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**79<sup>TH</sup> SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY**

**Sixth Committee**

**Agenda Item 79**

**Report of the International Law Commission  
on the work of its seventy-fifth session  
Cluster I**

**Chapter VII: Immunity of State officials from foreign criminal  
jurisdiction**

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**Statement by  
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Ministry of Foreign Affairs**

**NEW YORK  
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Mr Chairman,

First of all, allow me to express my country's appreciation for the valuable work accomplished by the International Law Commission at its seventy-fifth Session.

Greece would like to share some remarks on the work of the Commission relating to the "immunity of State officials from foreign criminal jurisdiction".

### **Chapter VII: Immunity of State officials from foreign criminal jurisdiction**

Let me at the outset express our gratitude to the Special Rapporteur for his first report on the topic and his efforts to respond to the comments and accommodate the concerns of States during the second reading of the Draft Articles. I would also like to thank the Commission for its work on the topic during its seventy-fifth session. We understand the reasons for which the second reading of the Draft Articles could not be finalized this year and hope that dividing the second reading in two sessions will allow the Commission to thoroughly consider this issue the importance of which cannot be overemphasized.

Turning now to the Draft Articles which were taken note by the Commission as provisionally adopted by the Drafting Committee, I would like to state the following:

With regard to Draft Article 1, we can accept the changes in paragraph 2, as they contribute to its clarity and accuracy. In addition, we welcome the willingness of the Special Rapporteur to expand on the terms "immunity" and "inviolability" in the appropriate part of the commentaries. Concerning paragraph 3 of this Article, we appreciate the efforts of both the Rapporteur and the Drafting Committee to accommodate the concerns of some States and provide for a more inclusive wording. We believe, however, that further refinement is necessary, if this paragraph is to be retained.

As to Draft Article 2, we take note of the decision of the Drafting Committee to leave it until the next session when the Committee will have a clearer picture of the entire set of the Draft Articles and of the terms whose definition might prove to be necessary.

Concerning Draft Article 3, we welcome the fact that it was not amended to expand the immunity *rationae materiae* to other high-ranking State officials. As we stated in the past, we believe that state practice is neither widespread nor consistent or conclusive to justify the extension of immunity *rationae personae* to include other State officials beyond the so-called Troika.

With respect to Draft Article 4, we can accept the changes in paragraphs 1 and 2, namely the replacement of the phrase "term of office" with the phrase "period of office" which

was used by the ICJ in the Arrest Warrant Case, in order to accommodate the concerns expressed by some States that the phrase “term of office” might be too restrictive. As to the changes in paragraph 3, we understand that they were deemed necessary in order to adequately reflect the intent of the provision as explained in the relevant paragraph 15 of the Commentary adopted on first reading. We also take note of the fact that the provision was adopted by the Drafting Committee on the understanding that the commentary will explain the rationale of these changes.

Concerning Draft Article 5(6) we can agree with the merger of Draft Articles 5 and 6 intending, inter alia, to highlight the difference between immunity *rationae personae* and immunity *rationae materiae*. As to paragraph 3 of this Draft Article, we read with interest about the debate within the Drafting Committee concerning the proposal of the Special Rapporteur to add the words “*rationae materiae*” after the words “continue to enjoy immunity”, which was not retained. On our part, we see merits in this proposal which, however, should be combined with the deletion of the words “continue to”.

Lastly, with regard to the final form of the work of the Commission on the topic, we reserve our position until the completion of the second reading of the whole set of Draft Articles and look forward to the relevant recommendation of the Commission next year.