



Permanent Mission of Tuvalu to the UN
Statement for the Sixth Committee Agenda Item 82 - Cluster II. Report of the
International Law Commission
- Chp IX (Sea-level rise in relation to international law)

Thursday 3pm, October 28th 2021

Madam Chair,

I have the honour to deliver this statement on behalf of my own country Tuvalu.

Tuvalu aligns itself with the Statements made by Fiji on behalf of the Pacific Islands Forum and Samoa on behalf of the Pacific Small Island Developing States.

At the outset, I would like to assure you Madam Chair of my country's unwavering support as you steer the Committee's work in this session.

Tuvalu expresses its gratitude to the International Law Commission for their tireless efforts and perseverance these past two years, though the challenges posed by the pandemic.

We appreciate the hard work of the International Law Commission's Study Group on sea-level rise in relation to international law, and the collaborative approach that it has taken thus far in its work on this critical Topic.

In this context, Tuvalu encourages the Commission through its study group to continue on this path, which has thus far assisted in paving the way forward on the Topic.

Sea-level rise is a defining issue for Tuvalu, with an average land elevation of no more than 2 meters above sea level, we are extremely affected by its adverse

impacts upon deteriorating marine, coastal environments and more destructive storm surges and natural disasters, which further threaten our livelihoods, health, culture, wellbeing, and infrastructure.

Therefore, we continue to cope and build resilience and adapt to rising sea levels, natural disasters and external shocks bearing in mind that Statelessness is not an option for Tuvalu, and I am sure it is also not an option for any of us here today.

In this connection, Tuvalu is spearheading a new initiative that will be advanced by likeminded countries to progress efforts towards protecting the Statehood of small atoll nations facing existential threats from sea-level rise, and preserving the sovereignty, rights and heritage of affected nations and their populations.

Tuvalu like other Pacific Island countries is a large oceanic State and we rely heavily on the ocean as our life source. We have planned our development now and into the future in reliance on the rights and entitlements guaranteed in the 1982 United Nations Convention on the Law of the Sea.

In this context, on 6 August 2021, our Pacific Islands Forum Leaders endorsed the Declaration on Preserving Maritime Zones in the face of Climate Change-related Sea-level rise. The Declaration is intended as a formal statement of our Leaders' view on how the UNCLOS rules on maritime zones apply in the situation of climate change-related sea-level rise.

Our Leaders reaffirmed our region's commitment to conclude negotiations on all outstanding maritime boundaries claims and zones, and to preserve Members' existing rights flowing from them, in the face of sea-level rise. Our region also called for the Commission to examine the international law implications of sea-level rise as a matter of extreme urgency.

Madam Chair,

We consider the First Issues Paper of the Study Group as one that provides an excellent foundation for resolving these concerns. As mentioned in the First Issues

Paper and highlighted by many Member States, there is an overarching concern for preserving legal stability, security, certainty and predictability at the very center of this topic. This would also be in line with the general purpose of UNCLOS, as reflected in its preamble.

The issues of statehood and climate displacement when islands submerge into the sea, are topics for the Study Group at the next stage. We acknowledge that several of the discussions for effective statehood are stipulated in Article 1 of the Montevideo Convention. For my country, although we are still conducting a comprehensive review of our policy, we notice that the argument is growing on the criteria provided by the Montevideo Convention only for the determination of the birth of a State rather than a state's distinction.

While several international legal instruments and an abundance of literature and human rights case law, address the situation and status of refugees and stateless persons, nonetheless international law does not explicitly apply to the situation of persons displaced by sea-level rise. We are of the view that the protection of the human rights of persons displaced due to the effects of sea-level rise, should be ensured.

As the first issues paper indicates, we agree with other States that UNCLOS represents a carefully balanced and equitable package of rights and responsibilities and that this balance must be preserved. However, these injustices of climate

change should not be perpetuated by an international legal regime that further disadvantage those affected by the impacts of climate change related sea-level rise. We contend that the response of international law to sea level rise must take into account the interests of those who are especially affected, including small island developing states with the least responsibility for its causes.

Madam Chair,

We are therefore committed to working together to respond effectively to these challenges posed by sea-level rise. This will ensure the sustainable development of

our people, our communities and our culture in the face of climate change related sea-level rise, and it will be just as beneficial for the rest of the international community.

We will continue our engagement in the ILC process on the topic of sea-level rise in relation to international law. We will also work together to respond effectively to other challenges posed by sea-level rise and make further submissions to the ILC

Study Group in its current examination of the sub-topics of statehood, and issues related to the protection of persons affected by sea-level rise.

Fakafetai lasi, I thank you Madam Chair