



Statement by the Republic of Cyprus

By Mrs. Maria Michail,

Ambassador,

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at the Sixth Committee

**on agenda item 79: Report of the International Law Commission
Chapter X: Sea-level rise in relation to international law (Cluster 1)**

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Ms/Mr. Chairperson,

My delegation wishes to comment on Chapter X: 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, Ms. Galvão Teles and Mr. Ruda Santolaria, for the preparation of the additional paper (A/CN.4/774), to the second issues-paper, and the selected bibliography (A/CN.4/774/Add.1), on issues related to statehood and to the protection of persons affected by sea-level rise, as well as for their remarks and proposals that were included in the Commission's report. Cyprus aligns itself with the statement made by the European Union and its Member States and wishes to make the following points in relation to the additional paper to the second issues paper, as well as the two issues papers and the additional paper to the first issues paper which were presented by the Co-Chairs of the Study Group in the previous years:

Cyprus, as an island State, directly experiences the effects of climate-induced sea-level rise and recognizes the gravity of its severe consequences on a number of States around the globe, already observable and accelerating. This phenomenon directly threatens the livelihood of States affected, especially low-lying coastal States, archipelagic States, small island States and small island developing States, the land surface of which may potentially be totally or partially submerged or rendered uninhabitable. This, without a doubt, also poses an existential threat to certain States. Moreover, the human cost of sea-level rise is profound, particularly for island States. Millions of people living on low-lying islands are at risk of displacement, as rising seas encroach on their homes and communities. The potential loss of land means the loss of cultural heritage, identity, and even citizenship; a humanitarian crisis that demands urgent international attention.

Cyprus appreciates the work of the ILC Study Group to provide legal clarifications as to the possible effects of rising sea levels on statehood and the protection of persons affected by sea-level rise. On the doctrine of Statehood, Cyprus notes with interest the Study Group's focus on the criteria for the creation of a State as codified in the 1933 Montevideo Convention on the Rights and Duties of States, as well as the Commission's analysis concerning the question of the loss of statehood and the right of each State to preserve its continued existence and independence. We would like to reiterate in the words of late Judge James Crawford that "[a] State is not necessarily extinguished by substantial changes in territory, population or government, or even, in some cases, by a combination of all three."¹

Legal stability is essential, not only in the context of preserving baselines and maritime zones as discussed in relation to the first sub-topic tasked to the Commission, but also with regard to the continuation of statehood and its paramount importance to the maintenance of international peace and security. We would also like to highlight the profound injustice that would entail a possible termination of statehood solely because of the consequences of sea-level rise caused by climate change.

In view of the above, Cyprus subscribes to the need to prioritize legal stability, security, certainty and predictability in international relations, as well as the application of the principles of territorial integrity, sovereign equality of States and permanent sovereignty over natural resources, when ascertaining the legal basis for the continuity of statehood. We particularly wish to highlight the observation made in the Commission's report that the combined application of the Montevideo Convention, the United Nations Convention on the Law of the Sea (UNCLOS) and the Vienna Convention on the Law of Treaties would be useful in this regard. As mentioned in paragraph 368 of report, and Cyprus fully agrees, under the law of the

¹ J. Crawford, *The Creation of States in International Law* (Clarendon Press, 2nd rev. ed. 2006).

sea, once delineated the outer limit of the continental shelf remains permanent regardless of any change to the land to which it was connected, and maritime boundaries are not affected by the successful invocation of a fundamental change of circumstances, in accordance with Article 62 of the Vienna Convention on the Law of Treaties.

Cyprus would like to caution the Commission, however, that the reference in paragraph 355 of the ILC Report to Article 121 of the UNCLOS should be limited strictly by way of substantiation concerning the status of a territory *as territory of a State*, namely that rocks which cannot not sustain human habitation or economic life of their own do still generate territorial sea. However, the Commission should be very careful in drawing any conclusions which would put into question the legal meaning of Article 121 of UNCLOS, according to which a territory which would otherwise not qualify as an “island” within the meaning of this Article may not be considered as such by way of extended construction and other technological applications. Cyprus, thus, does not agree that Article 121 would be a useful guide concerning justification of the continuity of statehood.

Furthermore, with regard to the right of self-determination, the Commission should keep in mind and aim to preserve the special historical and legal contexts of the right of self-determination under international law, and in particular that the principle of self-determination became a principle of international law in the course of the decolonization movement, and has always been applied to situations of colonial rule or foreign occupation.

Ms/Mr. Chairperson,

Cyprus reiterates its position that the Study Group has no mandate to propose modifications to existing international law, including - in relation to the law of the sea - the customary nature of the United Nations Convention on the Law of the Sea and in particular on the regime of the islands. Cyprus refers to its previous Statements in relation to the first issues paper and the additional paper to the first issues paper. We cannot overstate the indispensability of fully respecting UNCLOS in conducting this work and of ensuring full compliance with the Convention. In that regard, we emphasize the central role of the UNCLOS and the need to preserve its integrity and 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.

As we already mentioned, legal stability in relation to sea-level rise is vital for the preservation of the rights of States, including as to the preservation of their baselines and maritime zones. In Cyprus' view, UNCLOS does not forbid nor exclude the fixing or freezing of baselines. 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.

Moreover, baselines must be permanent and not ambulatory so as to achieve greater predictability on maritime boundaries, in line with UNCLOS and international jurisprudence.² We refer you to the same observations contained in this year's Report that we already mentioned, namely that maritime boundaries are not affected by the

² *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).

applicability of the principle of fundamental change of circumstances (*rebus sic stantibus*) enshrined in Article 62 of the Vienna Convention on the Law of Treaties. 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.

We would like to conclude our intervention by commending the ILC on its excellent work in producing the two issues papers as well as the two additional papers which delve into an in-depth analysis on the applicability of the rules and principles of international law in the context of sea-level rise. Cyprus looks forward to the joint final report on the topic, in 2025, consolidating the work undertaken so far.

I thank you for your attention.