



Statement by H.E. Archbishop Bernardito Auza
Apostolic Nuncio, Permanent Observer of the Holy See

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Agenda item 82: Report of the International Law Commission
on the work of its seventieth session (Cluster II I)
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Mr. Chair,

My Delegation would like to thank the International Law Commission for the important work it is doing on the immunity of State officials from foreign criminal jurisdiction. As the sixth report of the Special Rapporteur notes, the law in this area is particularly complex and it is thus ripe for the Commission's efforts to clarify its nature and scope.¹

The Commission has laudably sought to balance the right of the forum State to enforce the laws within its jurisdiction, especially over criminal behavior, and the long-held principle that foreign officials should not be prosecuted for those acts performed in an official capacity, thus ensuring that they may continue to serve their communities. The difficulty of such effort is clear, given the diverging sovereignty concerns, as well as the competing desires to avoid not only impunity, but also politically motivated prosecutions. Indeed, the immunity of State officials from foreign jurisdiction is a crucial, long-standing principle of State sovereignty and international diplomacy that must be respected in order to ensure the peaceful and friendly relations among States.

Mr. Chair,

My Delegation welcomes the focus of the Special Rapporteur's sixth report on the procedural aspects of the immunity of State officials. Her analysis provides a crucial advance in the understanding of the procedural issues that arise with immunity, such as timing, invocation and waiver, all of which are important for an even-handed and transparent handling of immunity issues that best protects the sovereignty concerns in question. Indeed, proper consideration of this topic requires deliberation and careful treatment of, and attention to, State practice concerning the claims of immunity, as well as the mechanisms for communication, consultation, cooperation, and international judicial assistance in situations where immunity arises.

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acts affected by immunity, we fully concur with the
at imposing obligations on a foreign official that, in the

¹ Cf. A/73/10, 26.

event of non-compliance, could lead to coercive measures may raise questions of

