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UNITED NATIONS OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA (GENERAL EXCHANGE OF VIEWS)

21 June 2021

Written statement by H.E. The Hon. Mitch Fifield, Ambassador and Permanent Representative of Australia to the United Nations

Australia welcomes the theme of this year's United Nations Open-Ended Informal Consultative Process on Oceans and the Law of the Sea, and commends the close attention that continues to be given to such a pressing issue as sea-level rise.

While rates will vary regionally, the Intergovernmental Panel on Climate Change (IPCC) Special Report on the Ocean and Cryosphere in a Changing Climate predicted with medium confidence that global mean sea-level rise will be between 43 and 84 centimetres by 2100.

The impacts of sea-level rise will be felt by all States. But they will be felt particularly severely by low lying States, including in our Pacific community. Scientists contributing to the IPCC Fifth Assessment Report found that the Western Pacific experienced three times more sea-level rise than the global mean between 1993 and 2012.

Sea-level rise poses significant development, economic, and environmental challenges for affected States, and raises important questions of international law. One of those questions that we are considering in the Pacific is the impact of sea-level rise on maritime zones.

Australia is strongly of the view that our consideration of the possible legal impacts of sea-level rise, including on maritime zones, should be centred upon the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS sets out the legal framework within which all activities in the oceans and seas must be carried out. As its preamble provides, UNCLOS was negotiated to “settle ... all issues relating to the law of the sea” and provide an enduring “legal order for the seas and oceans”.

UNCLOS represents a carefully balanced and equitable package of rights and responsibilities. This balance must be maintained.

In particular, and before considering the possible legal impacts of sea-level rise upon them, maritime zones must be established in accordance with UNCLOS. To this end, Australia remains committed to assisting Pacific Island States to establish their maritime zones as part of the Pacific Maritime Boundaries Project.

In that context, we welcome the International Law Commission including in its program of work consideration of sea-level rise in relation to international law.

While the Commission is at a very early stage of its work, we appreciate the progress that it has made so far, including the First Issues Paper prepared by two of the co-Chairs of the Commission's Study Group on these issues.

In particular, we note the observations of the co-Chairs:

- that sea-level rise and its effects were not perceived as an issue that needed to be addressed during the negotiation of UNCLOS;
- that, where it was possible to foresee the occurrence of natural conditions that could affect legal stability, security, certainty and predictability, UNCLOS manifests a concern for ensuring stability;
- that UNCLOS does not indicate *expressis verbis* that new baselines or outer limits of maritime zones must be drawn by the coastal State when coastal conditions change; and
- that sea-level rise cannot be invoked as a fundamental change of circumstances for terminating or withdrawing from a treaty which established a maritime boundary.

Australia is committed to working constructively with all Member States to support the International Law Commission as it continues its work on sea-level rise in relation to international law, and to address these issues in a way that reaffirms the integrity of UNCLOS.