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

**Agenda item 77: Report of the International Law Commission on the work of its seventy-third session, Cluster I**

**Statement by: H.E. Jeem S. Lippwe  
Permanent Representative**

**New York, 26 October 2023**

**Check against delivery**

Chair,

Micronesia is grateful to the International Law Commission for the conduct of its important work over the last year. We note with appreciation the report of the Commission on that work, and we look forward to engaging with the Commission on the substance of the report. For this first Cluster, Micronesia will focus on the topic of protection of the environment in relation to armed conflicts, as well as other decisions and conclusions of the Commission.

Chair,

Micronesia congratulates the Commission on the adoption on second and final reading of a complete set of draft principles on protection of the environment in relation to armed conflicts, and the commentaries thereto. Micronesia has contributed significantly to the work of the Commission on this matter, through statements in this Committee as well as an extensive set of written Comments to the Commission. Our interest in this matter is clear. The hundreds of small islands comprising Micronesia were a major component of the theater of armed conflict in the Pacific during World War II. Our terrestrial and maritime spaces were converted into instruments of war by foreign powers, and they suffered extensive – and sometimes lasting – damage as a result. Today, numerous World War II-era wrecks of aircraft and ships litter our waters and threaten to leak fuel and other contaminants into our fragile natural environments, further endangering our peoples and the environments that are central to our livelihoods, security, and identity. It is also not a foregone conclusion that another major armed conflict will not erupt in our part of the Pacific in the near future.

In this connection, Micronesia welcomes the draft principles on protection of the environment in relation to armed conflicts. We continue to appreciate the broad temporal scope of the draft principles, covering periods before, during, and after armed conflicts. We support the specific recognition of the obligation of States to take remedial measures for the adverse effects of armed conflicts on the lands and territories that Indigenous Peoples inhabit or traditionally use. We underscore the importance of incorporating provisions on environmental protection in agreements concerning the presence of military forces. We affirm the principle that “an internationally wrongful act of a State, in relation to an armed conflict, that causes damage to the environment entails the international responsibility of that State, which is under an obligation to make full reparation for such damage, including damage to the environment in and of itself.” In that connection, we recall the General Assembly’s recent adoption of Resolution 76/300, in which the General Assembly recognized the human right to a clean, healthy and sustainable environment. And, we especially welcome draft principles 26 and 27 from the Commission, which underscore the obligation of Parties to an armed conflict to “seek, as soon as possible, to remove or render harmless toxic or other hazardous remnants of war under their jurisdiction or control that are causing or risk causing damage to the environment,” with particular attention to ensuring such remnants of war at sea “do not constitute a danger to the environment.” This is in line with the Commission’s acknowledgement in its separate work on peremptory norms of general international law that the obligation to prohibit the “massive pollution” of the seas is a peremptory norm of general international law. In sum, the draft principles and their commentaries are a major contribution to international law, and we call on all relevant parties to implement them in full, including States with a history of armed conflict in the Pacific.

Chair,

To conclude, Micronesia notes the decision of the Commission to place the topic of “Non-legally binding international agreements” on its long-term programme of work, and we note the syllabus on this topic annexed to the Commission’s annual report. Micronesia looks forward to potentially engaging to a substantive degree with this topic, if the Commission decides to place the topic on its active programme of work. Micronesia notes the recommendation in the syllabus that the Commission should not address the question of the effect of non-binding provisions in treaties. We tend to agree with this, as long as there is an understanding that the presence of such provisions in a treaty does not negate the legally binding nature of such a treaty as a whole if there are other provisions in the same treaty that are legally binding. Micronesia also supports the Commission considering the legal effect or nature of decisions and other acts adopted by conferences of States Parties to treaties, as there remains some controversy in international law and practice as to whether such acts are legally binding or have some other legal effect on the States Parties that adopt and carry them out.

Thank you, Chair.