



Ministero degli Affari Esteri  
e della Cooperazione Internazionale

**Sixth Committee**  
**Seventy-ninth session of the UN General Assembly**  
**Agenda item n. 79 – Report of the International Law Commission**  
**Cluster I**  
**Statement of Italy**  
**Delivered by Stefano Zanini, Head of MoFA Legal Service**

Mr Chair,

I will now address the topic of “**Immunity of State officials from foreign criminal jurisdiction**”.

As preliminary remarks, Italy would like to commend the Special Rapporteur, Prof. Claudio Grossman Guiloff, for the excellent work, including by building upon his predecessors’ achievements.

Italy welcomes and supports the efforts made to elaborate a comprehensive set of rules on the complex and important topic of immunity of State officials from foreign criminal jurisdiction.

Italy wishes to reiterate its support for the Draft Articles and we hope that the work of the International Law Commission and of the Sixth Committee will eventually lead to the elaboration of a specific Convention that would reduce the problem of the fragmentation of national practices on the issue. In this regard, we look forward to cooperating with the Commission on articles 7 to 18 in order to allow a second reading of the Draft Articles.

I will now comment on draft articles 1 to 3 in the first report of the Special Rapporteur, while reserving the possibility to make further observations to draft articles 4 to 6 at a later stage.

First, on Draft Article 1, Italy welcomes the new wording in paragraph 3, which safeguards the rights and obligations of States under special regimes set by instruments establishing international criminal courts and tribunals. In its statement during the 77th session of the General Assembly, Italy had supported the inclusion of a reference to international criminal tribunals established under legal instruments other than treaties. Italy renews its call on



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the Drafting Committee and the Commission to further discuss this matter, with the aim of including a specific reference to such courts and tribunals.

I will now turn my attention to Draft Article 2, which comprises two sub-paragraphs. Italy commends the work of the Commission in establishing guidance, also through express reference in the Commentary, to identify officials and acts performed in an official capacity. However, in our view the Commentary should be further elaborated to address unresolved concerns, also raised by States in their written comments. Clarifications on the treatment of ultra vires act and, more in general, on the relationship between the Draft Articles under consideration and those concerning the Responsibility of States for Internationally Wrongful Acts, appear to be necessary.

Lastly, with regard to Draft Article 3 and the issue of immunity *ratione personae*, Italy appreciates the core question to be faced being whether to amend the provision to include State officials beyond the Troika. Italy notes that States, as well as individual members of the International Law Commission, continue to express contradictory opinions on this issue. Nonetheless, uncertainties in identifying the high-ranking officials other than Heads of State, Heads of Government and Ministers of Foreign Affairs who could indisputably be considered to enjoy immunity *ratione personae* still persist. In view of the foregoing, Italy supports the conclusion already made by the Commission that “other high-ranking officials” do not enjoy immunity *ratione personae* for the purposes of the draft articles, but that this is without prejudice to the rules pertaining to immunity *ratione materiae* and to special regimes applicable to such officials.

I will now address the topic of **“Sea-level rise in relation to international law”**.

Preliminarily, Italy would like to confirm its continued support for the Commission’s work on this topic, in light of its increasing relevance for international relations. From this perspective, it is all the more important to clarify the possible consequences of this phenomenon according to the international law.

We thank the Co-Chairs of the Study Group for their work, which allowed the Commission to discuss the several aspects pertaining to the sub-topics now in consideration. We appreciate these aspects deserve further analysis, due to their complexity. We therefore support the idea of a joint final report, to streamline the outcomes of discussions for all the three sub-topics, as a basis for further consideration of the matter.

At the same time, we welcome the proposal to consider starting the preparation of a set



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of draft conclusions, aiming to recognise the existing international norms that may be relevant to this sector. This, with the aim of defining a common framework of reference for protecting the inalienable rights of persons affected by sea-level rise and assuring the continuity of statehood as a key principle of international law in such an event. With regard to the issue of protection of persons, we support an approach that is in line with State practice, existing legal instruments and previous work of the ILC on other relevant subject matters, including for example the draft articles on the protection of persons in the event of disasters.

Italy looks forward to continuing its engagement with the Commission on such an important topic.

Thank you, Mr. Chair.