



**Statement by Mr. Fred Sarufa  
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of Papua New Guinea to the United Nations**

**to the**

**Sixth Committee of the United Nations General Assembly  
Seventy-Seventh Session**

**Agenda Item 77 on the Report of the  
International Law Commission (ILC) on the work of its 73<sup>rd</sup> Session:  
Cluster II - Chapter IX on Sea-level rise in relation to international law**

**1 November 2022, New York,**

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**Distinguished Chair, Excellencies and fellow delegates,**

This being the first occasion for my delegation to interact at this Committee's 77<sup>th</sup> session, I would like to congratulate you, Mr. Chair and your delegation, and the respective Bureau members for your mandates and also for the commendable manner you are steering our work.

Let me also assure you and all other delegations of our constructive support, as we strive together to successfully conclude our work, as scheduled.

We are pleased to align our remarks with the statement made by the distinguished representative of Antigua and Barbuda, as Chair of the Alliance of Small Island States (AOSIS) and later by Samoa as Pacific SIDS Chair, on this topic. We also align with AOSIS Chair's statement it delivered earlier in this Committee on transboundary harm.

**Mr Chair**, my delegation is particularly pleased with the ongoing enhanced level of engagement from the ILC members, not only with this Committee but also bilaterally and with regional entities such as, in our case, the Pacific Islands Forum on our ongoing work on this important topic of sea-level rise in relation to international law. We have found this highly constructive and beneficial and would further encourage this good practice.

We also welcome and thank the members of ILC for their valued and insightful work as reflected in the 2022 Annual Report of the ILC that is before us.

Let me also place on record that my delegation also greatly appreciates the comprehensive, insightful and important contributions as reflected by the Second Issues Paper by the Co-Chairs of the ILC Study Group on sea-level rise in relation to international law, namely Professor Galvão Teles and Mr. Juan José Ruda Santolaria, on issues related to statehood and to the protection of persons affected by sea-level rise.

**Mr. Chair and distinguished colleagues**, Papua New Guinea considers these two subtopics as critically important for the sustainable future for us and for our region, the Blue Pacific Continent. As such, at the Pacific regional level, we are embarking on in depth discussions on this topical agenda with a view to further engage meaningfully in this multilateral process.

In this spirit, my delegation wishes to make remarks on this agenda item in our national capacity.

First on the law of the sea:

We draw attention to the Pacific Islands Forum's Declaration on preserving maritime zones in the face of climate change-related sea-level rise issued by our leaders on 6 August 2021.

The PIF Declaration is not a formal statement on regional customary law and should not be misunderstood or misconstrued as such.

The PIF Declaration is a formal statement of Forum Members' view on how the UNCLOS rules on maritime zones apply in the situation of climate change-related sea-level rise, and is firmly grounded in the primacy of UNCLOS as the enduring legal order for the oceans and seas.

This collective statement — that maritime zones, when established in accordance with UNCLOS, and the rights and entitlements that flow from them, shall continue to apply, without reduction, notwithstanding any physical changes connected to climate change-related sea-level rise — is supported by both UNCLOS and the legal principles underpinning it and is in accord with the observations in paragraphs 104(e) and 104(f) of the First Issues Paper.

We are pleased at the positive responses to the PIF Declaration that have been expressed to us by many members of the international community across different regions.

Second, on statehood.

The Second Issues Paper identifies various sources of international law to describe certain criteria for the creation of a State as a subject of international law. It is important to emphasize that these sources of law relate to the creation and not extinguishment of a State.

These sources of law include the Convention on the Rights and Duties of States, known as the Montevideo Convention. Our delegation's understanding is that the Montevideo Convention was concerned with how an entity becomes a State, not with how an entity might cease to be a State. This understanding is reflected in international historical practice.

We believe that there must be a strong presumption as to the continuity of a State that has been established in international society, and we look forward to further work by the Study Group on this issue.

As noted in Paragraph 162 of the Second Issues Paper, my delegation had previously drawn attention to the fact that preservation of the maritime rights of States is closely linked to the preservation of their statehood, since only States can generate maritime zones. We are pleased to note the reference on this important point in the Second Issues Paper, as well as Paragraph 163 of the Second Issues Paper which notes Papua New Guinea's point on potential situations of *de facto* statelessness.

In our intervention today, we would like to expand on the interlinkages between statehood and rights and entitlements to natural resources.

In this respect, we draw attention to the principle of permanent sovereignty over natural resources, as set forth in General Assembly resolution 1803 (XVII) adopted on 14 December 1962, as a basic constituent of the right to self-determination.

Paragraph 1 declares that "the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned."

Paragraph 7 declares that "violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international co-operation and the maintenance of peace."

While my delegation is continuing to study these declarations, we think that the right to self-determination should include the principle of permanent sovereignty over natural resources as a basic component, and should be considered in the context of the possible legal implications of sea-level rise on statehood and international legal personality.

**Mr. Chair**, thirdly, on the protection of persons affected by sea-level rise.

My delegation greatly appreciates the Co-Chairs' comprehensive mapping of existing legal frameworks potentially applicable to the protection of persons affected by sea-level rise, as reflected in the Second Issues Paper.

Papua New Guinea is supportive of a dual rights-based and needs-based approach, that is to say, international law responses should be adequate and effective to meet the essential needs of the persons affected by sea-level rise with full respect for their rights. In this regard, the duty of international cooperation is a key principle.

We are supportive of further clarification and development of international law in a more specific, coherent, and complete manner in order to achieve an adequate and effective dual rights-based and needs-based framework based on international cooperation to respond to the challenges of the protection of persons affected by sea-level rise.

Going forward, Papua New Guinea is keenly interested in continuing to work with other delegations and the Commission members on this existentially important topic of sea-level rise in relation to international law.

**Mr. Chair**, with your indulgence, may I briefly register in this Committee's current session, Papua New Guinea's preliminary views on the Agenda Item 78 on Crimes against humanity.

Papua New Guinea recognizes the need to prevent and punish crimes against humanity, which are among the most serious crimes of concern to the international community as a whole.

We appreciate the work of the International Law Commission on this important topic, including its preparation of the draft articles on prevention and punishment of crimes against humanity, which serves as a good basis to go forward.

While we note the important contribution made by the Commission in terms of the draft articles, we have also taken note of the concerns raised by other delegations, including in terms of areas of possible improvement and clarification in the draft articles.

For Papua New Guinea, we are open to exploring a process for constructive discussion towards the codification and progressive development of international law in this area.

Such a process, in our considered view, should strive to illuminate key areas of convergence and divergence in a transparent and deliberative manner.

In closing, **Mr. Chair**, my delegation looks forward to engaging positively in this regard.

Thank you!