



STATEMENT
by
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on behalf of the Caribbean Community (CARICOM)

on

Agenda Item 77: Report of the International Law Commission on the
Work of its Seventy-third Session, Cluster II
Chapter IX - Sea-level Rise in relation to international law

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Mr. Chairman

As this is the first time that my delegation is taking the floor, I wish to extend our congratulations on your election to the chairmanship of the Sixth Committee. Congratulations are also extended to the other members of the Bureau, and we thank the Secretariat and interpreters for all of their dedicated work. Please be assured of The Bahamas' continued cooperation and support during the work of the Committee.

Mr. Chairman

I have the honour to speak on behalf of the fourteen Member States of the Caribbean Community (CARICOM). CARICOM aligns itself with the statement delivered by the representative of Antigua and Barbuda, on behalf of the members of the Alliance of Small Island States (AOSIS).

At the outset, CARICOM commends the International Law Commission (ILC) on its work in fostering the codification and progressive development of international law. We encourage the Commission to continue its outreach to delegations in New York, particularly given that the legal advisers of many developing countries are not represented in Geneva.

CARICOM extends its gratitude to the Chairman of the International Law Commission for his introduction of the various clusters of the Report of the Commission on the work of its Seventy-third session, and expresses special thanks to the Study Group on Sea-level Rise in Relation to International Law, for its work on this topic of critical importance to our member states. We welcome this opportunity to engage in dialogue on this subject.

Mr. Chairman

As a matter of necessity, CARICOM has been at the forefront of combatting climate change, addressing its social, economic and other impacts including Loss and Damage, and sea-level rise. Although negligible contributors to anthropogenic climate change, we are amongst the most vulnerable to its impacts. CARICOM appreciates, first-hand, the potential and growing likelihood of "a strong regional pattern, with some places experiencing significant deviations of local and regional sea level change from the global mean change".

Global mean sea-level will continue to rise throughout this century, as a result of the effects of climate change. For many of us, this will result in increased coastal flooding, storm and hurricane surges, loss of resources, homes, lands and even life. The impacts will continue to grow more severe, with entire islands being at risk of becoming uninhabitable.

Some of our Caribbean Community islands measure as small as five (5) to nine (9) square kilometres. Others, have a significant portion of land surface which is only one (1) metre or less

above mean sea level – putting many of our territories on the frontlines of the devastation and adverse impacts of this phenomenon.

Numerous projections predict that sea-level rise will completely inundate much of our land areas *within the next three decades* – a stark and frightening reality.

Mr. Chairman,

CARICOM agrees with the Commission that the issue of sea-level rise is a global phenomenon, posing a threat to all, and having direct implications for more than one-third of the international community, and indirect implications for all Member States. That said, the repercussions and effects facing small island developing states, including the members of CARICOM, can no longer be diluted, ignored or set aside as a problem for future generations.

While there may be no current record of situations where “the territory of a State [has] been completely submerged or rendered uninhabitable”, we appreciate the Study Group’s recognition that given the “progressive character of the phenomenon”, such a situation is no longer a hypothetical concern. For low-lying and small island developing States, such as those of CARICOM, the threat is existential. It concerns our very survival.

CARICOM welcomes the further exploration of issues previously identified by the Commission, including:

1. the “legal implications of the inundation of low-lying coastal areas and of islands upon their baselines, upon maritime zones extending from those baselines and upon delimitation of maritime zones, whether by agreement or adjudication”. Maritime zones are central to our statehood, security, economies, legal stability, food security, cultures, livelihoods, and more;
2. the “consequences for statehood under international law should the territory and population of a State disappear”, including the rendering of land uninhabitable, the displacement of persons and the related questions this would raise, the preservation of the rights of States affected by this phenomenon, the right to self-determination of affected State populations, etc.;
3. the “international law protections enjoyed by persons directly affected by sea-level rise”; and
4. “whether the principle of international cooperation [should] be applied to help States cope with the adverse effects of sea-level rise on their population”.

CARICOM appreciates the Study Group’s recognition of the need to examine mitigation measures for the effects of sea-level rise, including coastal reinforcement measures and construction of artificial islands, as well as possible alternatives for the future of statehood in the event of total inundation of a State’s territory.

In examining mitigation measures, we must remain cognisant of the fact that some of the characteristics of small island developing states are also contributors to making mitigation challenging, including limited economies of scale, and the need for human, technological and financial support, along with capacity-building efforts and support.

Re-emphasising that we are unduly suffering the consequences of a phenomenon to which we have contributed *very* minimally, as well as our hindered abilities to preemptively confront and tackle it, we support and encourage the Study Group's further considerations of options such as compensation for sea-level rise, in conjunction with other forward-looking possibilities and mitigation measures.

Concerning the scope of work of the Study Group and the role of the Commission on this topic, CARICOM takes note of the concerns expressed that the scope of the subtopics was too broad, and consequently the need to reduce the number of questions under examination, potentially giving focus predominantly to areas with sufficiently developed practice. This could mean an undesirable shift of attention away from areas, like the question of statehood, to focus only on issues such as law of the sea and the protection of persons affected by sea-level rise. All of these topics remain relevant and warrant further examination and discussion.

All of the main pillars of the Sea-level Rise topic have elements of codification and progressive development – both of which are essential and necessary. CARICOM strongly encourages the Commission to avoid unnecessarily narrowing the scope of topics in such a manner which might negatively impact the outcome's relevance and utility to Member States.

We encourage the ILC to clarify and elaborate on the envisaged outcome of the work on this topic, upon completion of the preparatory work in the Study Group format. This includes further consideration of turning the topic into a traditional topic, with a Special Rapporteur and with public debates in a plenary format.

We look forward to the tabling of the much-anticipated Climate Resolution, being presented by Vanuatu during the current 77th session of the UN General Assembly, requesting the International Court of Justice to provide an advisory opinion on the obligations of States, under international law, to safeguard the rights of present and future generations in the face of climate change and its adverse effects. It acknowledges the seriousness of climate change, including sea-level rise, on small island developing states and other vulnerable states – particularly certain States, such as those of the Caribbean Community, which are on the frontlines of these effects. We hope that the Study Group will take this into consideration in future deliberations and development of this topic.

CARICOM recognises that while regional practice and comment submissions to the Commission are on the rise, we continue to have an obligation to make contributions on this matter, which is

of supreme relevance to us. We remain determined to be engaged in the advancement of the international law in this regard.

Mr. Chairman

Permit me to briefly address the topic of Protection of the environment in relation to armed conflicts, which was addressed during Cluster I of the ILC's Report.

CARICOM welcomes the report of the ILC on the Protection of the environment in armed conflict, as contained in Chapter V of this year's report, and notes the progress of this topic under elements of the international law including international humanitarian law, international criminal law, international environmental law and international human rights law.

CARICOM reiterates the recognition that environmental obligations protect a collective interest and are owed to a wider group of States beyond those involved in armed conflict or occupation.

CARICOM remains cognisant of the gaps where international legal provisions protecting the environment during armed conflict, which were designed for international armed conflicts, do not necessarily apply to internal or national conflicts. Therefore, CARICOM continues to look forward to the Commission addressing the application of draft principles to non-international armed conflicts, and other matters including compensation for environmental damage and questions of responsibility and liability.

Finally, Mr. Chairman,

We commend the Commission's attention to increasing the number of women members, and for assisting developing states through capacity-building, so they can have more effective participation with the work of the ILC. In the new quinquennium, CARICOM hopes to have increased dialogue with members to discuss systemic changes to support CARICOM's engagement with the Commission going forward.

We further encourage the General Assembly to assist in capacity-building, through a formal internship programme, for developing states. We also look forward to closer collaboration between the Commission and CARICOM Member States, including with our regional academic institutions and through governmental outreach initiatives.

CARICOM welcomes and supports the continued work of the Commission, and looks forward to its future reports on these critical topics.

I thank you.