



CROATIA

Statement by

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Cluster I and Cluster II**

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- *Check against delivery* -

Mr. Chair, distinguished colleagues,

At the outset, let me congratulate His Excellency Pedro Comissario Afonso on the election as the Chair of the Sixth Committee. I also welcome the other members of the Bureau and the Chair and Members of the International Law Commission and I thank them for their presence at this session as well as for the very informative introduction and presentation of this year's report of the Commission.

The main focus of our intervention on this occasion is on the following topics of the ILC Report – “Protection of environment in relation to armed conflicts”, “Peremptory norms of general international law (*jus cogens*)” and “Sea-level rise in relation to international law”.

We are witnessing extremely serious challenges that the world is faced with today. In these circumstances the international rule-based order as we know it is endangered and we all must do our utmost to uphold and preserve international law. The work and efforts of the ILC is of great importance to this end.

[Protection of environment in relation to armed conflict]

Mr. Chair,

I will first turn to the topic of “Protection of environment in relation to armed conflict” and start by congratulating the Special Rapporteur Ms Marja Lehto, and the previous Special Rapporteur Ms. Maria G. Jacobsson, for the efforts invested in elaboration of this topic and the ILC on the adoption and submission of the draft principles, together with the preamble to the General Assembly. The General Assembly is invited to take note of it in a resolution and to ensure their widest possible dissemination. Croatia fully supports this invitation as it finds these principles in line with the existing rules of international law and in this regard as an excellent development in this field. At the same time the draft articles provide an excellent overview of the applicable rules in a systematic way. As a State that experienced the devastating effects of armed conflict in its recent history, Croatia followed closely the work of the ILC on this issue. Unfortunately, this year has shown us again how important and contemporary this topic is.

[Peremptory norms of general international law (*jus cogens*)]

Mr. Chair,

I will continue by commending the Commission's work on the topic of “Peremptory norms of general international law (*jus cogens*)”. Croatia welcomes the adoption by the Commission of the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*) and annex, together with the commentaries thereto. We appreciate the work of Special Rapporteur Mr. Dire Tladi and his fifth report. We are in particular pleased to see that the proposal of the Special Rapporteur to include a draft conclusion referring to a non-exhaustive list of *jus cogens* norms in the annex to the draft conclusions has been accepted by the

Commission. Croatia has stated in the Sixth Committee that such a list would be a helpful addition to the work of the Commission on this topic.

[Sea-level rise in relation to international law]

Mr. Chair,

I would like to turn to the topic of “Sea-level rise in relation to international law”. Croatia aligns itself with the statement delivered by the European Union and would like to contribute further to this debate in its national capacity.

We would like to begin by congratulating the co-chairs of the reconstituted Study Group for the efforts they have invested so far on this important issue, in particular for the presentation of the study that has served as the basis for the ILC’s discussions. We would also like to thank the other members of the Commission who contributed to the discussion.

With regard to the discussion and assessments within the Study Group and the ILC as reflected in present Report, we would like to make the following observations.

On the issue of statehood, Croatia supports a generally accepted criteria of statehood. To this end, regarding the criterion of territory, we firmly support the views that a territory is a prerequisite for the existence of a State and that a State without a territory is not possible. In this regard, if a situation occurs that due to sea-level rise a State loses its territory because it became fully submerged, in our view it could no longer be considered as a State. However, it does not mean that it ceases to exist as an international subject, but in these situations, it would rather transform into another entity. In this regard, alternatives could be explored by establishing new forms of “international legal personality without a territory”, i.e. *sui generis* non-territorial subjects of international law (cf. para. 169 of the Report).

With regards to the specific questions of the interrelation between the impact of sea-level rise and the law of the sea, it should be recalled that the principle that “the land dominates the sea” is an underlying premise for the attribution of maritime zones. Croatia holds the view that baselines are fixed and once determined national maritime zones are not subject to change, despite sea-level rise. Furthermore, Croatia considers that it is essential to continue the work of the Commission on this topic in a way that guarantees respect for and integrity of the UN Convention on the Law of the Sea. In this regard, we support the general position taken on the need to preserve the integrity of UNCLOS, as it was reiterated in paragraph 189 of the Report.

We note with interest the reference to the right of self-determination as it is suggested in paragraph 199 of the Report. It is mentioned that “the preservation of an affected population as a people for the purposes of exercising the right of self-determination should be one of the main pillars of the work of the Commission on the issue”. We believe that the Commission should further examine and clarify how and where the affected population could exercise this principle in relation to sea-level rise, but at the same time we advocate for a very cautious approach since State practice and *opinion iuris* are non-existent.

Regarding the principle of international cooperation mentioned in the Report, we support the idea that the content of this principle should be further examined, both in the context of the protection of persons affected by sea-level rise and in connection with the preservation of territory. For this purpose, financial assistance from international financial institutions could be mentioned.

Croatia looks forward to the continuation of discussions on this important topic within the ILC.

Mr. Chair,

Let me conclude by reiterating that Croatia attaches great importance to the role and work of the ILC and we are looking forward to continued engagement in further debates in the Sixth Committee.

I thank you for your attention.