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77th Session of the United Nations General Assembly
Sixth Committee

Agenda item 80: Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in case of such harm

Statement by: H.E. Jeem S. Lippwe
Permanent Representative

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Chair,

As this is the first time that my delegation is taking the floor in this Committee during this Session we congratulate you and your Bureau on your election and I would like to commit our delegation to support the successful discharge of your work. We also align with the statement delivered by Antigua and Barbuda on behalf of the Alliance of Small Island States in this agenda item.

Chair,

The Federated States of Micronesia is comprised of hundreds of small islands. Consequently, we are keenly aware of the dangers of transboundary harm. The risk of harm to our maritime and coastal areas from human activity poses potentially devastating consequences for our islands and the Pacific region as a whole, and we are committed to pursuing all available avenues to address this risk, including through the full and equitable implementation of relevant international law. As such, Micronesia welcomes the opportunity to comment on the International Law Commission's draft articles on prevention of transboundary harm from hazardous activities and its draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities.

Micronesia considers that the draft articles in various important respects reflect customary international law, including the principle of international cooperation, the polluter pays principle, the requirement of notification, and the related principles of prevention, due diligence and the precautionary principle.

Each State has a due diligence obligation under international law to take all necessary steps to prevent the probable infliction of physical harm by the hazardous activities of that State or under that State's jurisdiction or control on another State's environment, people, and property. This prevention rule has a clear application in multiple multilateral fora, processes, and instruments relevant to the environment, including those addressing the triple planetary crises of climate change, biodiversity loss, and plastic pollution. Importantly in order to put this prevention rule into effect,

Micronesia is part of a number of initiatives aimed at addressing impacts of State activities on the environment and peoples of other States, including joining an Alliance of Countries for a Deep Sea Mining Moratorium in the international seabed Area as well as joining the Pacific Islands Forum and other groups of States in calling on the General Assembly for a resolution requesting the International Court of Justice to provide an advisory opinion on the obligations of States under international law to protect the rights of present and future generations against the adverse impacts climate change.

A related rule of customary international law reflected in the draft articles, is the requirement to undertake a comprehensive environmental impact assessment where there is a certain degree of risk that a proposed activity may have a certain degree of adverse impact in a transboundary context, whether between States or between a State and an area beyond national jurisdiction. This requirement under general international law is embodied in a number of treaties to which Micronesia is a party, including the United Nations Convention on the Law of the Sea, the Convention on Biological Diversity, and the Noumea Convention. It is also a key element of ongoing negotiations for a BBNJ instrument, where it is essential that the instrument provides for the assessment of all potential anthropogenic harms to areas beyond national jurisdiction, including harms emanating from activities in areas within the national jurisdiction of States. And, this is a key element in ongoing negotiations on exploitation regulations for the Mg Code of the International Seabed Authority, which must have, among other things, robust, comprehensive, and legally binding provisions on environmental impact assessments.

With respect to the draft principles, they underscore that it is important that those who suffer harm from incidents involving hazardous activities are left to shoulder their losses and are able to obtain prompt and adequate compensation. The draft principles provide useful and authoritative guidance in the development of more specific agreements, including international legally binding instruments.

Chair,

Micronesia is open to the elaboration of a convention incorporating the draft articles and draft principles.

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