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Agenda item 80: Report of the International Law Commission on the work of its seventy-second session

Statement by: Delegation of Micronesia

New York, 5 November 2020

Chair,

Micronesia aligns itself with the statements delivered today in this agenda item by Belize, Tuvalu, and Fiji on behalf of the Alliance of Small Island States, the Pacific Islands Forum, and the Pacific Small Island Developing States, respectively.

Micronesia thanks the Chair-designate of the International Law Commission (“Commission”) as well as the Secretariat for the useful oral reports on the work of the Commission in the past year. We acknowledge the extraordinary nature of the difficulties faced by the Commission this past year due to the COVID-19 pandemic and sympathize with the Commission’s efforts to defer substantive work to next year in response to the pandemic. We look forward to considering a formal and full written report of the Commission’s work next year.

For now, on the topic of sea-level rise in relation to international law, Micronesia welcomes the First Issues Paper (“Paper”) produced by two of the Co-Chairs of the Study Group established by the Commission to consider the topic. While we acknowledge that the Paper remains to be formally considered by the full Study Group and the Commission as a whole, it is our view that the Paper is a landmark achievement, one that provides an authoritative survey of the implications of sea-level rise for multiple facets of the law of the sea. We agree with the Paper’s observations that the 1982 United Nations Convention on the Law of the Sea (“Convention”) does not contemplate the phenomenon of sea-level rise, does not prohibit States Parties from preserving for perpetuity their maritime zones and the entitlements that flow from them once those zones are delineated in accordance with the Convention, and should be interpreted and applied in a manner that fosters legal stability, security, certainty, and predictability. We also note with appreciation the Paper’s careful analysis of relevant State practice and its preliminary observations on the growing incidences of such State practice, including in the Pacific, while mindful of the need to more clearly demonstrate the requisite *opinio juris* in order to allow for the identification of customary international law on the matter. We look forward to the

Commission's formal consideration of these and other observations in the Paper next year as well as this Committee's engagement with the Commission's work on the matter.

In that connection, Micronesia wishes to inform this Committee that earlier this year, Micronesia officially deposited its lists of geographical coordinates of points and accompanying illustrative maps of our maritime zones with the Secretary-General as the depositary for the Convention. In that process, Micronesia formally included with its deposit a set of written observations which, among other things, underscored that Micronesia is a specially-affected State with respect to sea-level rise and climate change; stated Micronesia's understanding that it is not obliged to keep under review the maritime zones reflected in its official deposit of lists of geographical coordinates of points and accompanying illustrative maps, as delineated in accordance with the Convention; and announced that Micronesia intends to maintain these maritime zones in line with that understanding, notwithstanding climate change-induced sea-level rise. These observations have been included in the formal maritime zone notification circulated earlier this year by the Secretary-General as depositary of the Convention. Micronesia encourages other States to consider including similar observations with their deposits of charts or lists of geographical coordinates of points with the Secretary-General, including deposits that have already been made.

To conclude, Micronesia commends the Commission for its responsiveness to the outpouring of support of the international community for the prompt and full consideration of the topic of sea-level rise in relation to international law; encourages the Commission to continue its intensive study of the topic; and stands ready to contribute to the Commission's work to the extent possible, including in connection with the Commission's future consideration of the elements of Statehood and the protection of persons under this topic.

Thank you, Chair.