



**Statement on behalf of the Alliance of Small Island States (AOSIS) under
Item 80: Report of the International Law Commission on the work of its
seventy-second session**

5 November 2020

1. Thank you Mr. Chair. As this is the first time that I am taking the floor, I wish to congratulate you on your election and take this opportunity to commend you for your skilled leadership guiding the work of the Sixth Committee.
2. Mr. Chair, Belize, as Chair of AOSIS 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 year. Despite not having a written report from the ILC this year, we are thankful for the oral reports and the opportunity to engage on this vital topic. We also welcome the First Issues paper on law of the sea issues produced by two of the Co-Chairs of the Study Group and look forward to the ILC's formal consideration of the paper next year.
3. While sea-level rise is a global concern, the Member States of AOSIS will be specially affected. We are 39 small island and low-lying developing States that are deeply reliant on the ocean. Our fishing, tourism, and transportation industries make heavy use of the maritime zones allocated to us under UNCLOS. Rising seas threaten not only our physical structures, but our economies, our food security, our health and education prospects, and even our unique cultures and livelihoods.

4. Despite our efforts, we know that emissions are not being reduced fast enough to prevent a significant increase in global temperatures and the resulting sea-level rise. Current projections place us on track for at least 3 degrees Celsius of warming, which could lead to over 1 meter of sea-level rise by 2100.
5. This radical and relentless change to our oceans was not contemplated when UNCLOS was being drafted in the 1970s and 80s—a point made clear in the First Issues Paper. States were as likely to gain territory through accretion as they were to lose it through erosion or avulsion.
6. As such, we agree with the observation of the First Issues Paper that nothing prevents Member States from depositing geographic coordinates or large-scale charts concerning the baselines and outer limits of maritime zones measured from baselines, in accordance with the Convention, and then not updating those coordinates or charts, in order to preserve their entitlements. Among other things, as indicated in the First Issues Paper, an approach responding adequately to the need to preserve legal stability, security, certainty, and predictability is one based on the preservation of baselines and outer limits of maritime zones measured therefrom and their entitlements.
7. Further, as highlighted by the submissions to the ILC and the statements in this Committee, there is a body of State practice under development regarding the preservation of maritime zones and the entitlements that flow from them. Many small island and low-lying 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. We suggest that this more 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.
9. This State practice is relevant in two main ways. First, the VCLT (Vienna Convention on the Law of Treaties) states that subsequent practice applying the treaty, which evinces parties' agreement on the treaty interpretation, shall be taken into account. This is particularly useful where the treaty is silent on an issue, as the Convention is with the requirement to update coordinates or charts. This State Practice grounds the observations of the Co-Chairs that, in order to preserve maritime zones and the entitlements that flow from them, State Parties are not obligated to update their coordinates or charts once deposited.
10. Second, recognizing that not all States are party to the Convention, State practice joined with *opinio juris* is evidence of customary international law. 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, we think that the trend is in that direction.
11. Nevertheless, the absence of a general customary rule does not have an effect on the interpretation of the Convention, based on subsequent practice of its States Parties.
12. We thank the Study Group for its work so far, look forward to the discussions next year at the ILC and are ready to provide submissions on the other topics under consideration by the Study Group. As it continues its work on sea-level rise, we would encourage the ILC to continue to consider the perspectives of small island and low lying States who continue to place faith in equalizing role

of international law. Only by doing so will the ILC be able to uncover legal solutions that respond effectively, and fairly, to the challenges of sea-level rise.

13. Mr. Chairman, may I conclude by saying that this is the first time AOSIS has spoken in the Sixth Committee. For Belize, as we wind down our work as Chair of AOSIS in the Seventy-fifth session, it is critical for the record, that we register SIDS' perspective on this matter.

I thank you.