



Sixth Committee
Delivered by Ms. Asha Challenger, First Secretary,
Permanent Mission of Antigua and Barbuda
Tuesday 1 November 2022

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 especially affected by the effects of sea level rise.
2. We would like to thank the International Law Commission in particular the Study Group on Sea Level Rise in Relation to International Law, for their work over the past three years. Their two issues papers have given us much to consider. We are grateful to continue the dialogue with the ILC and our 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. SIDS requested this item to be put on the programme of work of the Commission and made several submissions to the Commission. We have made statements in this Committee outlining our understanding of the relevant international law. Our heads of state and government have issued declarations on this issue. We are determined to be engaged in the development and application of international law that affects our States.
4. We have previously spoken about in this Committee. In that negotiated declaration, AOSIS Leaders affirmed 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 of the United Nations, and that 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 sea level rise. We are heartened to see that other states, including some of the coastal states, have adopted a similar understanding of international law, recognizing the need to ensure legal stability, security, certainty, and predictability.

5. Today, I would like to speak specifically on the issues covered in the Second Issues Paper, namely, the issues of statehood and protection of persons by sea level rise.

Statehood

6. On statehood, we think that the past two centuries of state practice are abundantly clear. The Montevideo Convention on the Rights and Duties of States is relevant to the question of continuation of statehood. Rather, there is a fundamental presumption of the continuation of statehood in international law. This principle has existed since Westphalia and has been consciously applied multiple times in order to allow states to continue to exercise their statehood. This is logical as the continued existence of States is foundational to our current rules-based international order.
7. Over the past century, we have recognized governments in exile when their control of territory is lost. We have allowed states to resume independent statehood and reclaim their seats at the UN after they had chosen to merge with other states. And we have even allowed states to exist that no longer have defined land territory. This consistent and general practice of states illustrates that Montevideo does not apply. Statehood is initially established based on the presumption of the continuation of states that governs these situations.
8. It is inequitable and unjust to suggest that in the context of rising sea levels we should strictly apply criteria developed in a regional agreement signed almost a century ago and ratified by 16 countries. Such criteria, in our view, do not apply to the continuation of states. We affirm that the potential loss of land territory by small island states from sea level rise is a natural

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including exposure, vulnerability, and lack of capacity The draft articles were developed in the context of events for which there is no state responsibility. ~~The situation is the~~ The responsibility for climate change is shared among the largest emitters in the international community. So to must be a duty to cooperate to ameliorate its effects.

23.I thank you