



Seventy-eighth session of the Sixth Committee, Agenda Item 79 “Report of the International Law Commission on the work of its seventy-third and seventy-fourth sessions”, Cluster I, Chapter VIII “Sea-level rise in relation to international law”.

27 October 2023

Malta Statement delivered by H.E. Mrs. Vanessa Frazier, Ambassador Extraordinary and Plenipotentiary, Permanent Representative.

I thank you Chair,

We studied the Report of the International Law Commission on the work of its seventy-third and seventy-fourth sessions, paying close attention to Chapter VIII included in Cluster I of the 2023 ILC Report, namely “Sea-level rise in relation to international law”. We thank the International Law Commission, and in particular the open-ended Study Group on the topic, for the reconfirmed dedication to further advance in-depth consideration of the legal implications of the phenomenon. We find the report rich and well-articulated in its legal reasoning, and we would like to share the following considerations:

Sea-level rise has a direct impact on people and communities across the globe, constituting a threat to international peace and security. On 14th of February of this year, under Malta’s Presidency of the Security Council, an open debate was held entitled “Sea-Level Rise – Implications for International Peace and Security”. Many delegations echoed the need for legal certainty, for policy development, and for burden sharing to tackle the



phenomenon and to reduce conflicts and security concerns that arise from it.

Regarding the need to ensure legal stability and security, we share the view that *sea-level rise itself* cannot be invoked, in accordance with the Vienna Convention on the Law of Treaties, as a fundamental change of circumstances for terminating or withdrawing from a treaty, which establishes a maritime boundary. Maritime boundaries have the same regime of stability as any other boundaries.

We find these conclusions to be in line with the need to preserve the integrity of UNCLOS and the balance of rights and obligations included therein, as well as with the mandate of the open-ended Study Group which does not enable it to propose modifications to international law, including UNCLOS. In the light of the above-mentioned, we fully support the suggestion made in para 159, Chapter VIII of the Report, for the Study Group to prepare practical guidance or elaborate a set of legal solutions for the preservation of legal stability in the context of sea-level rise.

The issues created by sea-level rise run through the very heart of state sovereignty, with the potential loss of statehood being debated as one of the most severe consequences arising from rising sea-levels. We should spare no effort to ensure that any sovereign nation whose territorial integrity is affected by sea level rise does not lose any existing rights. In this regard, we also take note of the “Declaration on Preserving Maritime Zones



in the Face of Climate Change-Related Sea-Level Rise” as endorsed by the Pacific Islands Forum in 2021, particularly in relation to maritime zones, which, as established and notified to the Secretary-General in accordance with UNCLOS, shall continue to apply without reduction.

We share the view that while a *territory* constitutes a prerequisite for the establishment of a state, *sovereignty* refers to the whole territory under the State’s control and not solely to the land territory. Therefore, a territory that becomes partially inundated or fully submerged due to sea-level rise should not be considered a non-existent territory. We look forward to analyzing the Study Group’s consolidated final report, expected to be issued in 2025, which will also touch upon the matter, and we express our firm belief in the fundamental presumption of the continuation of statehood attested by the ILC itself in its last year’s (2022) Report.

In conclusion Chair,

As a Security Council member and an island state, Malta continues to be committed to ensure that the voices of those States and peoples most affected by the threat of sea level rise are heard and supported, and that peace and security in our ocean and seas are perpetuated. We look forward to the advisory opinions that are to be issued by regional and universal bodies regarding the legal obligations of States with respect to climate change, and we hope that those will contribute to the important work of



**THE PERMANENT MISSION
OF MALTA TO THE UN NEW YORK**



Malta
2023-2024

UNITED NATIONS
SECURITY COUNCIL

International Law Commission on the topic of Sea-level rise in relation to international law.

I thank you.