

Written Statement of the United Nations

Case No 31

Request for an advisory opinion submitted by the Commission of Small Island States on Climate Change and International Law

1. On 12 December 2022, a request for an advisory opinion under article 138 of the Rules of the International Tribunal for the Law of the Sea (“the Tribunal”) was submitted to the Tribunal by the Commission of Small Island States on Climate Change and International Law (“the Commission”).
2. On 16 December 2022, the President of the Tribunal issued Order 2022/4 on the conduct of the proceedings in Case No. 31. By that Order, the Tribunal, inter alia, in accordance with article 133, paragraph 3, of the Rules of the Tribunal, invited States Parties to the United Nations Convention on the Law of the Sea (“the Convention” or “UNCLOS”), the Commission and the intergovernmental organizations listed in the annex to that Order, to present written statements on the questions submitted to the Tribunal for an advisory opinion. The United Nations is one of the intergovernmental organizations listed in the annex to Order 2022/4.
3. On 19 December 2022, pursuant to Order 2022/4 dated 16 December 2022, the United Nations was invited to submit a written statement on the questions submitted to the Tribunal for an advisory opinion.
4. It is recalled that the questions submitted to the Tribunal are the following:
“What are the specific obligations of State Parties to the United Nations Convention on the Law of the Sea (‘UNCLOS’), including under Part XII:
(a) to prevent, reduce and control pollution of the marine environment in relation to the deleterious effects that result or are likely to result from climate change, including through ocean warming and sea level rise, and ocean acidification, which are caused by anthropogenic greenhouse gas emissions into the atmosphere?
(b) to protect and preserve the marine environment in relation to climate change impacts, including ocean warming and sea level rise, and ocean acidification?”
5. On 15 February 2023, the President of the Tribunal issued Order 2023/1, extending the time-limit for the submission of written statements to 16 June 2023.
6. Accordingly, the following statement is submitted.

1. Introduction

7. The present statement is intended to provide information to the Tribunal that may be relevant for its consideration of the request for an advisory opinion focusing on developments in relation to the Convention as well as to the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (“the Fish Stocks Agreement”).¹ It also highlights that States have provisionally agreed to the text of a new draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. In particular, the statement outlines pertinent developments at the United Nations, including relevant resolutions and outcomes of the General Assembly and its subsidiary bodies, the Security Council, Meeting of States Parties to the Convention, and the Review Conference on the Fish Stocks Agreement. It also includes information on reports of the Secretary-General of the United Nations to those bodies that have addressed pertinent matters.

8. This written statement includes references to instruments other than the Convention but does not elaborate upon those adopted under the auspices of the entities invited to submit statements to the Tribunal.

2. Background

9. In order to provide context to the information provided below in relation to the questions submitted to the Tribunal, this section presents a summary of the information provided in the two reports of the United Nations Secretary-General on Oceans and the Law of the Sea addressing “The effects of climate change on oceans”² and “Sea-level rise and its impacts”.³ Both of these reports draw substantially from relevant reports of the Intergovernmental Panel on Climate Change (IPCC).

10. The most notable impacts of climate change and related changes in the atmosphere on the ocean are ocean warming and ocean acidification. Related impacts include sea level rise, changes in ecosystems and biodiversity loss, extreme weather events and the loss of polar ice.⁴ Most of the heat excess caused by increases in atmospheric greenhouse gases is absorbed by the ocean, causing ocean warming. The ocean’s large mass and high heat capacity allows it to store significant amounts of energy. The ocean is estimated to have absorbed about 93 per cent of the combined extra heat stored by the Earth between 1971 and 2010.⁵

¹ As of 8 June 2023, the Convention had 169 Parties, including the European Union. The United Nations Fish Stocks Agreement had 92 Parties, including the European Union.

² Report of the Secretary-General on “The effects of climate change on oceans”, of 6 March 2017 ([A/72/70](#)).

³ Report of the Secretary-General on Oceans and the law of the sea on “Sea-level rise and its impacts” of 16 March 2020 ([A/75/70](#)).

⁴ A/72/70, para. 6.

⁵ A/72/70, para. 4.

11. Sea-level rise, which is caused by ocean warming and ocean mass gain due to a decrease in land ice mass from melting glaciers and ice sheets, is a global challenge affecting the very survival of a significant number of low-lying coastal areas and States, with actual and potential consequences, including for non-coastal States, for both present and future generations. As a threat multiplier, sea level rise is projected to have significant environmental, economic and social ramifications,⁶ in combination with other climate-related ocean changes, extreme events and other adverse effects from human activities on ocean and land.

12. Continued anthropogenic greenhouse gases, in particular carbon dioxide emissions, have led to increasing concentrations of these gases in the atmosphere causing both climate change and ocean acidification. Oceans are a major carbon dioxide sink, having absorbed 30 per cent of the anthropogenic carbon dioxide emitted into the atmosphere. Such absorption has benefited humankind by significantly reducing the greenhouse gas levels in the atmosphere and abating some of the impacts of climate change. Nevertheless, the uptake of carbon dioxide by the ocean is having a significant effect on the chemistry of seawater, which is becoming more acidic, a process described as ocean acidification.⁷

13. These impacts generate a number of diverse, widespread and profound effects, not only affecting the ecology of the oceans, but also producing significant socioeconomic consequences for all States. Decline of, and regional shifts in, fish stocks, coral bleaching and other ecosystem degradation threaten food security and livelihoods, while sea-level rise and extreme weather events cause loss of life, displacement of communities, loss of territory and destruction of property. Prospects for sustainable development are increasingly affected, particularly in developing States, and especially in least developed countries and small island developing States, whose vulnerabilities are accentuated by these climate change impacts.⁸

14. In addition, the above impacts accumulate with other human-induced stresses, such as unsustainable coastal development, overexploitation of living marine resources, habitat alteration and pollution. Marine ecosystems and biodiversity that may be resilient to one form or intensity of impact can be much more severely affected by a combination of impacts, with the total impact of several forms of pressure on the same ecosystem often being much larger than the sum of the individual impacts. It has been observed that in places where biodiversity has been altered, the resilience of ecosystems to other impacts, including climate change, is often reduced. Building ecological resilience will thus depend largely on addressing the cumulative impacts of human activities on the marine environment and the unique challenges faced by mutually reinforcing stressors.⁹

15. Proposals have been made to use geoengineering techniques to mitigate climate change and its effects by directly or indirectly sequestering carbon dioxide into oceans, including ocean fertilization (adding nutrients to the ocean to increase its capacity to absorb carbon dioxide), the direct storage of biomass in the deep ocean, the addition of alkalinity to build up dissolved inorganic carbon, and the direct injection of carbon dioxide into the deep ocean. While

⁶ A/75/70, paras 5, 69-71.

⁷ A/72/70, para. 6.

⁸ A/72/70, para. 92.

⁹ A/72/70 paras. 32-33.

acknowledging that the current state of knowledge on the implementation and associated risks of these geoengineering techniques is insufficient, the IPCC has noted with high confidence that comparative assessments suggest that the main ocean-related geoengineering techniques are extremely costly and have large environmental footprints.¹⁰

16. Mitigation of greenhouse gas emissions, adaptation to impacts and building marine ecosystem resilience are critical in responding to the effects of climate change on the ocean. The effective implementation of the Convention and related instruments on the protection and preservation of the marine environment and the conservation and management of living marine resources contributes to mitigating emissions from land and ocean-based activities, enhancing the absorptive capacity of the ocean as a carbon sink, while also ensuring that the ocean is resilient and can adapt to the impacts of climate change.¹¹

17. The application of relevant international instruments is also impacted by climate change. In particular, sea-level rise has implications for several areas of international law.¹² With regard to the law of the sea, coastlines and associated baselines may change as a result of sea-level rise, with potential impacts on the outer limits of maritime zones as well as maritime boundaries. In addition, sea-level rise may infringe upon the land territory of coastal States, including island States, contributing to the reduction of their land size or, in extreme cases, some States may be threatened by a complete loss of territory, which raises legal questions regarding the continuity or potential loss of statehood. Sea-level rise is further expected to result in widespread forced displacement or relocation of populations due to loss of habitat, raising questions over the treatment of displaced persons and over their international legal protection. Other legal questions flow from the phenomenon of sea-level rise, such as the application of human rights protections to affected populations in the potential case of loss of statehood, or the need to avoid statelessness.

3. The United Nations Convention on the Law of the Sea and its implementing agreements

18. The universal and unified character of the Convention is annually emphasized by General Assembly resolutions on oceans and the law of the sea, which also reaffirm that the Convention sets out the legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, as recognized also by the United Nations Conference on Environment and Development in chapter 17 of Agenda

¹⁰ A/72/70, para. 76.

¹¹ A/72/70, para. 51.

¹² *Report of the Secretary-General on Oceans and the law of the sea* on “Sea-level rise and its impacts” of 16 March 2020 ([A/75/70](#)), in particular part III.C on international law challenges, and *Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its twenty-first meeting* of 16 July 2021 ([A/76/171](#)).

21¹³. Several of the obligations under the Convention, which may relate to the questions submitted to the Tribunal, are complemented by those found in other international instruments.¹⁴

19. The Convention is supplemented by two implementing agreements, namely the 1994 Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 and the United Nations Fish Stocks Agreement.

20. On 4 March 2023, the Intergovernmental Conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, established by General Assembly resolution 72/249, finalized the text of a draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (“draft BBNJ agreement”).¹⁵ The Intergovernmental Conference is expected to consider for adoption the draft agreement during its further resumed fifth session to be held at United Nations Headquarters on 19 and 20 June 2023.¹⁶

a. Practice of the Secretary-General in respect of charts and/or lists of geographical coordinates of points under the Convention and related depositary functions

21. The Convention contains obligations for coastal States to deposit with the Secretary-General charts or lists of geographical coordinates of straight baselines, concerning baselines, outer limits of maritime zones and lines of delimitation thereof.

22. A note on the practice of the Secretary-General in respect of the deposit of charts and/or lists of geographical coordinates of points under the United Nations Convention for the Law of the Sea and pursuant to relevant General Assembly resolutions, for submission to the thirtieth Meeting of States Parties, in 2020, is contained in document SPLOS/30/12. The note contains a description of the legal framework for the exercise of these depositary functions by the Secretary-General, as established under the Convention, and an overview of the practice of coastal States and of the Secretary-General, including technical aspects. The note also contains a review of the practice of the Secretary-General in giving publicity to the deposited information.

23. In this respect, it may be noted that in the context of depositing of geographical coordinates of points with the Secretary-General, some States have indicated that they intend to “maintain ... maritime zones ... notwithstanding climate change-induced sea-level rise”.¹⁷

¹³ General Assembly resolution on oceans and the law of the sea of 30 December 2022 ([A/RES/77/248](#)), preamble.

¹⁴ See, e.g., *Implications of the United Nations Convention on the Law of the Sea for the International Maritime Organization*, IMO 2014 ([LEG/MISC.8](#)), page 8.

¹⁵ *Draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction* A/CONF.232/2023/L.3 (to be published on or after 16 June 2023).

¹⁶ General Assembly decision 77/556 of 18 April 2023 (currently available as document [A/77/L.62](#)).

¹⁷ See, e.g., Maritime Zone Notification regarding the deposit by the Cook Islands of lists of geographical coordinates of points, pursuant to article 16, paragraph 2, and article 75, paragraph 2, of the United Nations Convention on the Law of the Sea, 16 August 2021 ([M.Z.N.153.2021.LOS](#)); Maritime Zone Notification regarding

b. Protection and preservation of the marine environment

24. The Convention sets out general obligations in relation to the protection and preservation of the marine environment in Part XII. This Part may be particularly relevant to the questions posed to the Tribunal, given the impacts of climate change caused by emissions of greenhouse gases from land and ocean-based sources and activities, the effects of ocean acidification resulting from the absorption of greenhouse gases by the ocean, and the related need to build the resilience of the marine environment.

25. The ocean-related processes at the United Nations have not addressed the question of whether the absorption by the marine environment of anthropogenic greenhouse gas emissions, in particular carbon dioxide, and heat, and the resulting impacts of ocean warming and ocean acidification, meet the definition of pollution of the marine environment under the Convention.¹⁸

26. Land-based sources are the biggest contributors to pollution of the marine environment.¹⁹ The majority of anthropogenic greenhouse gas emissions that contribute to climate change, to its impacts on the ocean, and to ocean acidification are produced from land-based activities. The Convention sets out obligations in relation to pollution from land-based sources.

27. As to the pollution from vessels, emissions from ships account for about 3% of global anthropogenic greenhouse gas emissions.²⁰ To complement relevant provisions under the Convention on pollution from vessels, States have adopted, under the auspices of the International Maritime Organization (IMO), a number of relevant rules and standards, including the International Convention for the Prevention of Pollution from Ships (MARPOL) and its Annex VI on the Prevention of Air Pollution from Ships.²¹

28. It may be useful to recall that the atmosphere is a significant pathway for the transport of many natural and pollutant materials from the continents to the ocean²² and, in fact, most greenhouse gases emitted into the atmosphere and most of the excess heat caused by greenhouse gas emissions are absorbed by oceans from or through the atmosphere, leading to increasing ocean warming and ocean acidification (see paragraphs 10-12). The Convention sets out obligations in relation to pollution from or through the atmosphere.

the deposit by the Federated States of Micronesia of lists of geographical coordinates of points, pursuant to article 16, paragraph 2, and article 75, paragraph 2, of the United Nations Convention on the Law of the Sea, 20 January 2020 ([M.Z.N.151.2020.LOS](#)).

¹⁸ See International Law Commission, *Fourth report on the protection of the atmosphere*, by Shinya Murase, Special Rapporteur ([A/CN.4/705](#)), for a consideration of the interrelationship between international law on the protection of the atmosphere and other fields of international law, including the law of the sea (section III). See also the *Draft guidelines on the protection of the atmosphere 2021*, adopted by the International Law Commission at its seventy-second session, in 2021 ([A/76/10](#), para. 39) and General Assembly resolution on the protection of the atmosphere of 17 December 2021 ([A/RES/76/112](#)).

¹⁹ Report of the Secretary-General on oceans and the law of the sea on “New maritime technologies: challenges and opportunities” of 14 March 2023 ([A/78/67](#)), paragraph 21

²⁰ [Fourth IMO Greenhouse Gas Study](#), International Maritime Organization (2020), highlights, page 1

²¹ See the IMO website at [International Convention for the Prevention of Pollution from Ships \(MARPOL\) \(imo.org\)](#)

²² [A/CN.4/705](#), paragraph 46.

29. Marine geoengineering,²³ including ocean fertilization and carbon capture, as well as carbon capture and sequestration in sub-sea geological formations, are activities aimed at mitigating climate change and its effects. States have addressed ocean fertilization and carbon capture and sequestration under the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter and its 1996 London Protocol (the London Convention and the London Protocol), which complement the relevant provisions under the Convention on pollution by dumping.

30. Exploration for and exploitation of marine non-living resources contribute to greenhouse gas emissions and impacts on seabed marine ecosystems, which are a reservoir of carbon.²⁴ The Convention sets out obligations in relation to pollution from seabed activities subject to national jurisdiction and pollution from activities in the Area.

c. Conservation and management of living marine resources

31. As previously noted there is a link between the impacts of climate change and ocean acidification on the one hand and the decline of and regional shifts in fish stocks (see paragraph 13). In addition, the impacts of ocean-based activities, including fisheries, affect the vulnerability and resilience of marine ecosystems to climate change and ocean acidification, and the role of the ocean as a carbon sink (see paragraph 14). The Convention and the United Nations Fish Stocks Agreement set out obligations in relation to the establishment of conservation and management measures for living resources, which are also relevant to the impacts of fishing activities on ecosystems and biodiversity.

d. Marine scientific research and development and transfer of marine technology

32. Ocean science and technology are fundamental to understanding, mitigating and adapting to the effects of climate change and its impacts, including ocean warming and sea level rise, and of ocean acidification, on the marine environment.²⁵ The Convention sets out obligations in relation to marine scientific research and the development and transfer of marine technology

4. Draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

33. The general objective of this draft agreement²⁶ is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the

²³ Article 1, paragraph 5bis, of the 2013 Amendment to the 1996 London Protocol (Resolution LP.4(8) - not yet in force) defines marine geoengineering as: “deliberate intervention in the marine environment to manipulate natural processes, including to counteract anthropogenic climate change and/or its impacts, and that has the potential to result in deleterious effects, especially where those effects may be widespread, long lasting or severe. See also Decision XI/20 of the Conference of the Parties to the Convention on Biological Diversity, on Biodiversity and Climate Change, in relation to activities that climate-related geoengineering may include.

²⁴ A/78/67, paragraph 30.

²⁵ A/72/70, paragraph 55; A/78/67, paragraph 15.

²⁶ A/CONF.232/2023/L.3 (to be published on or after 16 June 2023).

present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination (article 2).

34. The draft agreement addresses the impacts of climate change and ocean acidification in a number of ways. It recognizes the need to address biological diversity loss and degradation of ocean ecosystems in a coherent and cooperative manner, in particular, climate change impacts on marine ecosystems, such as warming and ocean deoxygenation, as well as ocean acidification, pollution, and unsustainable use.²⁷

35. In accordance with the general principles and approaches set out in the draft BBNJ agreement, its Parties shall be guided by an approach that builds ecosystem resilience, including to adverse effects of climate change and ocean acidification, and also maintains and restores ecosystem integrity, including carbon cycling services that underpin the role of the ocean in climate.²⁸

36. A definition of “cumulative impacts” is provided in the draft agreement as the combined and incremental impacts resulting from different activities, including known past and present and reasonably foreseeable activities, or from the repetition of similar activities over time, and the consequences of climate change, ocean acidification and related impacts.²⁹

37. Among the objectives of the part of the draft agreement related to measures such as area-based management tools, including marine protected areas, is the objective of protecting, preserving, restoring and maintaining biological diversity and ecosystems and strengthening resilience to stressors, including those related to climate change, ocean acidification and marine pollution.³⁰ Vulnerability to climate change and ocean acidification is among the criteria for identifying areas that may be proposed for the establishment of area-based management tools, including marine protected areas.³¹

38. The draft agreement provides that capacity-building and technology transfer may include information dissemination and awareness-raising, including with regard to stressors on the ocean that affect marine biological diversity of areas beyond national jurisdiction, including the adverse effects of climate change, such as warming and ocean deoxygenation, as well as ocean acidification.³²

5. Pertinent developments at the United Nations

39. The information in this section summarizes pertinent developments in the context of the United Nations which may have relevance to the questions posed to the Tribunal.

²⁷ See Preamble; see also Annex II(b)(iv).

²⁸ Article 7(h).

²⁹ Article 1, paragraph 6.

³⁰ Article 17(c)

³¹ Article 19, paragraph 4 (a) and (b) in conjunction with Annex I, (f)

³² See Annex II(b)(iv)

a. General Assembly

i. Resolutions of the United Nations General Assembly on oceans and the law of the sea

40. The General Assembly first expressed its concern over the adverse effects of climate change on the marine environment and marine biodiversity in resolution 61/222 of 20 December 2006.³³ It has ever since reiterated that this is a serious concern while emphasizing the urgency of addressing the adverse effects.³⁴ In its most recent resolution, the General Assembly specified that the current and projected adverse effects of climate change on the marine environment and marine biodiversity include rising seawater temperature, ocean deoxygenation, sea level rise, and ocean acidification, and highlighted the importance of preserving the ocean as a carbon sink.³⁵

41. In addition, the annual resolution on oceans and the law of the sea has consistently highlighted two negative effects of climate change in particular, first, that the vulnerable environment and fragile ecosystems of the polar regions are particularly affected by climate change and ocean acidification, and second, that climate change increases the severity and incidence of coral bleaching throughout tropical seas and weakens the ability of reefs to withstand ocean acidification.³⁶ The General Assembly has also regularly recalled the significant economic, social and environmental contributions of coral reefs.³⁷

42. In recent years, the annual resolution on oceans and the law of the sea has also reflected findings by the World Meteorological Organization on carbon dioxide levels in the atmosphere³⁸ and increases in the global average temperature³⁹, as well as other recent findings on the state of the global climate. For example, in its latest resolution 77/248, it noted with concern that the world had “continued to see increasing ocean heat content, rising sea levels, reaching its highest value on record in 2021, and increasing concentrations of greenhouse gases, while ocean acidification continued to increase and the cryosphere continued its contraction, with global sea ice shrinking”⁴⁰.

43. In resolution 62/215 of 22 December 2007, the General Assembly called upon States to enhance their efforts to reduce the emission of greenhouse gases, in order to reduce and tackle

³³ General Assembly resolution on Oceans and the law of the sea of 20 December 2006 ([A/RES/61/222](#)), Preamble

³⁴ This language has been included in the preamble of all annual resolutions on oceans and the law of the sea since resolution 63/111 of 5 December 2008 ([A/RES/63/111](#)). Most recently, see resolution 77/248 of 30 December 2022 ([A/RES/77/248](#)).

³⁵ [A/RES/77/248](#), Preamble.

³⁶ For the language on polar regions, see the preamble of all General Assembly resolutions on Oceans and the law of the sea since [resolution 62/215](#) of 22 December 2007 (the reference to ocean acidification was first added in [resolution 68/70](#) of 9 December 2013 and has been included ever since); and for the language on coral bleaching, see the preamble of all General Assembly resolutions on Oceans and the law of the sea since [resolution 63/111](#) of 5 December 2008.

³⁷ General Assembly resolution on oceans and the law of the sea of 11 December 2012 ([A/RES/67/78](#)), paragraph 201. Language to that effect has been included in all resolutions on oceans and the law of the sea since then.

³⁸ Included in the Preamble of the General Assembly’s annual resolutions on oceans and the law of the sea since [resolution 71/257](#) of 23 December 2016.

³⁹ Included in the Preamble of the General Assembly’s annual resolutions on oceans and the law of the sea since [resolution 73/124](#) of 11 December 2018.

⁴⁰ [A/RES/77/248](#), Preamble.

projected adverse effects of climate change on the marine environment and marine biodiversity.⁴¹ Since then, the General Assembly has put a greater emphasis on scientific research, consistently encouraging States to enhance their scientific activity to better understand the effects of climate change on the marine environment and marine biodiversity.⁴²

44. Noting the findings of the IPCC, the General Assembly has extensively addressed ocean acidification and the substantial risks to marine ecosystems resulting from it.⁴³ It has encouraged States to urgently pursue further research and to increase efforts to address levels of ocean acidity and the negative impact of such acidity on vulnerable marine ecosystems, particularly coral reefs.⁴⁴ Furthermore, the General Assembly identified polar ecosystems as being especially at risk from ocean acidification, as well as plankton and other organisms with calcareous exoskeletons or shells, such as crustaceans.⁴⁵

45. Furthermore, the General Assembly has recognized the connection between climate change and sea-level rise, most recently in resolution 77/248 of 30 December 2022⁴⁶, where it noted with concern the impacts of climate change on the ocean and the cryosphere, including extreme sea level events and sea level rise, to which low-lying islands, in particular small island developing States, coasts and coastal communities are particularly exposed.⁴⁷ While noting the eighteenth meeting of the Informal Consultative Process, which focused on the theme “The effects of climate change on oceans”, the General Assembly highlighted that the very existence of some countries with low-lying coasts was under threat.⁴⁸

The General Assembly has also addressed mitigation and adaptation to climate change, noting the vital role that coastal blue carbon ecosystems, including mangroves, tidal marshes and seagrasses, play in climate adaptation and mitigation through carbon sequestration, and in increasing the resilience of coastal ecosystems to ocean acidification, and encouraging States and relevant international institutions and organizations to work collaboratively to protect and restore coastal blue carbon ecosystems.⁴⁹ In its most recent resolution on oceans and the law of the sea⁵⁰, the General Assembly called upon States and international institutions to support and strengthen

⁴¹ [A/RES/62/215](#), paragraph 83.

⁴² This was first mentioned in [resolution 62/215](#) of 22 December 2007, paragraph 82, and language to that effect has been included in all resolutions on oceans and the law of the sea since then.

⁴³ General Assembly resolution on oceans and the law of the sea of 29 December 2014 ([A/RES/69/245](#)), paragraph 166. Language to that effect has been included in all resolutions on oceans and the law of the sea since then.

⁴⁴ This was first mentioned in [resolution 63/111](#) of 5 December 2008, paragraph 99, and language to that effect has been included in all resolutions on oceans and the law of the sea since then.

⁴⁵ [A/RES/71/257](#), paragraph 185; and language to that effect has been included in all resolutions on oceans and the law of the sea since then.

⁴⁶ [A/RES/77/248](#), paragraph 212; see also paragraph 217, where the General Assembly notes the discussions at the twenty-first meeting of the Informal Consultative Process, held from 14 to 18 June 2021, on the theme “Sea level rise and its impacts”.

⁴⁷ See also General Assembly resolution on oceans and the law of the sea of 23 December 2015 ([A/RES/70/235](#)), para. 179; and General Assembly resolution on oceans and the law of the sea of 11 December 2018 ([A/RES/73/124](#)), paragraph 193.

⁴⁸ General Assembly resolution on oceans and the law of the sea of 5 December 2017 ([A/RES/72/73](#)), para. 189; Language to that effect has been included in all resolutions on oceans and the law of the sea since then.

⁴⁹ [A/RES/71/257](#), paragraph 192; and language to that effect has been included in all resolutions on oceans and the law of the sea since then.

⁵⁰ [A/RES/77/248](#), paragraph 20.

capacity-building activities in developing countries, in particular least developed countries and small island developing States, in the area of mitigation of and adaptation to climate change impacts on the ocean, including protection of coasts against sea level rise. It has further noted the decision at the twenty-sixth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change to hold an annual dialogue to strengthen ocean-based action and inviting relevant work programmes and constituted bodies under that Convention to consider how to integrate and strengthen ocean-based action in their existing mandates and workplans and to report on these activities within the existing reporting processes, as appropriate.

ii. Resolutions of the United Nations General Assembly on sustainable fisheries

46. In relation to sustainable fisheries, the General Assembly first addressed the consequences of climate change on fisheries in its annual resolution on sustainable fisheries in 2007.⁵¹ In its resolution 62/177 of 18 December 2007, it welcomed a proposal for the Food and Agriculture Organization of the United Nations to undertake a scoping study on the matter and initiate a discussion on how the fishing industry could adapt to climate change.⁵² In 2008, the General Assembly expressed its concern over current and projected adverse effects of climate change on food security and the sustainability of fisheries.⁵³ It has continued to do so in its annual sustainable fisheries resolution, reiterating this concern most recently in resolution 77/118 of 9 December 2022.⁵⁴

47. From 2008, the General Assembly began to annually urge States to intensify efforts to assess and address the impacts of both climate change and ocean acidification on the sustainability of fish stocks and their habitats.⁵⁵ Five years later, in its resolution 68/71 of 9 December 2013, the General Assembly recognized the wide range of impacts of ocean acidification on marine ecosystems, and importantly, began to annually call upon States to tackle the causes of ocean acidification and to further study its impacts.⁵⁶ In the same resolution, the General Assembly began to annually emphasize the importance of developing adaptive marine

⁵¹ General Assembly resolution on Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments of 18 December 2007 ([A/RES/62/177](#)), Preamble. It should be noted that the General Assembly sustainable fisheries resolutions have usually been adopted without a vote.

⁵² *Ibid.*

⁵³ General Assembly resolution on Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments of 5 December 2008 ([A/RES/63/112](#)), Preamble.

⁵⁴ General Assembly resolution on Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments of 9 December 2022 ([A/RES/77/118](#)), Preamble.

⁵⁵ [A/RES/63/112](#), paragraph 3.

⁵⁶ General Assembly resolution on Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments of 9 December 2013 ([A/RES/68/71](#)), paragraph 156.

resource management strategies, and building the necessary capacity to implement them, in order to enhance resilience to the impacts of ocean acidification on marine organisms and the threats to food security caused by the same.⁵⁷

48. In its resolution 71/123 of 7 December 2016, the General Assembly began to annually call upon States and regional fisheries management organizations and arrangements, to publish best practice data related to the development and implementation of adaptation strategies to assist developing States, especially those particularly vulnerable to the adverse impacts of climate change.⁵⁸ In the same resolution, the General Assembly began to annually call upon States to take into account the potential impacts of climate change and ocean acidification when taking measures to manage deep-sea fisheries and protect vulnerable marine ecosystems.⁵⁹ The General Assembly went on to express its serious concern regarding the impacts of climate change and ocean acidification on coral reefs and other ecosystems relevant to fisheries starting with its resolution 73/125 of 11 December 2018.⁶⁰

iii. Work of the International Law Commission and Sixth Committee of the United Nations General Assembly on the topic "Sea-level rise in relation to international law"

49. At its seventy-first session, in 2019, the International Law Commission decided to include the topic "Sea-level rise in international law" in its programme of work and established an open-ended Study Group on the topic.⁶¹ The mandate and ongoing work of the Study Group encompass three subtopics, i.e., (i) issues related to the law of the sea, (ii) issues related to statehood and (iii) issues related to the protection of persons affected by sea-level rise, as issues reflecting the legal implications of sea-level rise for the constituent elements of a State (territory, population and government/statehood). In doing so, the Study Group is to proceed in the format of a mapping exercise of the legal questions raised by sea-level rise and its interrelated issues. As such and considering that sea-level rise is among the several impacts of climate change, the ongoing work of the Commission and related comments made by delegations in the Sixth Committee of the General Assembly seem to be particularly relevant to the questions posed to the Tribunal.

50. Information on the background to the topic, its genesis and inclusion in the International Law Commission's programme of work, as well as the work progress in the Commission and Sixth Committee are provided in Annex I.

⁵⁷ Ibid., paragraph 157.

⁵⁸ General Assembly resolution on Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments of 7 December 2016 ([A/RES/71/123](#)), paragraph 9.

⁵⁹ Ibid., paragraph 185.

⁶⁰ General Assembly resolution on Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments of 11 December 2018 ([A/RES/73/125](#)), paragraph 10.

⁶¹ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, para. 369 and Annex B).

iv. *Regular Process and Open-ended Informal Consultative Process on Oceans and the Law of the Sea*

51. The General Assembly has established several mechanisms to address ocean-related issues and whose work may provide useful information and perspectives in relation to the questions posed to the Tribunal.

52. The Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (“Regular Process”) aims to provide a regular assessment of the state of the ocean.⁶² The outcome of the first cycle of the Regular Process, the 2015 First Global Integrated Marine Assessment, addressed the impacts of climate change and related changes in the atmosphere, based on the work of the IPCC.⁶³ The outputs of the second cycle of the Regular Process in 2020 included the Second World Ocean Assessment, with similar climate change-related components and a technical abstract prepared by the Group of Experts of the Regular Process.⁶⁴ These assessments provide scientific evidence on the impacts of climate change and related changes in the atmosphere and oceans.

53. In addition, the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP) was established by the General Assembly in resolution 54/33 of 24 November 1999 to facilitate its annual review of developments in ocean affairs and the law of the sea by considering the report of the Secretary-General on oceans and the law of the sea and by suggesting particular issues to be considered, with an emphasis on identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced. In recent years, the ICP discussed themes which contributed to the work of the General Assembly highlighted above. In particular, discussions at the ICP focused on: the impacts of ocean acidification on the marine environment (2013);⁶⁵ the effects of climate change on oceans (2017);⁶⁶ and sea-level rise and its impacts (2021).⁶⁷ To inform discussions on the area of focus at the meetings, the Secretary-General has issued reports on the impacts of ocean acidification on the marine environment,⁶⁸ the effects of climate change on the oceans,⁶⁹ and sea-level rise and its impacts.⁷⁰ These reports have highlighted, inter alia, the principal

⁶² General Assembly resolution on Oceans and the law of the sea of 23 December 2003 ([A/RES/58/240](#)).

⁶³ Letter dated 7 July 2015 from the Co-Chairs of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects addressed to the President of the General Assembly ([A/70/112](#)).

⁶⁴ Letter dated 13 October 2020 from the Co-Chairs of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, addressed to the President of the General Assembly ([A/75/232/Rev.1](#)); [Technical Abstract of the First Global Integrated Marine Assessment on the Impacts of Climate Change and Related Changes in the Atmosphere on the Oceans](#) (2017).

⁶⁵ Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its fourteenth meeting ([A/68/159](#)).

⁶⁶ Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its eighteenth meeting ([A/72/95](#)).

⁶⁷ Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its twenty-first meeting ([A/76/171](#)).

⁶⁸ Report of the Secretary-General on Oceans and the law of the sea of 8 April 2013 ([A/68/71](#)).

⁶⁹ Report of the Secretary-General on Oceans and the law of the sea of 6 March 2017 ([A/72/70](#)).

⁷⁰ Report of the Secretary-General on Oceans and the law of the sea of 16 March 2020 ([A/75/70](#)).

environmental, economic and social impacts, corresponding initiatives, activities, challenges and opportunities, as well as relevant international legal, policy and management frameworks. In particular, these reports also address the significance of the Convention in the appropriate contexts.

v. *The Sustainable Development Goals and conferences and summits related to sustainable development*

54. At the United Nations Conference on Sustainable Development in Rio de Janeiro in June 2012, United Nations Member States took forward-looking decisions in a number of thematic areas and in relation to various cross-sectoral issues, including the ocean and seas, small island developing States, and climate change. The Conference recognized climate change as one of the greatest challenges of our time, expressed deep concern about its adverse impacts, including sea-level rise and ocean acidification, and underscored the urgency to combat climate change as well as to adapt to it.⁷¹ The Conference also recognized the Convention as the legal framework for the conservation and sustainable use of the oceans and their resources, and stressed the importance of conservation and sustainable use for sustainable development.⁷² It also noted that sea-level rise and coastal erosion were serious threats for many coastal regions and islands, in particular for small island developing States, where sea-level rise and other adverse impacts of climate change continue to pose a significant risk for efforts to achieve sustainable development and, for many, represent the gravest of threats to their survival and viability, including for some through the loss of territory.⁷³ Furthermore, the Conference reiterated the need to prevent further ocean acidification and to support marine scientific research, monitoring and observation of ocean acidification and particularly vulnerable ecosystems.⁷⁴

55. In the “SIDS Accelerated Modalities of Action (SAMOA) Pathway”, the outcome document of the Third International Conference on Small Island Developing States (SIDS) held in Samoa in September 2014, the General Assembly acknowledged that climate change and sea-level rise continue to pose a significant risk to SIDS and their efforts to achieve sustainable development and, for some, represent the gravest threat to their survival and viability.⁷⁵ The Conference once again reaffirmed that international law, as reflected in UNCLOS, provides the legal framework for the conservation and sustainable use of oceans and their resources⁷⁶ and supported action to, *inter alia*, enhance cooperation to address the causes of ocean acidification, to further study and minimize its impacts, and to make marine ecosystems more resilient to its impacts.⁷⁷

56. At the United Nations Summit on Sustainable Development in September 2015, more than 150 world leaders gathered to formally approve an ambitious new agenda for sustainable

⁷¹ General Assembly resolution entitled “The future we want” of 27 July 2012 ([A/RES/66/288](#)), Annex, paragraphs 25 and 190.

⁷² *Ibid.*, paragraph 158; see also General Assembly resolution entitled “SIDS Accelerated Modalities of Action (SAMOA) Pathway” of 14 November 2014 ([A/RES/69/15](#)), paragraph 55.

⁷³ [A/RES/66/288](#), paragraphs 165 and 178; see also [A/RES/69/15](#), paragraph 11.

⁷⁴ [A/RES/66/288](#), paragraph 166.

⁷⁵ [A/RES/69/15](#), paragraph 31.

⁷⁶ *Ibid.*, paragraph 55.

⁷⁷ *Ibid.*, paragraph 58.

development. The outcome document, a General Assembly resolution entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, is a plan of action for people, planet, prosperity and peace, implemented through a global partnership, and includes a declaration, 17 sustainable development goals (SDGs) and 169 associated targets to stimulate action from 2015 to 2030 in areas of critical importance for humanity and the planet.⁷⁸

57. In its description of “our world today”, also found in the 2015 summit’s outcome document, the General Assembly designated climate change as one of the greatest challenges of our time with its adverse impacts undermining the ability of all countries to achieve sustainable development. It also noted that increases in global temperature, sea-level rise, ocean acidification and other climate change impacts are seriously affecting coastal areas and low-lying coastal countries, including many least developed countries and small island developing States, putting at risk the survival of many societies, and of the biological support systems of the planet.⁷⁹

58. Sustainable Development Goal 14 is dedicated to the conservation and sustainable use of the oceans, seas and marine resources for sustainable development.⁸⁰ One of its associated targets focuses on minimizing and addressing the impacts of ocean acidification, including through enhanced scientific cooperation at all levels.⁸¹ Another target, recalling that the Convention provides the legal framework for the conservation and sustainable use of oceans and their resources, connects the implementation of international law as reflected in the Convention with enhanced conservation and sustainable use of oceans and their resources.⁸²

59. Since the adoption of the SDGs, Heads of State and Government and high-level representatives have met twice to support the implementation of SDG 14, first in New York in June 2017,⁸³ and again in Lisbon in June/July 2022.⁸⁴

60. In 2017, the United Nations Ocean Conference declared its alarm at the adverse impacts of climate change on the ocean, including the rise in ocean temperatures, ocean and coastal acidification, deoxygenation, sea-level rise, the decrease in polar ice coverage, coastal erosion and extreme weather events.⁸⁵ It called on all stakeholders to conserve and sustainably use the oceans, seas and marine resources for sustainable development by, inter alia, developing and implementing effective adaptation and mitigation measures that contribute to increasing and supporting resilience to ocean and coastal acidification, sea-level rise and increase in ocean temperatures, and to addressing the other harmful impacts of climate change on the ocean as well as coastal and blue carbon ecosystems, such as mangroves, tidal marshes, seagrass and coral

⁷⁸ General Assembly resolution entitled “Transforming our world: the 2030 Agenda for Sustainable Development” of 25 September 2015 ([A/RES/70/1](#)).

⁷⁹ Ibid., paragraph 14

⁸⁰ Ibid., pages 14, 23-24

⁸¹ Ibid., page 23, Target 14.3

⁸² Ibid., page 24, Target 14.c

⁸³ Report of the 2017 United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development; United Nations Headquarters, 5-9 June 2017 ([A/CONF.230/14](#))

⁸⁴ Report of the 2022 United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development; Lisbon, 27 June – 1 July 2022 ([A/CONF.230.2022/14](#))

⁸⁵ [A/CONF.230/14](#), page 6 (Resolution 1, Annex).

reefs, and wider interconnected ecosystems impacting on our ocean, and ensuring the implementation of relevant obligations and commitments.⁸⁶

61. In 2022, the Conference reaffirmed that climate change was one of the greatest challenges of our time and expressed alarm at the adverse effects of climate change on the ocean and marine life. In addition to the adverse effects listed in the 2017 conference resolution, the 2022 resolution also mentions shifts in the abundance and distribution of marine species and the decrease in marine biodiversity.⁸⁷ The Conference also emphasized the importance of implementing the Paris Agreement adopted under the United Nations Framework Convention on Climate Change, and welcomed ocean-related decisions taken by parties to this Convention.⁸⁸

vi. Other relevant developments

62. In a recent resolution, the General Assembly recognized for the first time the right to a clean, healthy and sustainable environment as a human right.⁸⁹ It also affirmed that the promotion of this right requires full implementation of multilateral environmental agreements and called upon States and other relevant stakeholders to adopt policies, enhance international cooperation, strengthen capacity-building and share good practices to ensure a clean, healthy and safe environment for all.⁹⁰ Furthermore, the General Assembly recognized that the impact of climate change and the pollution of air, land and water, among other issues, interfere with the enjoyment of a clean, healthy and sustainable environment and that environmental damage has negative implications for the effective enjoyment of all human rights.⁹¹

63. In relation to disaster management, the Sendai Framework for Disaster Risk Reduction 2015-2030 provides a global framework to guide decision makers towards a more disaster-resilient future. In the Sendai Declaration, a call is made for the mainstreaming of disaster risk assessment, mapping and management into rural development planning and management of, among other things, coastal floodplain areas, including by preserving ecosystem functions that help to reduce risks.⁹²

b. United Nations Security Council

64. In February 2023, the United Nations Security Council convened a ministerial-level open debate on sea-level rise and its implications for international peace and security.⁹³ A number of statements were delivered highlighting the security implications and deepening tensions as coastlines recede, territory is lost, resources become scarce, and populations are displaced. The

⁸⁶ Ibid., page 8 (Resolution 1, Annex, paragraph 13(k)).

⁸⁷ [A/CONF.230.2022/14](#), page 6 (Resolution 1).

⁸⁸ Ibid.

⁸⁹ General Assembly resolution entitled “The human right to a clean, healthy and sustainable environment” of 28 July 2022 ([A/RES/76/300](#)), paragraph 1.

⁹⁰ Ibid., paragraphs 3 and 4.

⁹¹ Ibid., Preamble.

⁹² General Assembly resolution entitled “Sendai Framework for Disaster Risk Reduction 2015–2030” of 23 June 2015 ([A/RES/69/283](#)), Annex I.

⁹³ Letter dated 2 February 2023 from the Permanent Representative of Malta to the United Nations addressed to the Secretary-General ([S/2023/79](#)).

United Nations Secretary-General noted the legal and human rights impact of the phenomenon, underscoring that they require innovative legal and practical solutions, such as those that are being discussed by the International Law Commission.⁹⁴ Since 2007, when the Council discussed climate change, peace and security at the thematic level for the first time,⁹⁵ a number of open debates and other public Council meetings have addressed the security threat of sea levels rise. In particular, discussions have centered on the existential threat posed to many small island developing States by this phenomenon, as well as on the displacement, destruction of infrastructure, and undermining of livelihoods suffered by many States and coastal communities.⁹⁶

c. Meeting of States Parties to the Convention

65. During the deliberations of the Meeting of States Parties to the Convention,⁹⁷ sea level rise has received increasing attention. The special threat that sea-level rise poses for small island developing States has been repeatedly acknowledged together with the need to mitigate those impacts, with some delegations stressing the important role of the Convention in this context. Some delegations emphasized that maritime zones must be protected in the face of sea level rise in accordance with the Convention, with support expressed for the preservation of maritime zones without reduction once States had established and deposited information with the Secretary-General. The Declaration on Preserving Maritime Zones in the Face of Climate Change-Related Sea-Level Rise, which had been issued by Pacific Islands Forum member countries in 2021 was highlighted as an example of States practice.

d. Review Conference on the Fish Stocks Agreement

66. As previously noted, the United Nations Fish Stocks Agreement implements provisions of the Convention in relation to the conservation and management of certain fish stocks. The Secretary-General has, in 2016 and 2023, in his reports to the resumed Review Conference on the Agreement, addressed the effects of climate change.⁹⁸ At the 2016 resumed Review Conference, States committed themselves to exploring ways to incorporate the consideration of the adverse impacts of climate change and ocean acidification and related uncertainties regarding fisheries into decision-making processes for the adoption of conservation and management measures, in line with the precautionary approach.⁹⁹

⁹⁴ [Secretary-General's remarks to the Security Council Debate on "Sea-level Rise: Implications for International Peace and Security"](#).

⁹⁵ Security Council 5663rd meeting ([S/PV.5663](#)).

⁹⁶ For example, peace and security challenges facing small island developing states; climate change, transnational organized crime, drug and human trafficking, and piracy were among the issues raised ([S/PV.7499](#))

⁹⁷ See for example the Report of the thirty-first Meeting of States Parties ([SPLOS/31/9](#)), para. 74; and the Report of the thirty-second Meeting of States Parties ([SPLOS/32/15](#)), paras. 80 and 85.

⁹⁸ Report of the Secretary-General submitted to the resumed Review Conference in accordance with paragraph 41 of General Assembly resolution 69/109 to assist it in discharging its mandate under article 36 (2) of the Agreement, 1 March 2016 ([A/CONF.210/2016/1](#)); Report submitted to the resumed Review Conference in accordance with paragraph 60 of General Assembly resolution 74/18 to assist it in discharging its mandate under article 36 (2) of the Agreement, 13 February 2023 ([A/CONF.210/2023/1](#)).

⁹⁹ Report of the resumed Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1 August 2016 ([A/CONF.210/2016/5](#)).

ANNEX I

Background, genesis and outline of the work progress on the topic “Sea-level rise in relation to international law” in the International Law Commission and the Sixth Committee

General background

- The issue of sea-level rise was brought to the forefront in the past decades, in particular by the most affected Island States of the South Pacific whose environment and populations are among those already facing the consequences of this phenomenon;¹⁰⁰
- It is however also of concern to non-coastal States as it is projected to have wide-ranging and profound environmental, economic and social impacts;
- As mentioned in paragraph 17 of the Written Statement, the following are among the several identified areas of international law on which the sea-level rise phenomenon may have implications:¹⁰¹
 - It may infringe upon the **land territory of coastal States**, including island States, contributing to their reduction in size or, in extreme cases, to their disappearance altogether – some States (such as the Maldives and Nauru) being threatened by a complete loss of territory;
 - With regards to the **law of the sea**, shorelines/baselines may change as a result of sea-level rise, hence affecting outer limits of maritime zones as well as maritime boundaries;
 - Sea-level rise may also lead to issues of **statehood**. In particular, it raises legal questions regarding the continuity or potential loss of statehood;
 - Sea-level rise is further expected to result in **widespread forced displacement or relocation of populations** – the question of the treatment of displaced people and their international legal protection thus arises;
 - Other legal questions unfold from the sea-level rise phenomenon, such as the **application of human rights protections to affected populations** in the potential case of loss of statehood, or the need to avoid statelessness.

¹⁰⁰ See, e.g., the [Malé Declaration on Global Warming and Sea-level Rise](#), of 18 November 1989.

¹⁰¹ *Report of the Secretary-General on Oceans and the law of the sea* on “Sea-level rise and its impacts” of 16 March 2020 ([A/75/70](#)), in particular part III.C on international law challenges, and *Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its twenty-first meeting* of 16 July 2021 ([A/76/171](#)).

Genesis of the topic and inclusion of the topic in the International Law Commission's programme of work

2017

- In a statement delivered before the Sixth Committee during the seventy-second (2017) session of the General Assembly, the representative of the Marshall Islands – intervening on behalf of the Pacific Small Island Developing States – **called upon the International Law Commission (“the Commission”) to include the “legal implications of sea-level rise” as a topic of its Long-Term Programme of Work as soon as possible;**¹⁰²
- In doing so, these delegations, *inter alia*, requested that “questions which may be unique to atoll nations and other low-lying small island developing states” be considered and that “special consideration should be given to persons and groups particularly vulnerable to climate change, including indigenous peoples and local communities.”

2018

- This suggestion was followed by a **proposal for inclusion of the topic in the Commission’s programme of work** made by the Federated States of Micronesia¹⁰³, during the seventieth (2018) session of the Commission;
- Such proposal was then considered by the Commission on the basis of a **syllabus** prepared by five of its members, and led to the inclusion of the topic in its long-term programme of work in 2018;¹⁰⁴
- In its introductory paragraphs, the syllabus recalled that:

*“In 2015, in paragraph 14 of the 2030 Agenda for Sustainable Development, the U.N. General Assembly recognised that: “Climate change is one of the greatest challenges of our time and its adverse impacts undermine the ability of all countries to achieve sustainable development. Increases in global temperature, sea-level rise, ocean acidification and other climate change impacts are seriously affecting coastal areas and low-lying coastal countries, including many least developed countries and small island developing States. The survival of many societies, and of the biological support systems of the planet, is at risk.”*¹⁰⁵

and that:

¹⁰² [A/C.6/72/SR.22](#), paras. 51-53. In addition, nine delegations made related comments in their national capacity during that session ([A/C.6/72/SR.20](#), [A/C.6/72/SR.22](#) and [A/C.6/72/SR.24](#)), some of which proposed the following wording for the topic: “the legal implications of climate change on the ocean” (see statement by Tonga, [A/C.6/72/SR.20](#)).

¹⁰³ ILC(LXX)/WG/LT/INFORMAL/1 of 31 January 2018.

¹⁰⁴ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, para. 369 and Annex B).

¹⁰⁵ *Ibid*, Annex B, para. 2. See also General Assembly resolution [70/1](#).

*“Thus, among the several impacts of climate change is sea-level rise.”*¹⁰⁶

- With regard to the scope of the topic, while it outlined the three areas to be addressed – i.e., issues related to the law of the sea, issues related to statehood and issues on the protection of persons affected by sea-level rise – the syllabus noted the following before outlining the questions related to the legal implications sea-level rise that the Commission could analyse:

*“This topic deals only with the legal implications of sea-level rise. It does not deal with protection of environment, climate change per se, causation, responsibility, and liability. It does not intend to provide a comprehensive and exhaustive scoping of the application of international law to the questions raised by sea-level rise, but to outline some key issues. The three areas to be examined should be analysed only within the context of sea-level rise notwithstanding other causal factors that may lead to similar consequences. Due attention should be paid, where possible, to distinguish between consequences related to sea-level rise and those from other factors. This topic will not propose modifications to existing international law, such as the 1982 U.N. Convention on the Law of the Sea (UNCLOS). Other questions may arise in the future requiring analysis. [...]”*¹⁰⁷

- During the seventy-third (2018) session of the Sixth Committee, the Commission’s recommendation to include the topic in its long-term programme of work, led more than 49 delegations to make related statements.¹⁰⁸
- In the resolution it adopted on 22 December 2018, the General Assembly noted the Commission’s decision, calling upon it to take into consideration the comments, concerns and observations expressed by Governments during the debate in the Sixth Committee;¹⁰⁹

2019

- During its seventy-first (2019) session, the Commission accordingly decided to include the topic “*Sea-Level Rise in relation to International Law*” in its programme of work. It then established an **open-ended Study Group to be co-chaired, on a rotating basis, by**

¹⁰⁶ *Ibid*, para. 3.

¹⁰⁷ *Ibid*, para. 14.

¹⁰⁸ Among these 49 delegations, the following represented regional or other groups: Gambia (on behalf of African Group), Bahamas (CARICOM), El Salvador (CELAC), Denmark (Nordic Countries) and Marshall Islands (Pacific Islands Forum or “PIF”). See [A/C.6/73/SR.21](#), [A/C.6/73/SR.22](#), [A/C.6/73/SR.23](#), [A/C.6/73/SR.24](#), [A/C.6/73/SR.27](#), [A/C.6/73/SR.29](#), and [A/C.6/73/SR.30](#).

¹⁰⁹ General Assembly [73/265](#), OP 9.

five members of the Commission and considered an informal paper on the organization of its work containing a road map for 2019-2021.¹¹⁰

- The discussion that ensued focused on the Study Group’s composition, proposed calendar and programme of work, as well as on its methods of work. In particular, the Study Group **confirmed that it would consider the three subtopics identified in the syllabus** (issues related to the law of the sea, in 2020, under the co-chairpersonship of Mr. Bogdan Aurescu and Ms. Nilüfer Oral; and issues related to statehood as well as issues related to the protection of persons affected by sea-level rise, in 2021, under the co-chairpersonship of Ms. Patrícia Galvão Teles and Mr. Juan José Ruda Santolaria).¹¹¹ It was also agreed, *inter alia*, that, prior to each session, the Co-Chairs will prepare **an issues paper**, and that at the end of each session of the Commission, the work of the Study Group will be reflected in a **substantive report**.¹¹² The Study Group also recommended that the Commission **invite the comments of States on specific issues** that are identified in chapter III of the report of the Commission, may request a study from the Secretariat and continues to consider the knowledge of technical experts.¹¹³
- During the seventy-fourth (2019) session of the Sixth Committee, the Commission’s recommendation to include the topic in its programme of work, led more than 59 delegations to make related statements.¹¹⁴
- In the resolution it adopted on 18 December 2019, the General Assembly took note of the decision of the Commission to include the topic “*Sea-level rise in relation to international law*” in its programme of work and drew the attention of Governments to the importance for the Commission of having their views by a certain date on various aspects of the topics on the agenda of the Commission, including on *Sea-level rise in relation to international law*.¹¹⁵

The Commission’s work progress and related comments by delegations in the Sixth Committee

2020

First Issues Paper on matters relating to the law of the sea

¹¹⁰ *Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 10 (A/74/10)*, para. 265-273).

¹¹¹ *Ibid.*, para. 269.

¹¹² *Ibid.*, para. 271.

¹¹³ *Ibid.*, para. 272.

¹¹⁴ Among these 59 delegations, the following represented regional or other groups: Sierra Leone (on behalf of African Group), Norway (Nordic Countries), Tuvalu (Pacific Islands Forum or “PIF”), and Fiji (Pacific Small Island Developing States or “PSIDS”). See summary records [A/C.6/74/SR.23](#), [A/C.6/74/SR.24](#), [A/C.6/74/SR.25](#), [A/C.6/74/SR.26](#), [A/C.6/74/SR.27](#), [A/C.6/74/SR.28](#), [A/C.6/74/SR.29](#), [A/C.6/74/SR.30](#), and [A/C.6/74/SR.31](#), and topical summary of the discussion held in the Sixth Committee of the General Assembly during its seventy-fourth session, prepared by the Secretariat ([A/CN.4/734](#)).

¹¹⁵ General Assembly resolution [74/186](#), OP5. No submissions from delegations were received before the seventy-second session of the Commission, as initially scheduled to take place in 2020.

- In accordance with the Study Group’s workplan, the first “Issues Paper” on **issues related to the law of the sea**, prepared under the direction of Co-Chairs Mr. Bogdan Aurescu and Ms. Nilufer Oral, was published in April 2020.¹¹⁶
- Due to the coronavirus disease (COVID-19) and the limitations recommended on meetings within the United Nations premises as precautionary measures aimed at containing its spread, the General Assembly postponed the Commission’s seventy-second (2020) session to 2021;¹¹⁷
- Despite the fact that there was accordingly no report of the Commission under the consideration of the Sixth Committee during the seventy-fifth (2020) session of the General Assembly, more than delegations 16 commented on the first Issues Paper, reiterating their support for and calling for the accelerated consideration by the Commission of this critical topic posing unprecedented challenges;¹¹⁸
- In the resolution it adopted on 15 December 2020, the General Assembly drew the attention of Governments to the importance for the Commission of having their views by a certain date on various aspects of the topics on the agenda of the Commission, including on *Sea-level rise in relation to international law*;¹¹⁹

2021

- The Commission reconstituted the Study Group during its seventy-second (2021) session, to consider the first Issues Paper, as well as informal contribution papers and comments submitted by members.
- During that session, the Study Group’s debate focused on the main issues addressed in the first Issues Paper:
 - Possible legal effects of sea-level rise on the baselines and outer limits of the maritime spaces measured from the baselines, on maritime delimitations, and on the exercise of sovereign rights and jurisdiction of the coastal State and its nationals, as well as on the rights of third States and their nationals in maritime spaces in which boundaries or baselines have been established (as well as possible

¹¹⁶ [A/CN.4/740, Corr. 1](#) and [Add.1](#) (Selected bibliography).

¹¹⁷ Decision 74/566 of 12 August 2020. See also General Assembly resolution [75/135](#) of 15 December 2020.

¹¹⁸ Among these 16 delegations, the following represented groups: Belize represented the Alliance of Small Island States or “AOSIS”, Tuvalu represented the Pacific Islands Forum or “PIF”, and Fiji represented the Pacific Small Island Developing States or “PSIDS”. See delegations’ statements accessible at <https://www.un.org/en/ga/sixth/75/summaries.shtml>, summary records [A/C.6.75/SR.13](#), and topical summary of the discussion held in the Sixth Committee of the General Assembly during its seventy-fifth session, prepared by the Secretariat ([A/CN.4/734/Add.1](#)).

¹¹⁹ General Assembly resolution [75/135](#), OP5. Submissions received before or during the seventy-second (2021) session of the Commission are accessible on the Sixth Committee website at: https://legal.un.org/ilc/guide/8_9.shtml

legal effects of sea-level rise on islands insofar as their role in the construction of baselines and in maritime delimitations is concerned); and

- Possible legal effects of sea-level rise on the status of islands, including rocks, and on the maritime entitlements of a coastal State with fringing islands (as well as the legal status of artificial islands, reclamation or island fortification activities as a response/adaptive measures to sea-level rise).
- At the end of the session, the Study Group reported to the Commission, which adopted the Study Group’s report, as reflected in Chapter IX of the 2021 report of the Commission.¹²⁰
- During the seventy-sixth (2021) session of the General Assembly, more than 67 delegations commented on the topic.¹²¹
- In the resolution it adopted on 9 December 2021, the General Assembly drew the attention of Governments to the importance for the Commission of having their views by a certain date on various aspects of the topics on the agenda of the Commission, including on *Sea-level rise in relation to international law*;¹²²

2022

Second Issues Paper on matters relating to statehood and protection of persons affected by sea-level rise

- The second “Issues Paper” on **issues related to statehood and the protection of persons affected by sea-level rise**, prepared under the direction of Co-Chairs Ms. Patrícia Galvão Teles and Mr. Juan José Ruda Santolaria was published in April 2022.¹²³
- The Commission reconstituted the Study Group during its seventy-third (2022) session, to consider that Paper.
- During that session, the Study Group’s debate focused on the following:

On statehood:

¹²⁰ *Official Records of the General Assembly, Seventy-Sixth Session, Supplement No. 10 (A/76/10)*, para. 240-296).

¹²¹ Among these 67 delegations, the following represented regional organizations and groups: the European Union, Iceland (on behalf of the Nordic Countries), Antigua and Barbuda (on behalf of the Alliance of Small Island States or “AOSIS”), Fiji (on behalf of Pacific Islands Forum or “PIF”), and Samoa (on behalf of the Pacific Small Island Developing States or “PSIDS”). See delegations’ statements accessible at <https://www.un.org/en/ga/sixth/76/summaries.shtml>, summary records [A/C.6/76/SR.17](#), [A/C.6/76/SR.18](#), [A/C.6/76/SR.19](#), [A/C.6/76/SR.20](#), [A/C.6/76/SR.21](#), [A/C.6/76/SR.22](#), [A/C.6/76/SR.23](#), and [A/C.6/76/SR.24](#), and topical summary of the discussion held in the Sixth Committee of the General Assembly during its seventy-sixth session, prepared by the Secretariat ([A/CN.4/746](#)).

¹²² General Assembly resolution [76/111](#), OP4. Submissions received before the seventy-third (2022) session of the Commission are accessible on the Sixth Committee website at: https://legal.un.org/ilc/guide/8_9.shtml

¹²³ [A/CN.4/752](#) and [Add.1](#) (Selected bibliography)

- Criteria for the creation of a State, including some representative examples of actions taken by States and other subjects of international law, references to concerns expressed relating to the phenomenon of sea-level rise in relation to statehood and some measures that have been taken in that regard;
- Formulation of possible alternatives for the future in respect of statehood.

On the protection of persons affected by sea-level rise:

- Mapping exercise of the existing legal frameworks potentially applicable to the protection of persons affected by sea-level rise, followed by a preliminary mapping exercise of State practice and the practice of relevant international organizations and bodies regarding the protection of persons affected by sea-level rise.

On both subtopics:

- Preliminary observations and guiding questions for the Study Group on the subtopics of statehood and the protection of persons affected by sea-level rise.
- At the end of the session, the Study Group reported to the Commission, which adopted the Study Group’s report, as reflected in Chapter IX of the 2022 report of the Commission.¹²⁴
 - During the seventy-seventh (2022) session of the General Assembly, more than 67 delegations commented on the topic.¹²⁵
 - In the resolution it adopted on 7 December 2022, the General Assembly drew the attention of Governments to the importance for the Commission of having their views by a certain date on various aspects of the topics on the agenda of the Commission, including on *Sea-level rise in relation to international law*;¹²⁶

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Additional Paper on matters relating to the law of the sea

¹²⁴ *Official Records of the General Assembly, Seventy-Sixth Session, Supplement No. 10 (A/77/10)*, para. 153-237).

¹²⁵ Among these 67 delegations, the following represented regional organizations and groups: the European Union, Iceland (on behalf of the Nordic Countries), Bahamas (on behalf of CARICOM), Antigua and Barbuda (on behalf of the Alliance of Small Island States or “AOSIS”), and Samoa (on behalf of the Pacific Small Island Developing States or “PSIDS”). See delegations’ statements accessible at <https://www.un.org/en/ga/sixth/77/summaries.shtml>, summary records [A/C.6/77/SR.21](#) and [A/C.6/77/SR.25](#), [A/C.6/77/SR.26](#), [A/C.6/77/SR.27](#), [A/C.6/77/SR.28](#), and [A/C.6/77/SR.29](#) ([A/C.6/77/SR-26-29 are not yet issued at the time of preparation of this statement](#)), and topical summary of the discussion held in the Sixth Committee of the General Assembly during its seventy-seventh session, prepared by the Secretariat ([A/CN.4/755](#)).

¹²⁶ General Assembly resolution [77/103](#), OP5. Submissions received before the seventy-fourth (2023) session of the Commission are accessible on the Sixth Committee website at: https://legal.un.org/ilc/guide/8_9.shtml

- The Additional Paper to the first Issues Paper on **issues related to the law of the sea**, prepared under the direction of Co-Chairs Mr. Bogdan Aurescu and Ms. Nilufer Oral, was published in April 2023.¹²⁷
 - The Commission reconstituted the Study Group during its seventy-fourth (2023) session, to consider that Paper.
 - During the first part of the session, the Study Group examined various relevant concepts, principles and rules, including in light of related comments made by delegations during preceding sessions of the Sixth Committee, to complement the work it previously completed on issues related to the law of the sea.
 - The Study Group will consider the scope of its future work on the subtopic during the second part of the ongoing session of the Commission. A summary of the debate will be reflected in the annual report of the Commission.¹²⁸
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¹²⁷ A/CN.4/761.

¹²⁸ To be issued as document A/78/10.