

Session of the General Assembly

Agenda item n. 78 - Report of the International Law Commission

Second Cluster

Statement of Italy

Delivered by Mr Stefano Zanini

Mr. Chairman/Madam Chair,

Immunity of State officials from
foreign criminal jurisdiction and Sea-level rise in relation to international law

I will now address **Immunity of State officials from foreign criminal jurisdiction**

As a preliminary remark, Italy would like to commend the Special Rapporteur, Prof. Concepcion Escobar Hernandez for the excellent work and to congratulate the Commission for the adoption on first reading of the Draft Articles and the Commentaries thereto.

We support the efforts made to elaborate a set of rules on the complex and important topic of immunity with a view to preventing disputes between States. Indeed, the adoption of a set of draft articles on the topic will hopefully lead to the elaboration of a specific Convention that would solve the problem of the fragmentation of national practices on the issue.

More specifically, we wish to reiterate our support for **Draft Article 7**, which states an **exception to functional immunity in respect to crimes under international law**. In fact, we are considering the inclusion of a rule having the same content of Draft Article 7 in our national Code of International Crimes currently under drafting.

With regard to the other Draft Articles, Italy would like to make the following observations.

Firstly, we welcome the relocation of the **without prejudice**

Secondly, Italy welcomes the adoption of **Draft Article 14**, concerning the **determination of immunity**, which is considered a key provision that completes the rules contained in Part Four. However, regarding the moment at which the immunity should be determined, Italy has some reservations on

cases where a State has become uninhabitable due to a partial reduction of its territory as a consequence of sea-level rise. Italy believes that due consideration should also be given to the effects on statehood of phenomena such as periodic flooding and freshwater contamination caused by rising sea levels. Furthermore, Italy encourages the Study group to consider whether and to what extent States affected by sea-level rise could invoke a state of necessity.

In reference to the discussion held on the subtopic of **protection of persons affected by sea-level rise**, Italy encourages further researches in order to analyze the applicability, and possibly the consequences of the application, of human rights law, refugee and migration law, disaster and climate change law to address the specific challenges arising from this crucial issue.

Finally, regarding the **final outcome** of the work on the topic, Italy is particularly in favor of the proposal suggested within the Study Group regarding the elaboration of a draft treaty on a new form of subsidiary protection for persons affected by sea-level rise and is ready to provide its contribution on the main legal issues that will be selected in the examination of the topic.

Thank you Mr. Chairman/Madam Chair.