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Agenda item 79 [Cluster II]: Report of the International Law Commission on the work of its seventy-first session

Statement by: Clement Yow Mulalap, Legal Adviser

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Mr. Chair,

Micronesia welcomes the decision of the Commission to place the topic of “Sea-level rise in relation to international law” on its programme of work. The decision reflects, among other things, the Commission’s careful attention to the pressing needs and interests of the international community as a whole, particularly as reflected through the expressed views of the General Assembly. Last year, a large number of delegations welcomed the Commission’s attention to the topic of sea-level rise in relation to international law and called on the Commission to consider the topic actively in its programme of work, in recognition of strong and compelling evidence that sea-level rise will likely continue through the rest of this century and beyond despite the best efforts of the international community to curb its root causes. Sea-level rise looms in both a geophysical sense as well as in terms of its potential implications for international law, including the law of the sea, the law of Statehood, and international human rights law. The Commission’s active and urgent consideration of this topic is timely, necessary, and of relevance to the international community as a whole.

In this connection, Micronesia aligns with the statements delivered by Tuvalu on behalf of the Pacific Islands Forum and by Fiji on behalf of the Pacific Small Island Developing States. Our Leaders in the Pacific have committed us to work together, including through the development of international law, to ensure that once a Pacific country’s maritime zones are delineated in accordance with the United Nations Convention on the Law of the Sea (“UNCLOS”), those zones could not be challenged or reduced as a result of sea-level rise and climate change. This reflects international law’s preference for stability, certainty, and orderly affairs and is a fair and equitable way to address the impacts of climate change-induced sea-level rise on specially affected States like Micronesia that were not anticipated by the drafters of UNCLOS. Micronesia and other States in the Pacific have relevant and consistent State practice on this point, as grounded in our views of the relevant international law, including at regional and sub-regional levels. Micronesia will work with the rest of the Pacific to contribute to the work of the

Commission on this topic, including through regional and national comments in response to the Commission's call for information.

In that connection, just last week, Micronesia deposited charts and lists of geographical coordinates of points for all our maritime zones and baselines as well as all our maritime delimitation treaties with the United Nations Secretary-General, in line with our obligations under UNCLOS as well as the United Nations Charter. As part of that deposit, Micronesia has attached a set of observations which reference, among other things, our understanding that we are not obliged to keep under review the maritime zones reflected in such an official deposit, as delineated in accordance with UNCLOS, as well as our intent to maintain these maritime zones in line with that understanding, notwithstanding climate change-induced sea-level rise. We encourage other States to deposit their maritime charts, coordinates, and delimitation treaties and submit similar observations. The development and identification of relevant State practice and corresponding *opinio juris* are key to the Commission's work on sea-level rise, and we will do our part to contribute, with the aim of aiding the Commission in ascertaining the degree to which current international law is able to respond to the international law implications of sea-level rise and where there is a need for States to develop practicable as well as legal solutions.

Mr. Chair,

Micronesia congratulates the Commission for adopting the full set of draft principles on the "Protection of the environment in relation to armed conflicts" on first reading and their accompanying commentaries. Micronesia submitted extensive national comments to the Commission and made statements in this Committee on this topic in recent years, and we are pleased that some of our views are reflected to a certain extent in a number of the draft principles adopted by the Commission on first reading as well as the commentaries thereto, including on the need to account for the protection of the environment during the pre-conflict and post-conflict phases to the fullest extent necessary, post-conflict environmental assessments and remedial measures, the protection of the environment of Indigenous Peoples, remnants of war at sea, and the recognition of close links between key human rights on the one hand and the protection of the natural environment from armed conflict and other harms on the other hand.

Micronesia has long been the theater of armed conflicts waged by foreign powers, and the effects of such conflicts on our rich but fragile natural environments have been extensive, with some of those effects persisting long after the cessation of hostilities. The Commission's work underscores the obligation of belligerents under international law, in close cooperation with other relevant actors in the international community, to take all necessary steps to prevent such harmful effects as well as remediate them when they cannot be prevented. This obligation persists for as long as the harmful effects persist. Micronesia looks forward to contributing further to the Commission's consideration of this important topic, including through national comments to the Commission by 1 December 2020.

Thank you, Mr. Chair.