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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 III]**

**Statement by: H.E. Jeem S. Lippwe, Permanent Representative**

**New York, 30 October 2024**

**Check against delivery**

Chair,

In this Cluster, Micronesia will comment on the Commission’s work on the topic of “non-legally binding international agreements” and will focus on the applicability of this topic to declarations and resolutions of multilateral organizations. Micronesia welcomes the first report to date of Mr. Mathias Forteau as Special Rapporteur on the topic and takes note of the International Law Commission’s consideration of this topic during its seventy-ninth session. We wish to make three main points in this regard.

**First**, in the context of non-legally binding international agreements, Micronesia notes the report’s distinction that the topic covers “situations in which states or international organizations have together agreed,” and notes the Special Rapporteur’s suggestion of limiting the scope to agreements where States have “agreed to make a commitment”. We highlight for the attention of the Commission the 2022 Pacific Islands Forum (“PIF”) Declaration on the Preservation of Maritime Zones in the Face of Climate Change-related Sea-Level Rise; the 2023 Pacific Islands Forum Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-Related Sea-Level Rise; and the 2024 Alliance of Small Island States (“AOSIS”) Declaration on Sea-Level Rise and Statehood. The Pacific Islands Forum is a group of States. So is the Alliance of Small Island States. Each group of States adopted declarations that, while not treaties, nevertheless express agreements of each group to commit to particular approaches to addressing issues under international law with respect to sea-level rise. Micronesia stresses the important role of such declarations under international law and emphasizes the fact that the PIF and AOSIS declarations express legitimate and reasoned views on existing international law.

Thus, Micronesia strongly supports the affirmation contained in paragraph 135 of the report of the Special Rapporteur that an international agreement’s non-legally binding nature does not preclude it from producing legal effects, and further supports the considered possibility that such agreements can constitute “means of establishing customary international law”. We welcome

the Special Rapporteur's view that further attention to these questions would be a worthwhile endeavor as the Commission definitively determines whether it views these agreements as producing or being attributed legal effects. We also support the views of certain Commission members expressed in paragraph 244 of the Commission's report that "the work of the Commission on the topic should focus on written texts that were not treaties . . . but that contained an agreement between their signatories, and that might have a normative component." The declarations by PIF and AOSIS referenced by my delegation today fit squarely in that framing.

**Second**, Micronesia notes that the first report of the Special Rapporteur states that legal acts attributable to a single author, even if negotiated, do not come within the definition of a non-legally binding international agreement, which includes the decisions and resolutions of international organizations. However, if the scope of the topic is expanded to include instruments rather than just agreements, then these acts of international organizations should be included, in our view.

We also stress that the first report of the Special Rapporteur does not clearly determine whether decisions and resolutions adopted by the governing bodies of treaties constitute agreements by a single author under this topic. Micronesia welcomes the Commission's further consideration of this category of acts and would encourage the specific examination of whether acts made by conferences of States Parties to treaties as governing bodies fall within the scope of this topic, such as those for multilateral environmental agreements and similar instruments. We note in this regard the variety of views expressed in the Commission on this matter, as reflected in paragraphs 246, 247, and 248 of the Commission's report.

And, in this connection, we support the Commission's request to the Special Rapporteur in paragraph 270 of the Commission's report for the Special Rapporteur to explore the distinction between "legally binding force" and "legal effects".

**Third**, and to conclude, Micronesia appreciates the consideration in the Commission on the potential final form of the work in this topic. We have a slight preference for draft conclusions, in keeping with the recent practice of the Commission in this regard.

I thank you, Chair.