



Statement by
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Before the Sixth Committee

On agenda Item 154
“Convention on Jurisdictional Immunities of States and their
Property”

New York, 10 October 2002

Mr. Chairman,

At the outset my delegation would like to add our voice in thanking Prof. Gerhard Hafner of Austria, Chairman of the Ad hoc Committee on Jurisdictional Immunities of States and Their Properties, for his report as contained in document A/57/22, and for his wise stewardship during the working group's last session held earlier this year. We also would like to extend our appreciation to the other members of the Bureau.

Our deliberations are taking place against the backdrop of developments in international relations which reassure us that cooperation among States is a prerequisite to the attainment of durable and prosperity for all mankind. The just and fair treatment of States and Their Properties is one of the important elements of concern to many countries, including my own. In addition my delegation endorses resolution 56/78 of 12 December 2001 recalling all States i.a., "to consolidate areas of agreement and resolve outstanding issues with a view to elaborating a general acceptable instrument". My delegation believes that the United Nations, through this Ad hoc Committee, would produce an international code pivotal for the future relationship among States.

In this context, my delegation deems the work of the Ad hoc Committee pertinent on two accounts. First, it successfully streamlines the divergent views by forging a common understanding from those outstanding issues. Furthermore by streamlining them the Ad hoc Committee has generated a momentum concerning possible conclusion of the draft texts in the near future. Indeed it is incumbent upon all Member States, large and small, to collectively redouble our efforts to further develop generally acceptable legal principles that would guarantee the cardinal precepts governing immunities of States and their Properties. In this connection, we recall the annual meeting of the Asian-African Legal Consultative Organization in Abuja, Nigeria this year, which commended the progress made by the Ad hoc Committee.

The report of the Ad hoc Committee, Mr. Chairman, as contained in document A/57/22 reflects the current status of our deliberation in this item. My delegation commends the positive developments on the Ad hoc Committee deliberation in view of the fact that it was the first time it

has considered all draft articles since their adoption by the International Law Commission in 1991. We take note with appreciation the substantial progress with regard to the five substantive issues which have been reduced to three. We laud the Ad hoc Committee's report that a trend has emerged toward commitment to bridging the divergent views. In this regard, my delegation would like to support the recommendation made by the Chairman of the Ad hoc Committee in his oral report to extend the mandate of this committee next year with a view to finalizing its deliberation of draft articles on jurisdictional immunities of States and their Properties, and to recommend the form of such an instrument.

Mr. Chairman,

For some years the topic concerning the criteria for determining the commercial character of a contract or transaction has occupied the attention of the Ad hoc Committee but a definitive decision has yet to be taken. It is undeniable that the issue requires flexibility if we are to achieve a common ground and understanding concerning commercial character of a contract or transaction. In this regard my delegation takes note of the assessment of the delegate of Japan that the debate so far has been abstract and philosophical whereas in the practice of States, such a big difference does not exist. Inability to break the impasse raises a profound question concerning our commitment to a resolution on this item. Indonesia believes that the time has come to conclude this important topic.

Mr. Chairman,

My delegation accords great importance to the question of the form of an instrument. We believe the momentum is now available to determine the form of a legal binding instrument. For developing countries like my own, the formulation of a uniform international treaty is preferable in order to create legal order in this field.

Thank you, Mr. Chairman.