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Agenda item 80: Report of the International Law Commission on the work of its seventy-sixth session [Cluster I]

Statement by: Delegation of the Federated States of Micronesia

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Chair,

Micronesia aligns itself with the statements delivered under this Cluster by Palau on behalf of the Alliance of Small Island States, by Solomon Islands on behalf of the Pacific Islands Forum and on behalf of Tuvalu, on behalf of the Pacific SIDS. We thank Professor Martins Paparinskis for his summary of the work of the International Law Commission ("Commission") over the past year.

Chair,

For this Cluster, Micronesia will address the topic of "Sea-level rise in relation to international law".

We welcome with deep appreciation the Final Report of the Commission's Study Group on the topic as well as the Commission's endorsement of the Final Report. The Commission took on the topic of sea-level rise in large part because of overwhelming support from UN Members for the Commission to study the matter with particular urgency. The Study Group established by the Commission has actively engaged with UN Members and stakeholders in conducting its study, including the considered declarations of the Pacific Islands Forum and of the Alliance of Small Island States on the matter. This multi-year effort is a model for how the Commission, this Committee, and the broader international community can meaningfully engage in good faith, in a coordinated manner, and with appropriate urgency on a matter of international law with relevance for all of us.

On the substantive conclusions of the Final Report, we wish to make several points:

First, on the law of the sea, it is clear to Micronesia that the preservation of baselines and the outer limits of maritime zones, and the rights and entitlements that flow from them, in the face of climate change-related sea-level rise is part of the corpus of international law, consistent with the provisions of the UN Convention on the Law of the Sea. The Commission's conclusions in the Final Report about that view, the widespread support among States and regional organizations for that view, as well as the support articulated for that view by the International Court of Justice in its recent advisory opinion on climate change, all attest to the soundness of that view.

Second, on statehood, Micronesia highlights the Final Report's conclusion that in the context of climate change-related sea-level rise, the preservation of statehood correlates with the right of peoples, including Indigenous Peoples, to self-determination. The Final Report explains that this correlation arises because such peoples cannot be deprived of the continuity of statehood without their consent. It is Micronesia's view that with respect to the right of Indigenous Peoples to self-determination, this right can be exercised in a variety of ways and result in various permutations of self-governance that could include, but need not be limited to, statehood as formally understood under international law. Such permutations, once established in accordance with international law, also benefit from the principle of continuity, including in the context of climate change-related sea-level rise.

Third, on protection of persons affected by sea-level rise, Micronesia echoes the Final Report's conclusion that "elements for legal protection of persons affected by sea-level rise include the protection of human dignity as a guiding principle for any action to be taken in the context of climate change-related sea-level rise." We also support the Final Report's conclusion that "international cooperation is required to protect persons and communities affected by sea-level rise, including to protect their cultural, cultural heritage, identity and dignity and to meet their essential needs." In our view, in order for such international cooperation to be fully reflective of the protection of human dignity as an overarching guiding principle, those States that are most responsible for the causes of the climate crisis that imperil people bear the primary duty to take concrete and effective steps to reverse the causes of the crisis as well as to assist those persons that are particularly affected by consequences such as sea-level rise. There is no dignity in forcing such affected persons to beg for support that should already be given as a matter of legal obligation, including through international cooperation.

Fourth, on cross-cutting issues and interlinkages between the subtopics, Micronesia echoes the Final Report's conclusion that legal stability, certainty, predictability, equity, and the preservation of existing rights serve as cross-cutting principles applicable to all three subtopics. The topic of sea-level rise in relation to international law, more than most topics that have been on the Commission's programme of work, throws into stark relief the multiple challenges that the climate crisis inflicts on small island developing States like Micronesia, as well as on peoples and communities throughout the world that are particularly vulnerable to the climate crisis. At the same time, the topic reveals that such States, peoples, and communities already enjoy core rights and entitlements under international law that can never be reduced because of the climate crisis, at least with respect to sea-level rise. The Final Report validates our inherent human dignity, our resilience, and our status as permanent fixtures of international law.

To conclude, Micronesia looks forward to a discussion of possible next steps in the international community's consideration of this topic. We remain flexible and open-minded, as long as such next steps are additive and constructive rather than regressive.

Thank you.