



**REPUBLIC OF POLAND**  
**PERMANENT MISSION TO THE UNITED NATIONS**

750 THIRD AVENUE, NEW YORK, NY 10017

TEL. (212) 744-2506

**Check against delivery**

STATEMENT BY

**H.E. ARTUR HARAZIM**

**LEGAL ADVISER**

**MINISTRY OF FOREIGN AFFAIRS  
OF THE REPUBLIC OF POLAND**

**79<sup>TH</sup> UNITED NATIONS GENERAL ASSEMBLY**

**SIXTH COMMITTEE**

**AGENDA ITEM 79:**

**“REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK  
OF ITS SEVENTY-FIFTH SESSION”**

**CLUSTER 1**

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*Mr. Chairman,*

To start, let me congratulate the Chair of the International Law Commission (ILC), Mr. Marcelo Vázquez-Bermúdez, for his presentation of the Commission's Report from its seventy-fifth session. As in previous years, we express our appreciation to the Secretariat for publishing the ILC Report's advance version in mid-August – thus giving states and international organizations much needed time to better apprehend and assess the Commission's work.

Due to the liquidity crisis facing the United Nations, the Commission's session was shortened from 12 to 10 weeks. As result, it was unable to have an exchange of views on international law with several bodies. Poland regrets this situation and wishes to highlight the need for more profound dialogue between the ILC and certain UN bodies. In particular, international law is also being developed by the Committee on the Peaceful Use of Outer Space, as well as by the Group of Governmental Experts and the Open-Ended Working Group on the security of and in the use of information and communications technologies. Consequently, there is a clear need to ensure continuous dialogue with these bodies.

This year, the Commission has instituted a new practice of including an extended summary in its report providing more insight into the ILC's work on individual topics. This development is, in our view, valuable and worth continuing.

Returning to the structure of the Report, we are of the view that the Commission should not abandon, as it has unfortunately partially done this year, the good practice of appending in the report the text on which it has worked. In the past, ILC reports included the Special Rapporteur's proposal and the results of the Commission's deliberations. The 2024 report does this only for selected topics.

For example, in Chapter VI on the “Prevention and repression of piracy and armed robbery at sea”, the report contains an extensive discussion of draft Articles 4, 5, 6 and 7, as contained in the second report of the Special Rapporteur, without citing the provisions in question. Similarly, in Chapter VII on “Immunity of State officials from foreign criminal jurisdiction”, we find a lengthy discussion of draft Articles 1-6, with proposals for changing some of these provisions from their first reading, unfortunately without providing the texts of these articles for comparison. This latter issue, concerning potential modifications of text adopted during their first reading, requires particular attention. We believe that using charts to compare modifications discussed between the first and second reading versions would not only streamline the work but also ensure a more transparent process.

As to other proposals for streamlining the Commission’s working methods, we would refer to our statement from last year.

### **Immunity of State officials from foreign criminal jurisdiction**

*Mr. Chairman,*

Poland has followed very closely the ILC's work on “Immunity of State officials from foreign criminal jurisdiction”. Last year we presented our comments concerning the draft articles adopted on the ILC's first reading in 2022. We thank Special Rapporteur Claudio Grossman Guiloff for his first report, which concentrated on draft Articles 1 to 6.

As regards Article 1 para 3 concerning the relationship between the draft articles and the rights and obligations of States towards international criminal courts and tribunals, we take the view that this provision is unnecessary. We share the position that the rights and obligations of States towards international criminal tribunals, including whether or not immunity should be granted, is a matter for the contracting parties. If, however, the provision were to stay, the phrase “in relation between the parties to such agreements”

should be deleted, as it can be interpreted as questioning the jurisprudence of certain international criminal courts and tribunals, including International Criminal Court. It is to be noted that under this jurisprudence, the ICC's jurisdiction may also extend to representatives of States that are not themselves parties to the Rome Statute.

Against this background, there is a need for more explanation from the Commission – either in draft Article 2 or in the commentary – on how the term “exercise of criminal jurisdiction” used throughout the draft articles should be understood. In particular, it is not clear at this stage whether the draft articles aim to cover the conduct of state organs implementing arrest warrants issued by international criminal courts and tribunals. This question needs elucidation, as there is a risk that the draft articles would not limit themselves solely to "horizontal relation(s) between states", despite the Commission's assurances.

On the topic's general scope, we can only echo our 2015 written observation that we would prefer a broader approach, taking into account rules on the inviolability of State officials.

### **Sea-level rise in relation to international law**

*Mr. Chairman,*

On the topic “Sea-level rise in relation to international law”, we thank the two Co-Chairs of the Study Group, Ms. Galvão Teles and Mr. Ruda Santolaria, for their additional paper on issues related to statehood and to the protection of persons affected by sea-level rise.

Poland has noticed that this year’s Commission debate on the topic touched core issues of international law – i.e., the creation of a State as a subject of international law and a State's continued existence as a legal entity. In this context, we acknowledge that since the adoption

of the Charter of the United Nations, there have been presumably none cases of a State's involuntary extinction. Thus, we would agree with the position that States have the right to preserve their existence. Such a legal conclusion in the context of sea level rise can be achieved, inter alia, both through appropriate interpretation of Montevideo Convention criteria as well as through the collective practice of States, including through the organs of international organisations, of recognizing the continuity of statehood.

Overall, we would emphasize that fundamental principles such as sovereignty and the right to self-determination should be always taken into account as a guide in seeking appropriate interpretations of international law when such issues must be resolved.

### **Other decisions and conclusions of the Commission**

*Mr. Chairman,*

With respect to the “Other decisions and conclusions of the Commission”, Poland welcomes the inclusion in the ILC's long-term programme of work of two new topics: 1) compensation for the damage caused by internationally wrongful acts and 2) due diligence in international law. We agree that the Commission's study of these issues would make a useful contribution to the progressive development of international law and its codification.

*Thank you, Mr. Chairman.*