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Agenda item 82: Report of the International Law Commission on the work of its seventy-second session (Cluster II)

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

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Chair,

Micronesia aligns itself with the statements delivered in Cluster II of this agenda item by Antigua and Barbuda, Fiji, and Samoa on behalf of the Alliance of Small Island States, the Pacific Islands Forum, and the Pacific Small Island Developing States, respectively. We wish to make additional remarks in our national capacity.

For this Cluster, Micronesia will focus on the topic of sea-level rise in relation to international law. Micronesia takes careful note of the Commission's summary of the work done in its seventy-second session by the Study Group established to examine the sea-level rise topic, and we have a number of points to raise in this regard.

First, Micronesia supports the suggestion raised in the Study Group for treating sea-level rise as a "scientifically proven fact of which the Commission could take notice" for its work on sea-level rise, with the understanding that such sea-level rise is mainly anthropogenic. There is no longer any serious scientific disagreement on the existence of sea-level rise as well as humanity's direct and primary role for enabling such sea-level rise, and the Commission should note this accordingly.

Second, Micronesia stresses that when we speak of the importance of legal stability, security, certainty, and predictability in connection with the law of the sea elements of the sea-level rise topic, we mean the need to maintain maritime zones without reduction, as well as the rights and entitlements that flow from them, regardless of climate change-related sea-level rise. This is at the core of the *Declaration on Preserving Maritime Zones in the face of Climate Change-related Sea-level rise*, which the Leaders of the Pacific Islands Forum endorsed this past August and the Micronesian Presidents' Summit reaffirmed soon afterward. In the Declaration, we express clear and considered views of what the existing

relevant international law on maritime zones prescribes in the specific context of climate change-related sea-level rise. We also describe our current and intended future State practice undertaken in order to honor the obligations that arise from these views. The preservation of maritime zones and the rights and entitlements that flow from them in the face of climate change-related sea-level rise is supported by both the United Nations Convention on the Law of the Sea (“UNCLOS”) and the legal principles underpinning it and represents, among other things, a vital exercise of our right to permanent sovereignty over our natural resources for the sake of national development and survival. Additionally, as a necessary corollary, Micronesia is obligated to accord respect to any other State that preserves its maritime zones in accordance with this view of the relevant international law, just as we trust that other States will respect when we take that route.

Third, Micronesia is interested to hear more about the reference to a continuum of intermediate possibilities between an ambulatory approach and one based on permanence, as suggested by some Members of the Study Group. However, such intermediate possibilities must honor the core notion under existing relevant international law that the rights and entitlements that flow from maritime zones that are originally established by a coastal State must never be reduced solely on the basis of climate change-related sea-level rise. In our view, the preservation of maritime zones and the rights and entitlements that flow from them is the most suitable and equitable approach in order to achieve that goal; nonetheless, we are interested to hear viable alternatives in this regard.

Fourth, Micronesia appreciates the Study Group’s intention to consider sources of relevant international law beyond UNCLOS, as allowed by the preamble of UNCLOS, including general principles and rules of international law. We are interested in the Study Group’s consideration of the principles of equity, good faith, and permanent sovereignty over natural resources, all of which we consider to be relevant not just to the law of the sea elements of the topic but also the other elements on Statehood and protection of persons affected by sea-level rise.

To conclude, we reiterate our deep appreciation to the Commission for its careful and thoughtful analysis of a topic that is of clear and critical importance to the international community as a whole, and even more critical and urgent for specially affected small island developing States like Micronesia; and we pledge to continue our engagement with the Commission as it continues its work on the topic, including in the elements on Statehood and protection of persons affected by sea-level rise that will be examined by the Study Group.

Thank you.