



**Statement on behalf of the Alliance of Small Island States (AOSIS) under Agenda Item 82 –
Report of the International Law Commission on the work of its seventy-second session**

Sixth Committee
Thursday, 28 October 2021

Madam Chair,

1. I have the honour to present this statement on behalf of the members of the Alliance of Small Island States (AOSIS). We would like to thank the International Law Commission, and in particular the Study group on Sea-Level Rise in Relation to International Law, for their work over the past two years. With the postponement of last year's session, we have been waiting for this Report, have read it closely and welcome the present opportunity to enter into a dialogue with the Commission on the effect of sea-level rise on international law.
2. Last year in this Committee, Belize as then Chair of AOSIS stated that the 39 small island and low-lying developing States that make up AOSIS are specially affected by sea-level rise. The territories of SIDS encompass vast swaths of the ocean, and the maritime zones allocated to us under the United Nations Convention on the Law of the Sea (UNCLOS) are central to our statehood, economies, food security, health and education prospects, and even our unique cultures and livelihoods. But each of these things is under threat from relentless sea-level rise—a situation not even contemplated when UNCLOS was being negotiated almost 50 years ago.
3. As a result, SIDS have been particularly engaged in the discussions around sea-level rise and international law. SIDS requested this item to be put on the agenda of the Commission and made several submissions to the Commission—for some SIDS, it was

their first engagement with the Commission. We have also been engaged here in this Committee. We are determined to be engaged in the development of the international law that affects our States.

4. Last month, the 39 Heads of State and Government of AOSIS held a virtual summit and adopted a negotiated declaration, in which they “affirm that there is no obligation under the United Nations Convention on the Law of the Sea to keep baselines and outer limits of maritime zones under review nor to update charts or lists of geographical coordinates once deposited with the Secretary-General of the United Nations, and that such maritime zones and the rights and entitlements that flow from them shall continue to apply without reduction, notwithstanding any physical changes connected to climate change-related sea-level rise.”
5. This statement reflects AOSIS’ interpretation of a lack of an obligation under UNCLOS to review or update baselines and outer limits once deposited with the Secretary-General, and of the practice of many SIDS on this issue. This echoes the statement by the Heads of State and Government of the Pacific Islands Forum in August, and the preliminary observations in the First Issues Paper considered by the Commission this year.
6. For small island developing States, legal stability, security, certainty, and predictability in relation to our maritime zones are of paramount importance. As we stated last year, this is achieved through the preservation of baselines and outer limits of maritime zones measured therefrom and their entitlements. In their recent declaration, our Heads of State and Government have affirmed that our maritime zones and their rights and entitlements can be preserved.
7. Since our statement to this Committee last year, in which we noted that there is a body of State practice under development in this regard, we have seen additional examples of state practice. Many small island developing States have taken political and legislative measures to preserve their baselines and the existing extent of their maritime zones,

through domestic legislation, maritime boundary agreements, and deposit of charts or coordinates and declarations attached thereto.

8. As we further noted last year, this State practice can be both evidence of emerging customary rules (where joined by *opinio juris*), as well as considered subsequent practice useful to the interpretation of provisions of UNCLOS. And while we recognize that there may not yet be sufficient State practice and *opinio juris* to make a conclusion that there is a general customary rule concerning preservation of maritime zones, we think that the trend is in that direction.
9. Finally, concerning the future work of the Study Group, including the further identification of sources of law, as outlined in para. 294 of the Report, we recognize that there is a lacuna in UNCLOS concerning the nature of baselines in the context of climate change-related sea-level rise. As we suggested last year, recent State practice, made in the context of climate change and consistently rising sea levels, should be most relevant to the consideration of the Study Group. We are interested in understanding how the 1958 Geneva Conventions (and in particular their *travaux préparatoires*), which were negotiated when many of the SIDS were under colonial administration, are relevant to our interpretation of the law of the sea under the present circumstances.
10. We thank the Study Group for its work so far, look forward to the continued discussions by States and the ILC on the relationship between sea-level rise and the law of the sea, and are ready to provide submissions on the other topics under consideration by the Study Group.
11. Like last year, we would encourage the ILC to continue to consider the perspectives of small island developing States who continue to place faith in the equalizing role of international law.
12. I thank you.