



**PERMANENT MISSION OF JAMAICA
TO THE UNITED NATIONS**

INTERVENTION BY

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LEGAL OFFICER

MINISTRY OF FOREIGN AFFAIRS AND FOREIGN TRADE OF JAMAICA

ON THE REPORT OF THE INTERNATIONAL LAW COMMISSION (ILC)

TO THE UNITED NATIONS GENERAL ASSEMBLY

IN THE SIXTH COMMITTEE

SEVENTY-EIGHTH SESSION

OF THE UNITED NATIONS GENERAL ASSEMBLY

CHAPTER IV: GENERAL PRINCIPLES OF LAW

[DATE]

Mr. Chairman, my delegation commends the International Law Commission and Mr. Marcelo Vázquez Bermúdez, Special Rapporteur, for their steadfast commitment to the progressive development of international law and hard work on the topic, “General principles of law.”

Mr. Chairman, my delegation believes that the starting point of this discourse is found in paragraph 1 (c) of Article 38 of the Statute of International Court of Justice, “[t]he Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply the general principles of law recognized by civilized nations.” The essence of this provision has been captured in draft conclusion 1, which acknowledges that general principles of law are indeed one of the sources of international law. Having established this fact, my delegation notes the ILC’s Commentary at paragraph (3) that “[t]he draft conclusions aim to clarify the scope of general principles of law, the method for their identification, and their functions and relationship with other sources of international law.”

My delegation agrees in principle that ‘recognition’ is a necessary criterion for the establishment of a general principle of law as this aligns with paragraph 1 (c) of Article 38 of the Statute of International Court of Justice. We also support the updating of the language of draft conclusion 2 to reflect modern realities so that the provision refers to ‘community of nations’ instead of ‘civilised nations’.

We, would however, request that the Commission elaborate on paragraph (5) of the Commentary to draft conclusion 2, which states that: “The use of the term “community of nations” does not preclude that, in certain circumstances, international organizations may also contribute to the formation of general principles of law.” Without being exhaustive, it is recommended that the Commission, at the very least, identifies examples of such circumstances.

The Jamaican delegation has taken special note of draft conclusion 7, which mentions, at paragraph (1) of “community of nations has recognized the principle as intrinsic to the international legal system.” The Commission has articulated that the international legal system, like domestic legal systems, “must be able to generate general principles of law that are specific to it,” as well as stated, at paragraph (2) of its Commentary, that “nothing in the text of Article 38, paragraph 1 (c), of the Statute of the International

Court of Justice or in its drafting history limits general principles of law to those derived from national legal systems.”

Regarding methodology, the Commission has posited, at paragraph 3 of its Commentary, that “[t]his analysis must take into account all available evidence of the recognition of the principle in question by the community of nations, such as international instruments reflecting the principle, resolutions adopted by international organizations or at intergovernmental conferences, and statements made by States.” As we have not previously viewed general principles of law as being intrinsic to the international legal system, in the manner proposed by the Commission, we wish to further examine this text and the attendant Commentaries before making any final pronouncement thereon. Notwithstanding, to aid us in our deliberations, we query whether the Commission could elucidate the following in the Commentaries:

- (i) any perceived impact that this draft conclusion will or will not have on the future interpretation of Article 38, paragraph 1 (c), of the Statute of the International Court of Justice;
- (ii) how the methodology would be applied so as not to create any overlaps with other sources of international law specifically, customary international law;

In conclusion, we wish to applaud the Commission and Mr. Marcelo Vázquez Bermúdez, Special Rapporteur, on their work over the years as they seek to engage in the progressive development of international law of this topic.



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CHAPTER VIII: SEA-LEVEL RISE IN RELATION TO INTERNATIONAL LAW

[DATE]

Mr. Chairman,

My delegation wishes to express its appreciation to the International Law Commission (“Commission”) for its tremendous work on the progressive development of international law on the topic, “Sea level rise in relation to international law.” We also extend appreciation to the Study Group, co-chaired by Mr. Bogdan Aurescu and Ms. Nilüfer Oral, for its commendable work on issues relating to the law of the sea.

Mr. Chairman, my delegation wishes to echo the sentiment expressed by other states that the states which suffer the most from sea level rise are small island developing states. In the context of Jamaica, the negative effects of sea level rise have been steadily increasing over the years. Evidence has demonstrated that our nation is at risk of losing parts of its territory, cultural and heritage sites as well as human mobility through displacement.

Mr. Chairman, ***The Government of Jamaica Climate Change Policy Framework for Jamaica (Climate Change Policy)***, dated March 2023, indicates that Jamaica’s predicted changes in sea level rise, as of the year 2015, are from 0.28 to 2.8m. Jamaica’s most vulnerable sectors in relation to sea level rise are Agriculture, Water, Coastal and Marine Resources, Human Settlements, and Infrastructure. It has also been predicted that “[b]eaches including coastal lands will be eroded as a result of sea level rise and changing processes that affect the coastline, and fish production will be reduced due to increases in sea surface temperatures and a rise in sea level.”

Mr. Chairman, it is true that the drafters of the United Nations Convention on the Law of the Sea could not have foreseen the rapid changes to our oceans due to climate change and thereby provide for the challenges that are now being faced by the global community in respect of sea-level rise. It has, however, laid down principles by which States may delimit its boundaries and we are of the view that those boundaries, once established, must be preserved, acknowledged and respected even in the context of sea-level rise. To this end, my delegation, wishes to echo prior sentiments of AOSIS before this Committee that states do not have a legal obligation under UNCLOS to maintain baselines and outer limits of maritime zones under review or update charts or list of geographic coordinates after depositing the same with the Secretary-General in accordance with the provisions of the Convention.

Mr. Chairman, my delegation is one of the many states that have adopted legislation to preserve its baselines and maritime zones. Jamaica has promulgated the Maritime Areas Act, which sets out *inter alia* that Jamaica is an archipelagic state, establishes Jamaica’s sovereignty over the archipelagic waters, prescribes its internal waters, territorial waters, exclusive economic zones, contiguous zones and continental shelf.

Accordingly, Jamaica shares the view that preservation of states maritime rights in this regard is deeply connected to the preservation of states' statehood.

Having regard to the subtopic on protection of persons affected by sea-level rise, Mr. Chairman, it is recalled that the Montevideo Convention is generally regarded as outlining the criteria for statehood. However, it does not lay down rules for the continuation of statehood. Notwithstanding, we support the continuity of statehood. My delegation acknowledges that the corpus of international law evinces that, once established, it is difficult for a state to lose its statehood. Still, specific aspects of the criteria could potentially be impacted by sea-level rise notably, defined territory and permanent population. In the case of the latter, there will be implications for the treatment of a displaced population and the need for such persons to maintain connectivity with their homeland while living abroad.

The Jamaican delegation shares the perspective that every effort should be made to ensure that a displaced populace is not rendered stateless. We note that there is a growing body of literature regarding the effects of climate change, such as sea level rise, on the enjoyment of human rights. Noteworthy is that the following rights are particularly affected in this regard: the right to security of the person, the rights to life, right to food and water, health (including mental and physical health), adequate housing, cultural identity and others. My delegation also believes that appropriate regulations are to be put in place to ensure the maintenance of the human rights of such individuals. In this regard, we continue to look forward to the progressive work of the ILC on this matter.

Finally, Chair, my delegation must emphasize the need for international cooperation to adapt to changes and mitigate where possible. We also wish to highlight the need to control global warming levels as a means of staving the steady rise of the sea levels. We believe that this discourse should be shaped by environmental principles as elaborated in the Rio Declaration on Environment and Development such as common but differentiated responsibilities, prioritising the needs of developing and least developed states, particularly those which are most vulnerable, among other relevant principles.