

Thank you Mr. Chairperson,

At the outset, Israel would like to thank the Special Rapporteur, Ms. Concepcion Escobar Hernandez, and the International Law Commission, for the work done on the topic of “**Immunity of State officials from foreign criminal jurisdiction**”.

Israel attaches great importance to ensuring that perpetrators of crimes are brought to justice, and supports international efforts to fight crime and combat impunity effectively. At the same time, the longstanding and fundamental rules on immunity of State officials from foreign criminal jurisdiction are firmly established in the international legal system – and rightly so. They were developed to protect the elementary principles of State sovereignty and equality; to prevent international disharmony and political abuse of legal proceedings; and to allow for the proper and unimpeded functioning of State officials in the performance of their duties and in the conduct of international relations. This underlying rationale remains as important and as central to international law and international relations today as it was centuries ago.

Mr. Chairperson,

Israel takes note of the provisional adoption by the Commission on first reading of the text of the draft articles on immunity of State officials from foreign criminal jurisdiction. Israel also notes the request by the Commission to receive comments and observations regarding the draft articles by December 1, 2023, to which Israel intends to submit its own comments and observations. Therefore, the comments presented in this session of the Sixth Committee should be seen as non exhaustive, and address only some aspects of the work. In this vein, Israel refers also to its previous statements on this topic together with the current one.

Mr. Chairperson,

By way of participating substantively in the ILC discussions, Israel would like to contribute some helpful remarks, and reiterate certain concerns regarding several of the draft articles provisionally adopted by the Commission thus far. Israel continues to maintain that certain draft articles fail to reflect the current state of play of customary international law as supported by state practice and *opinio juris*, and constitute – instead – proposals for the possible progressive development of the law — without openly acknowledging that fact. Should the Commission recommend to endorse such progressive development, it should, at the very least, make note of that explicitly. It should be made clear what constitutes codification of existing customary international law, and what constitutes progressive development of the law or even suggestions for new norms altogether, the latter of course, in any case, does not reflect customary international law.

In this regard, Israel wishes to make particular mention once again of Draft Article 7 and its related annexes, which proposes exceptions to immunity *ratione materiae*. Israel would like to recall that some members of the Commission voted against the Article during the 69th session in 2017, and their position remains unchanged.

Furthermore, Israel would like to reiterate its requires that to the Commission to reconsider its position on the issue of immunity *ratione personae* discussed in Draft Article 3 and Draft Article 4. While these Draft Articles specify that only three persons, known as the “troika” – the Head of State, Head of Government and Minister of Foreign Affairs – enjoy immunity *ratione personae* Israel notes that under customary international law, as reflected in the case-law of the International Court of Justice and of domestic courts, the category of State officials who enjoy such immunity is **in fact broader**. As noted above, Israel recommends that if the Commission decides to retain these Draft Articles, it should be made clear that this is not a reflection of customary international law.

Mr. Chair,

As mentioned in previous statements, Israel shares the view that the determination of immunity

Mr. Chairperson

Turning now to the topic sea-level rise. Israel considered with interest the second issues paper, prepared by Ms. Galvão Teles and Mr. Ruda Santolaria, as well as the report of the Study Group. Israel is fully committed to the global fight against climate change, and reiterates its support for the efforts of the international community to confront this complex issue. Israel joins numerous other States in acknowledging that climate change constitutes an existential threat to humanity. Rising sea levels, as a consequence of climate change, threaten not only low-lying and small island developing States, but all States, directly or indirectly.

Israel reiterates its view that sea-level rise has potential far-reaching implications on key underpinnings of our international legal order, including the principles of legal stability, security, and predictability. In this regard, Israel notes the preliminary character of the reflections in the abovementioned paper and report, and their purpose to serve as a basis for future discussions.

Mr. Chairperson,

At this stage, Israel would like to note the important debate within the Study Group regarding the issue of statehood. Primarily, Israel agrees with the co-chair of the Study Group that the preliminary reflections on statehood should not aim to prejudge or formulate conclusions on such a sensitive matter, which deserves considerable