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Sixth Committee

“International Law Commission: Cluster I”

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Cluster I

1. The Kingdom of the Netherlands would like to thank the International Law Commission for this year's report and would like to express its continuing appreciation for its valuable contribution to the codification, as well as the progressive development of international law. The Kingdom considers this year's ILC report as a solid basis for the deliberations of the Sixth Committee.
2. The codification and progressive development of international law is dear to my Government. The Kingdom, therefore, always strives to submit substantive contributions in the form of comments and observations, and to provide the ILC with timely written contributions, including examples of State practice. In doing so, we hope to support the work of the ILC.
3. Before turning to the topics of this cluster, my Government has noted with appreciation that its comments and observations were genuinely taken into account in this year's ILC report.

Chapters I, II, III and IV (General Principles of Law)

4. [Mr/Mme Chair, please allow me to start with the topic 'general principles of law'.] The Kingdom of the Netherlands welcomes the adoption, on first reading, by the International Law Commission of the draft conclusions on general principles of law and the commentaries thereto.

5. The Kingdom of the Netherlands would like to express its appreciation to the Special Rapporteur as well as to the ILC as a whole for the work on this topic. In particular, my Government welcomes the amendments and additions to the draft conclusions and the commentaries thereto, further to its written comments and observations.
6. In that regard, my Government welcomes in particular the maintenance of the category general principles of law formed within the international legal system. In that regard, the Kingdom appreciates the further clarification in the commentaries to draft conclusion 7, on the meaning of the wording 'intrinsic to the international legal system'.
7. My Government, however, noted that the difference of opinion of the members of the ILC as regards the existence of general principles of law formed within the international legal system was included in the draft commentaries. The Kingdom of the Netherlands believes that it would be more appropriate to include such disagreement amongst ILC members in its reports, and accordingly would like to suggest to remove this from the draft commentaries.

8. Since the ILC has adopted the conclusions and the commentaries thereto on first reading, the Kingdom of the Netherlands has requested a report of the Dutch Advisory Committee on Issues of Public International law according to its practice. My Government will take this report into consideration when preparing its comments and observations on this topic. In addition, my Government will share the report of the Dutch Advisory Committee with the ILC, together with the Government's response.

Chapter VII (Sea-level rise in relation to international law)

9. [Mr/Mme Chair, let me now continue to the topic 'sea-level rise' in relation to international law.]. The Kingdom of the Netherlands welcomes the report of the International Law Commission on the topic of sea-level rise in relation to international law and would like to thank the Co-Chairs of the Study Group for their additional paper to the first issues paper.
10. The issue of sea-level rise remains of great importance for the entire Kingdom of the Netherlands, in Europe and in the Caribbean, and the work that the ILC does on this topic has its full attention.
11. The Kingdom wishes to highlight two statements that were made in the additional paper of the Co-Chairs on the position of the Netherlands. Some points require a clarification.

12. First, my Government notes that several States made statements on whether or not the United Nations Convention on the Law of the Sea contains an obligation regularly to review and update baselines and outer limits of maritime zones. The Netherlands also notes the observations of the ILC that the UNCLOS contains no explicit provision requiring States to update their baselines and outer limits. We would like to clarify that the Kingdom has not yet taken a position on this question.

13. Second, the comments and observations of the Kingdom of the Netherlands submitted to the ILC in 2022 referred, multiple times, to the Dutch 'basic coastline'. This terminology should not be confused with 'baselines'. The concept of 'basic coastline' refers to our sandy coastline that we preserve with sand nourishments. This is a practical preventative measure to protect our coastline from moving too much landwards. Without the annual sand nourishments, the Dutch coast would shift inland by an average of 1 meter per year. However, our legal baselines remain ambulatory and have not been fixated.

14. The Kingdom welcomes the additional study the Co-Chairs and the ILC have done on the topic of the safety of navigation in relation to nautical charts. The data that the Netherlands has deposited with the Secretary-General of the United Nations, including information on its baselines, is not necessarily used for navigation. The nautical charts that are used for navigation do not reflect our baselines.

15. My Government hopes that these comments and clarifications are useful and looks forward to any further work of the Study Group on this topic in relation to the law of the sea, and to further discuss the subtopics of statehood and the protection of persons affected by sea-level rise during the next session of the Sixth Committee.

Chapter X (Other Decisions and Conclusions)

16. [Mr/Mme Chair, please allow me to turn to the topic ‘other decisions and conclusions’.] My Government welcomes the inclusion of the topic ‘non-legally binding international agreements’ in the programme of work of the ILC and congratulates the special rapporteur with his appointment. There is a growing interest among States for developing a better understanding of the use of non-legally binding international agreements in international relations and the consequences thereof. This has also led to a discussion on this topic in the Committee of Legal Advisers on Public International Law of the Council of Europe. Hopefully, the debates and work on this topic in different fora will contribute to a better understanding, without losing the flexibility for States to make use of non-legally binding international agreements in those instances where this is appropriate.

17. In the context of the 75th anniversary of the ILC, the Kingdom welcomes the initiative to convene meetings with ILC members and legal advisers of Ministries of Foreign Affairs involved in the work of the ILC.

18. Finally, in January 2023, my Government hosted a symposium on independent advice to the Government on public international law, organized by the Dutch Advisory Committee on Public International law. During this symposium, ILC member Professor Patricia Galvão Teles elaborated upon the contribution of the Dutch Advisory Committee to the work of the ILC. For us, it was very useful to hear her experiences in order to improve my Government's practices related to the work of the ILC. For instance, when preparing written submissions on the work of the ILC, my Government will now also provide the ILC with the report of the Advisory Committee and the Government's response to it. My Government can therefore only but support this type of meetings.

19. Thank you Mr/Mme Chair.