



**Statement by Samoa on behalf of the Alliance of Small Island States (AOSIS) under Agenda Item 79 –  
Report of the International Law Commission on the work of its seventy-third and seventy-fourth  
sessions**

Sixth Committee

Delivered by H.E. Mr. Fatumanava-o-Upolu III Pa'olelei Luteru  
Permanent Representative of Samoa to the United Nations  
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Mr. Chair,

**Introduction**

1. I have the honour to deliver this statement on behalf of the members of the Alliance of Small Island States (AOSIS), the 39 small island developing States (SIDS) that are specially affected by the effects of sea-level rise.
2. 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 years. Their issues papers have given us much to consider. We are grateful to continue the dialogue with the ILC and our fellow States to understand, develop, and apply international law in a manner that matches the urgency needed to confront the climate crisis.
3. In this era of unprecedented and relentless sea-level rise, SIDS have been particularly engaged in the discussions around anthropogenic sea-level rise and international law. This is the fourth statement made by AOSIS to this committee since 2020. These statements and the declarations by our Leaders reflect our ongoing commitment to engaging in the development and application of international law on an issue that deeply affects each of our nations.
4. In September, the Heads of State and Government of AOSIS emphasized our concern that we remain uniquely vulnerable to the multiple global crises and external shocks of the past few years, which undercut the foundations of our economic and social development, and in turn

erode the livelihoods of our peoples. We depend on international law to secure our rights in a constantly changing world.

5. Today, I would like to speak specifically on the issues covered in the Additional Paper to the First Issues Paper, as well as provide some comments on the issue of statehood.

## **Law of the Sea**

6. Most importantly, we have repeatedly and at the highest levels of our governments made our interpretation of the law of the sea exceptionally clear. UNCLOS does not obligate states to keep baselines and outer limits of maritime zones under review nor to update charts or lists of geographical coordinates once they are deposited with the UN Secretary General. 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.
7. This interpretation extends beyond our region and finds support in views from many nations, including large coastal states such as the United States, who have recognized the pressing need for member States to have continued access to their maritime resources and ensure legal stability, security, certainty, and predictability.
8. I'd like to turn to the Additional Paper and make comments on several of the sections.
9. First, on the applicability of the principle *uti possidetis juris* to the situation of sea level rise. The call from the international community to ensure legal stability, security, certainty, and predictability in light of sea level rise undergirds our view that borders and maritime zones should remain unchanged. We note that during the wave of decolonization in the 20th century, this principle served to preserve existing boundaries under international law to maintain legal stability and prevent the eruption of conflict. In the context of anthropogenic climate change, that principle reminds us that it remains vitally important to guarantee legal stability and reduce the risk of potential conflict arising out of sea-level rise.
10. Second, the principle of permanent sovereignty over natural resources also continues to be integral to the economic development of the developing member States of the UN. As a widely recognized principle of customary international law that has been affirmed by the International Court of Justice, this principle is significant in reinforcing the need to preserve the maritime rights and entitlements of AOSIS members, including with respect to the resources therein. Marine resources are fundamentally important components of the natural resources afforded to

small island developing States under international law. The principle is a robust one that has been incorporated in various international instruments.

11. Finally, on the principle of equity. The climate crisis is not one that has been caused by the action of SIDS. We account for some of the lowest emissions of greenhouse gas, but experience some of the most devastating effects of sea level rise. The principle of equity is enshrined in many international agreements, and fundamentally, expressed in the UN Convention on the Law of the Sea. For AOSIS, the preservation of baselines and maritime zones and the rights and entitlements that flow from them is not merely a matter of legal certainty and political stability, but also a matter of equity.
12. The equitable core of the object and purpose of the Law of the Sea Convention should therefore guide the consideration of the Committee's Study Group on the question of sea-level rise. The special needs and interests of our small island developing States, given our acute vulnerabilities to sea-level rise caused largely by the conduct of other States, must not be forgotten as the Committee continues to determine how that Convention should be interpreted.

### **Statehood**

13. On statehood, we think that the past two centuries of state practice are abundantly clear. There is a fundamental presumption of the continuity of statehood in international law.
14. AOSIS's position is also similarly clear. Sea level rise related to anthropogenic climate change does not threaten the sovereignty and statehood of small island developing States. No matter the physical changes wrought by the climate crisis, we will remain sovereign states. Change to our sovereignty will only happen if we as individual states freely decide it.
15. We have been clear that the Montevideo Convention on the Rights and Duties of States is not relevant to the question of continuity of statehood once established. Therefore, it would be inequitable and unjust to now suggest that in the context of rising sea levels we should strictly apply criteria developed in a regional agreement almost a century ago, contrary to state practice.
16. Mr. Chair, it is our view that once a state is created by a people expressing their right to self-determination through statehood, that statehood will cease only if another form of expression of the right to self-determination is explicitly sought and exercised by that people. This is the only determinant of whether a state continues.
17. I thank you