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**79th 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 II]

Statement by: Delegation of the Federated States of Micronesia

New York, 29 October 2024

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Chair,

For this Cluster, Micronesia will focus on the topic of subsidiary means for the determination of rules of international law, with particular attention to Draft Conclusion 2(c). Micronesia is grateful to the International Law Commission (“Commission”) for its work on this topic, and to Mr. Charles Chernor Jalloh for his first and second reports on “Subsidiary means for the determination of rules of international law.”

Micronesia has four main points.

First, Micronesia highlights the Commission’s commentaries to the Draft Conclusions on the topic that the Commission has provisionally adopted to date. These commentaries rightfully articulate subsidiary means broadly, bound by decisions of courts and tribunals, teachings, and any other means generally used to assist in determining rules of international law. On Draft Conclusion 2(c) specifically, we note the Commission’s commentary, which states that “any other means” are unconfined, and that “the key ones may include the works of expert bodies and resolutions/decisions of international organizations”.

Second, Micronesia welcomes the further specificity provided by the Special Rapporteur in his two reports on subsidiary means. Micronesia highlights the Special Rapporteur’s conclusion that the resolutions or decisions of international organizations could “be characterized as a form of subsidiary means”. Moreover, Micronesia notes that, as the Special Rapporteur indicated in his second report, a significant number of States already support the construction of Draft Conclusion 2(c), given the breadth and inclusivity of the subsection.

Third, Micronesia notes the Special Rapporteur's position that subsidiary means are not, in and of themselves, sources of law but nonetheless may serve as "an independent basis for the rights and obligations of the subjects of international law". In this regard, subsidiary means play a critical role for the implementation of Article 38 of the Statute of the International Court of Justice; and for the identification, interpretation, and application of the rules of international law.

Finally, within this context, Micronesia stresses the relevance of the decisions and resolutions of the United Nations. As an international organization, the decisions and resolutions of the United Nations could represent views on international law premised on the consent of sovereign States, as envisaged in the Special Rapporteur's first report on subsidiary means. Decisions and resolutions of the United Nations, particularly when they address or apply to elements of international law, *must* be highly relevant for determining the rules of international law, consistent with Article 38 of the International Court of Justice. We also note that this particular point on decisions and resolutions of international organizations could have some overlaps with the Commission's work on the topic of "Non-legally binding international agreements", especially if the scope of the latter is expanded to include instruments rather than be limited to agreements. We will discuss this matter in our upcoming statement for Cluster III of the Committee's consideration of the ILC's report.

I thank you, Chair.