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STATEMENT

Permanent Mission of the Republic of the Philippines to the United Nations
Agenda Item 77: Report of the International Law Commission
on the work of its seventy -second session
Cluster II ±Immunity of state officials from foreign criminal jurisdiction and Sea-level rise in
relation to international law
28 October 2022
77th Session of the United Nations General Assembly

Mr. Chair,

The Philippines commends Special Rapporteur Ms. Concepción Escobar Hernández and Co-Chairs Ms. Patricia Galvao Teles and Mr. Juan Jose Ruda Santolaria for their contribution to the work of the ILC, respectively, on Immunity of state officials from foreign criminal jurisdiction and Sea-level rise in relation to international law.

We wish to share the following general observations:

On 3, PPXQLW\ RI VWDWH RIILFLDOV IURP IRUHLJQ FULPLQDO M

The Philippines notes the transmission of the 18 draft articles and draft annex on 3, PPXQLW\ RI VWDWH RIILFLDOV IU Rorwng the first Qa Bng PLQDO MXU

We reiterate our view that the question of immunity of State officials from foreign criminal jurisdiction must be approached from the perspective of respect for the sovereign equality of States and protection of State officials from politically motivated or abusive exercise of criminal jurisdiction, balanced against the recognized need to address impunity for international crimes.

international law issues to be analyzed from both *lex lata* and *lex ferenda* perspectives. We acknowledge the existential implications of the questions raised by the Co-Chairs, such as the possibility that the land area of the State could be completely covered by the sea or rendered uninhabitable; the progressive displacement of persons to the territories of other States, and the implications on nationality, diplomatic protection and refugee status; the legal status of the Government of a State affected by sea-level rise that had taken residence in the territory of another State; the preservation of the rights of States affected by the sea-level rise in respect of the maritime areas; and the right to self-determination of the populations of affected States.

The Philippines is of the view that these questions must be approached on the basis of legal stability, security, certainty, and predictability in international law. We note the Commission ¶ debate on the sources of law, and highlight that the Commission should take into account treaties, customs, and applicable general principles of law, including principles of equity, good faith, and international cooperation. We endorse the principle of common but differentiated responsibilities in relation to statehood and sea-level rise. The United Nations Convention on the Law of the Sea is the legal framework within which all activities in the oceans and seas must be carried out.

On statehood, the Co-Chair ¶ V V W D U ¶ The Criteria For the creation of a State, or rather the criteria in accordance with the

regulatory frameworks in international migration and would be interested to contribute in this regard.

The Global Compact for Safe, Orderly, and Regular Migration, for example, in relation to the objective of minimizing adverse drivers that compel people to leave their country of origin, commits states to develop adaptation and resilience strategies to, among others, slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, drought and sea level rise, taking into account the potential implications on migration, while recognizing that adaptation in the country of origin is