



STATEMENT OF THE REPUBLIC OF THE PHILIPPINES

Item 79: Report of the International Law Commission on the work of Its seventy-first session (Cluster II: Chapter VI, VIII and X) Sixth Committee 74th Session of the United Nations General Assembly

05 November 2019, Trusteeship Council Chamber
UN Headquarters New York

Madame Chair,

We will address ourselves to Chapters VIII and X on immunity of State officials from foreign criminal jurisdiction and sea-level rise in relation to international law, respectively.

On **Chapter VIII** we commend the Special Rapporteur, Ms. Concepción Escobar Hernández for the extensive work she has put in for her sixth and seventh reports.

We are of the view that the question of **immunity of State officials from foreign criminal jurisdiction** must be approached from the perspective of respect for the sovereign equality of States and protection of State officials from politically motivated or abusive exercise of criminal jurisdiction, balanced against the recognized need to combat impunity for international crimes. To this end, while we welcome the focus on procedural safeguards, we believe those proposed in the draft articles can still be strengthened. Abuse of the exercise of criminal jurisdiction over State officials must be prevented.

As the intent of the ILC's work is codification of existing customary international law, it is important that the draft articles be grounded on state practice from diverse regions. We note in this regard that draft articles 12-15 on procedural safeguards applicable between the forum state and the state of the official are identified as proposals *de lege ferenda* constituting progressive development of international law.

On draft articles 10 (invocation of immunity), 11 (on waiver of immunity), 12 (on notification of the State of the official) and 13 (on exchange of information), we welcome the inclusion of diplomatic channels as a procedure to be availed of by the parties. This is standard state practice for many member states, including the Philippines.

On the future programme of work, we do not think that the proposed analysis of the relationship between the immunity of State officials from foreign criminal jurisdiction

and international criminal courts is within the remit of the Commission's mandate. We are also not inclined to support the proposal for the definition of a mechanism for the settlement of disputes between the forum State and the State of the official. On the other hand, the proposed inclusion in the draft articles of recommended good practices would be helpful in guiding state practice, keeping in mind of course that there are other priorities for the last report of the Special Rapporteur on this topic.

We look forward to the Special Rapporteur's final report in 2020, and we will submit our relevant practices and regulations on the topic.

On **Chapter X on "Sea-level rise in relation to international law"**, as we expressed during the Cluster I debate the Philippines supported and welcomes the inclusion of this topic in the Commission's long-term programme of work.

As an archipelagic state with numerous low-lying coastal areas and communities, the Philippines is considered one of the countries most vulnerable to sea-level rise and its effects, including its possible impacts on maritime rights and entitlements. Consideration of this issue by the Commission, specially as it relates to the UN convention on the Law of the Sea, statehood, and protection of persons affected by sea-level rise, is therefore important to us. In this regard, we are in accord with the three (3) subtopics selected by the Study Group.

It is important that the Study Group focus on emerging state practice as well as case law and invite comments of States. We intend to submit inputs on this. Given the technical and scientific nature of the phenomena, we also deem the continuing inputs of technical experts and scientists as necessary. On the proposal to request a study from the UN Secretariat, we would like more clarity on the scope of this study. Extremely relevant to in relation to this is the existing and in-depth work that continues to be done by the Intergovernmental Panel on Climate Change (IPCC); and its alarming conclusion in its latest report¹ on the *Ocean and the Cryosphere* that global mean sea level (GMSL) will rise between 0.43 m and 0.84 m by 2100.

Thank you.

¹ https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_Chapter4.pdf