

**Statement of the European Union and its Member States on Sea Level Rise in Relation to
International Law**

(UNGA 6th Committee, 77th session, 2022)

Ms/Mr Chairperson,

1. The European Union and its Member States have the honour to address the 6th Committee on the topic of Sea Level Rise in relation to international law, which was considered by the international law Commission (ILC) and the progress made is reflected in Chapter IX of its 2022 report.
2. The European Union and its Member States refer to the first issues paper which was presented on 28 February 2020 by the Co-Chairs of the Study Group, setting out the main legal issues of sea level rise in relation to the United Nations Convention on the Law of the Sea and other relevant international law instruments, and to the second issues paper which was presented on 19 April 2022 on the issues related to statehood and the protection of persons affected by sea level rise. The European Union and its Member States would wish to congratulate the co-chairs for this second issues paper.

3. The European Union and its Member States note that there is a need to carefully consolidate results of the work on legal aspects of sea level rise which is to be undertaken during the next quinquennium.
4. At this preliminary stage of our consideration of the topic the European Union and its Member States would like to draw the attention to four points, which the European Union and its Member States consider to be particularly relevant for the law of the sea aspects of the report, as well as in connection with statehood and the protection of affected persons.
5. First, the European Union and its Member States would like to underline once more, as was also reiterated in point 189 of the report, its commitment to the integrity of the United Nations Convention on the Law of the Sea. This Convention is recognised as the “Constitution for the oceans”, and has a central importance in the debate notably as it reflects customary international law. As the European Union has reiterated systematically in preparation of the annual General Assembly resolutions on Oceans and the Law of the Sea, the United Nations Convention on the Law of the Sea sets out the legal framework within which all activities in the oceans and seas must be carried out. Consequently, any deliberations in the report on sea level rise where the International Law Commission examines possible responses to the challenges posed by sea level rise need to be in line with and respect the legal framework established by the Convention.
6. Second, in this context the European Union and its Member States agree with the Study Group, in particular with paragraphs 180 to 183 of its report, that the Study Group should focus on the legal dimension of possible scenarios of sea level rise, as well as distinguish matters of policy from matters of international law in line with the mandate of the international law Commission in general, which consists of progressively developing international law and its codification. This consideration is relevant notably for the discussion on possible alternatives for the future concerning statehood in paragraph 208.
7. Third, the European Union and its Member States would suggest caution regarding the consideration of regional State practices together with the respective *opinio juris* in this context, because universally applicable provisions and principles such as the United Nations Convention on the Law of the Sea need to be applied in a uniform way in all regions of the world, and also because rights of other States - and other actors established outside a particular region - could be unjustifiably affected, like navigational rights and fishing rights without an agreed reciprocal treatment.

Therefore, certain possible emerging regional State practices regarding sea level rise should not lead to the recognition of a regional customary law of the sea rule, and the European

Union and its Member States would encourage the Study Group to build on the State practice and consider the *opinio juris* accepted by all the regions of the world before inferring the existence (or not) of an established State practice or *opinio juris*.

8. Fourth, with regard to the specific questions regarding the revision and the stability of the delineation of maritime areas due to the effects of sea level rise on the coastline, it should be recalled that the principle that “land dominates the sea” is an underlying premise for the attribution of maritime zones. In this respect, baselines remain the basis for the formal establishment of maritime zones under the United Nations Convention on the Law of the Sea. Sea level rise may result in geographical shift of the baselines that have been used for establishing the outer limits of the different maritime zones. We note that the question of whether in these circumstances states are legally obliged to periodically review and update the charts on which straight baselines are shown, or the list of geographical coordinates of the points from which straight baselines are drawn, has been raised. However we also note that there is no express obligation on states under the United Nations Convention on the Law of the Sea to periodically review and update all the charts and coordinates they have drawn (or agreed) and duly published in accordance with the relevant provisions of the Convention. In addition, the European Union and its Member States suggest that there are major legal and policy reasons to recognise the stability provided for by the maritime delimitations established either by treaty or by adjudication.
9. In conclusion, the European Union and its Member States once again congratulate the international law Commission and the reconstituted Study Group for the excellent work done so far on a matter that is of very high importance for the international community as a whole and looks forward to further discussions on all aspects of this delicate issue, account taken of the crucial role vested in the respect for the integrity of the United Nations Convention on the Law of the Sea.

Thank you for your attention.