



New Zealand Permanent Mission  
to the United Nations

Te Māngai o Aotearoa

**UNGA 74: Sixth Committee: Report of the  
International Law Commission on  
the work of its seventy-first session  
(Agenda item 79), Clusters I, II & III**

**New Zealand Statement**

**Delivered by Ms Gabrielle Rush**

Manager of the Legal Division of New Zealand's Ministry of Foreign Affairs  
and Trade

31 October 2019

Check against delivery



Chairperson

New Zealand thanks the International Law Commission and its Commissioners for its report on the work of the seventy-first session. We also thank the Chairman, Mr Pavel Šturma, for his introductory speech.

We would like to register our deep appreciation for the work of the International Law Commission and to acknowledge its achievements in the progressive development and codification of international law.

For the sake of brevity, New Zealand will deliver one statement in this debate, focusing on just some of the important issues addressed by the Commission, across the three Clusters. Our full statements in respect of Clusters I, II and III will be uploaded to the PaperSmart portal.

New Zealand welcomes the Commission's decision to move **sea-level rise in relation to international law** to its active work programme and to form a Study Group. There was significant support for this move in last year's Sixth Committee debate and we are pleased to see the Commission respond to this clear desire by states.

New Zealand aligns itself with a statement that Tuvalu will be delivering on behalf of Pacific Islands Forum Members on this important issue, in Cluster II.

Sea-level rise is a matter of pressing concern to the international community. Its legal implications are complex and form a critical topic for the ILC.

The *IPCC Special Report on Oceans and Cryosphere* released last month made for sobering reading. Mean sea-level is rising at an accelerated rate and an increase in tropical cyclones, extreme waves, and sea-level rise are expected to combine to exacerbate extreme sea-level rise events and coastal hazards.

As we mentioned last year, New Zealand is particularly focused on the implications of sea-level rise for maritime zones under the UN Convention on the Law of the Sea (UNCLOS). The New Zealand Government is committed to working with partners to ensure that, in the face of changing coastlines, coastal states' maritime zones are protected. In this regard, we welcome the priority the ILC Study Group has given to the subtopic titled "issues related to the law of the sea" which is to begin next year.

This is an issue that is close to home for New Zealand and our Pacific Island neighbours, some of whom are expected to experience sea-level rise that is nine times the global average.

Maritime zones are critically important to Pacific countries' economies and societies. For many, their ocean spaces and rights under UNCLOS are their pathway to sustainable development. The ocean is inextricably linked with what it means to be from and of the Pacific. It would be inequitable for these countries to have their rights to maritime zones, and the resources that come with them, eroded because of a phenomenon they have done the least to cause, and which the drafters of UNCLOS had no knowledge of.

At the Pacific Islands Forum Leaders' Meeting in Tuvalu this August, our Leaders made a strong commitment on this issue. They committed to a collective effort, including to develop international law, with the aim of ensuring that once a Forum member's maritime zones are delineated in

accordance with the UNCLOS, they could not be challenged or reduced as a result of sea level rise and climate change.

This was a significant commitment by some of the countries that are, and will be specially affected by sea-level rise. It emphasises the urgent need for the global community to address the implications of sea-level rise on maritime zones.

While I have spoken a lot about the Pacific, the legal implications of sea-level rise raise questions of global significance: all States have an interest in preserving the balance of rights and responsibilities in UNCLOS. It is also in the interest of all States to ensure there is certainty over maritime zones to avoid potential disputes.

Alongside our engagement and support for the Commission's work, we will seek out opportunities to discuss the implications of sea-level rise on maritime zones under UNCLOS. These matters deserve greater understanding and serious consideration by the international community. To that end, we look forward to engaging with partners.

Chairperson,

Turning now to chapter IV - **Crimes Against Humanity**. New Zealand echoes the tributes paid to the Special Rapporteur, Mr Sean Murphy, by the Commission and other delegations, and thanks him for his fourth report. This report reflects his careful consideration of over 750 comments, including comments from 38 member states. We are pleased to see that the 15 draft articles have now been delivered to the General Assembly.

The draft articles reflect two amendments which we would like to highlight. Firstly, we are pleased to see Article 3 on General Obligations now includes an explicit obligation for states not to engage in acts that constitute crimes against humanity. This clarity means there can be no doubt or room for obfuscation in the future.

Secondly, New Zealand thanks the Special Rapporteur for carefully considering whether it was appropriate or necessary for the draft articles to include a definition of gender. New Zealand considers the decision to remove this definition to be a positive development which reflects the diversity of concepts of gender identity across the world. This change also removes the risk of such a definition being at odds with national legislation.

We have heard the different views expressed during this debate on how we should proceed with this important work, and we consider that through further dialogue we will collectively identify a path toward its conclusion. New Zealand considers that the elaboration of a convention, based on the Commission's work, would complete the important exercise of codification of the most serious crimes of international concern.

Chairperson

Turning briefly now to Chapter VI, **protection of the environment in relation to armed conflicts**. New Zealand welcomes the second Report of the Special Rapporteur, Ms Marja Lehto. The report considers certain questions regarding the protection of the environment in non-international armed conflicts.

In response to the call for information on state practice, New Zealand notes that under its Manual of Armed Forces Law – Laws of Armed

Conflict, attacks on the natural environment are prohibited. It is significant to note that the obligations New Zealand operates under for an international armed conflict, as a matter of policy, also apply to non-international armed conflicts. This includes prohibitions on the use of methods or means of warfare which are intended or may be expected to cause widespread, long-term and severe damage to the environment.

New Zealand considers that this work is valuable in the way it draws from existing international environmental principles to address the lacuna in this area.

To close, New Zealand highly regards the Commission's work which provides assistance to states in developing, clarifying and upholding the rules that underpin the rules-based international system. New Zealand values the opportunities provided in the Sixth Committee, the informal dialogue, and at side events organised by New York Missions to engage in substantive dialogue on the topics before the Commission.

Thank you