



## **Statement by the Republic of Cyprus**

### **Report of the International Law Commission Chapter VIII: Sea-level rise in relation to international law Sixth Committee, 78<sup>th</sup> UN General Assembly, 2023**

Mr. Chairman,

Thank you for giving me the floor. Please allow me to congratulate you on your election as a Chair of this Committee and to reaffirm my delegation's full support.

My delegation would like to congratulate the Co-Chairs for presenting the report of the International Law Commission and express its gratitude to the members of the International Law Commission for their valuable work this year. The Republic of Cyprus has consistently supported the work of the Commission and continues to attach great importance to its contributions to the codification of international law.

My delegation wishes to comment on Chapter VIII: Sea-level rise in relation to international law. Firstly, we would like to thank the Co-Chairs of the Study Group on sea-level rise in relation to international law, Mr. Aurescu and Ms. Oral for the preparation of the additional paper (A/CN.4/761) to the first issues-paper, and the selected bibliography (A/CN.4/761/Add.1), on issues related to the law of the sea, as well as for their remarks and proposals that were included in the Commission's report. We appreciate the work of the International Law Commission Study Group to provide legal clarifications as to the possible effects of rising sea levels. Cyprus aligns itself with the statement made by the European Union and its Member States and wishes to make the following additional points:

Cyprus, as an island-State itself, is mindful of the severity of the consequences anticipated from the phenomenon of climate change and climate-induced sea-level rise. Legal stability in relation to sea-level rise, and in particular concerning baselines and maritime zones, is vital for the preservation of the rights of coastal States under international law. We welcome the observations of the Members of the Study Group in paragraph 143 of the report that the concept of legal stability was encapsulated in UNCLOS, including that legal stability contributes to the maintenance of international peace and security. Cyprus is of the view that UNCLOS does not forbid nor exclude the fixing or freezing of baselines, and, in doing so, preserving the maritime zones of coastal States.

Accordingly, we reiterate that coastal States may designate permanent baselines pursuant to Article 16 UNCLOS to withstand any subsequent regression of the low-water line caused by the climate-induced sea-level rise. This position is in conformity with UNCLOS and aims at safeguarding coastal States' legal entitlements in light of the ongoing, worrisome developments generated by climate

change. Moreover, baselines must be permanent and not ambulatory so as to achieve greater predictability on maritime boundaries, in line with UNCLOS and international jurisprudence.<sup>1</sup>

Fixing baselines at a certain point in time by way of maritime delimitation agreement and the decisions of the ICJ, ITLOS and arbitral tribunals, established pursuant to UNCLOS and other means, is also consistent with the Vienna Convention on the Law of Treaties (“VCLT”). In this respect, we are pleased with the observations in paragraph 172 of the report that the principle of fundamental change of circumstances (*rebus sic stantibus*) enshrined in Article 62, paragraph 1, of the VCLT is not applicable to maritime boundaries, because the latter involved the same element of legal stability and permanence as land boundaries, and are thus subject to the exclusion foreseen in Article 62, paragraph 2 (a), of the VCLT. We agree with the Members of the Study Group that the principles of legal stability and certainty of treaties would accordingly support an argument against the use of the principle *rebus sic stantibus* to upset the maritime boundary treaties resulting from the rise in sea levels. Cyprus’ stated position is that the effects of rising sea levels on baselines should have no legal effect on the status of a concluded maritime treaty.

Cyprus, finally, welcomes the observations contained in paragraph 158 of the report and reiterates its position that the Study Group has no mandate to propose modifications to the United Nations Convention on the Law of the Sea (UNCLOS), as well as to the customary nature of the Convention, and in particular on the regime of the islands. In this regard, Cyprus would also like to caution that any interpretation of the applicable rules of international law should be made in conformity with and in full respect of the letter and spirit of UNCLOS.

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I thank you for your attention.

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<sup>1</sup> *Maritime Boundary Arbitration in the Bay of Bengal (India v. Bangladesh)*, Award, 7 July 2014, ¶¶ 214-215: “In the view of the Tribunal, this argument is not relevant. *The issue is not whether the coastlines of the Parties will be affected by climate change in the years or centuries to come.* It is rather whether the choice of base points located on the coastline and reflecting the general direction of the coast is feasible in the present case and at the present time ... *The Tribunal is concerned with the “physical reality at the time of determination. It need not address the issue of the future instability of the coastline.”* (Emphasis added).