdom welcomes the fact that the Commission continues to study this important topic. The United Kingdom notes that this topic covers issues of fundamental and direct concern for many States, in particular small island developing States, and will address the work of the Study Group with the close attention that it warrants.
7. The United Kingdom thanks the co-chairs and the members of the Study Group for their work on the Statehood and protection of persons aspects of the topic, the results of which are set out in Chapter IX of the annual report of the Commission. The United Kingdom is considering these carefully.

8. The United Kingdom looks forward in due course to considering the results of the Study Group's further deliberations on sea level rise in relation to the law of the sea, as well as, eventually, the consolidated report of the work undertaken by the Study Group in this area.

Thank you, Chair.