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17th Meeting of the Sixth Committee**

Agenda item 82:

Report of the International Law Commission on the work of its seventy-second session

Statement by: H.E. Ambassador Jane J. Chigiya, Permanent Representative of the Federated States of Micronesia to the United Nations

New York, 27 October 2021

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Chair,

Micronesia welcomes the report of the International Law Commission on the work of its 72nd session. We appreciate the Commission's dedication to discharging its important work during a global pandemic.

In this Cluster, Micronesia will focus on the topic of the protection of the atmosphere. Micronesia takes note of the Commission's adoption on second reading of a draft preamble and an entire set of draft guidelines on the protection of the atmosphere, along with their commentaries. In the spirit of the draft guidelines and their preamble, Micronesia encourages the international community to break down unnecessary silos between international law regimes and processes of relevance to the protection of our fragile atmosphere from anthropogenic harms, including those for climate change, the ozone layer, biological diversity, and the protection and preservation of the marine environment. These regimes and processes can cooperate for the overall protection of the atmosphere while respecting their individual mandates. The draft guidelines on the protection of the atmosphere are a constructive resource in this regard.

In this connection, Micronesia welcomes draft guideline 9 and its treatment of the interrelationship between relevant rules of international law on the protection of the atmosphere, including those for international human rights law and the law of the sea. Micronesia endorses the draft guideline's assertion that such rules should be "identified, interpreted and applied in order to give rise to a single set of compatible obligations, in line with the principles of harmonization and systemic integration, and with a view to avoiding conflicts." Similarly, the development of new rules of international law of relevance to the protection of the atmosphere should be done in a "harmonious manner." Micronesia encourages the international community to adhere to these approaches to the extent possible.

Additionally, also with regard to draft guideline 9, Micronesia welcomes the recognition of the need to afford “special consideration” to “persons and groups particularly vulnerable to atmospheric pollution and atmospheric degradation” when dealing with the interrelationship between relevant rules of international law, including Indigenous Peoples and people of small island developing States affected by sea-level rise. As recognized by the commentary to draft guideline 9, such groups are routinely at the front-lines of the adverse impacts of atmospheric pollution and degradation, including those relating to climate change and the devastation of biological diversity.

Furthermore, Micronesia welcomes the clear recognition in draft guideline 4 that States have the obligation to ensure that an environmental impact assessment is undertaken by proposed activities under their jurisdiction or control that are “likely to cause significant adverse impact on the atmosphere in terms of atmospheric pollution or atmospheric degradation.” As draft guidelines 4 and 7 and their commentaries make clear, there is a need to expand international law to include rigorous environmental assessments for activities that directly and adversely impact the atmosphere, including geo-engineering and other intentional large-scale modifications of the atmosphere to counter the climate crisis.

Finally, on draft guideline 3, Micronesia reiterates the view we previously expressed in this Committee that the obligation to protect the atmosphere is an obligation *erga omnes*, and failure to meet that obligation triggers State responsibility. As its commentary clarifies, the present formulation of the draft guideline is without prejudice to whether such an obligation *erga omnes* exists. In Micronesia’s view, as the atmosphere exists for the benefit of humankind as a whole, each State owes an obligation to the rest of the international community to take all appropriate measures to prevent, reduce, or control the pollution and degradation of the atmosphere, especially in this era of climate and biodiversity crises. As States, we must work for the betterment of all. Each of us who fails to do so bears an acute responsibility to the rest of us for that failure.

Thank you.