



REPUBLIC OF SERBIA

SIXTH COMMITTEE

AGENDA ITEM 79

Cluster I: Report of the ILC on the work of its 75th session

Chp X (Sea-Level Rise in Relation to International Law)

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STATEMENT

by

Professor Dr. Aleksandar Gajić

Chief Legal Advisor

Ministry of Foreign Affairs of the Republic of Serbia

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Madam/Mr. Chairperson,

On behalf of the Republic of Serbia, I have the honour to address the 6th Committee of the General Assembly on the very important topic of the sea-level rise in relation to international law. My country aligns itself with the Statement of the European Union, so I will try to avoid unnecessary repetitions.

Several papers and studies, particularly the report of the Study Group considered by the International Law Commission and the Report of the International Law Commission, contain valuable contributions to the discussion of one of the most important issues on the agenda of the International Law Commission and the 6th Committee. These studies and reports concerning factual and legal issues that need further discussions, are of great value for the determination of the state of international law regarding many aspects of the sea-level rise and could also serve as a good pretext for discussions in political fora to identify interests that need legal protection. Such developments seem necessary in order to achieve security and certainty for all, particularly for the States affected by the sea-level rise the most.

A landlocked country, Serbia is deeply concerned about the consequences of the sea-level rise. We recognize this issue as one of the most significant challenges that must be addressed in the context of climate change, environmental protection and solidarity among States. While Serbia is not directly affected, we acknowledge the far-reaching implications that this phenomenon poses to the international community.

As we consider this topic, it seems that the prevalent position is that there is a strong need to preserve the integrity of the United Nations Convention on the Law of the Sea (UNCLOS). However, UNCLOS does not provide, at least not explicitly, answers to all the concerns we face regarding the sea-level rise. At the time of its

adoption, after the long-lasting Third United Nations Conference on the Law of the Sea, UNCLOS represented a combination of codification and progressive development of international law. Today, most provisions of this “Constitution of the Oceans” seem to reflect the rules of customary international law. We encourage the Study Group and the International Law Commission to provide a clear and unequivocal information of the consequences of the sea-level rise for the international community, particularly for the interests and needs of the most affected States.

In the Statement, aligned to by my country, the European Union and its Member States underline “the need to articulate the work of the ILC, in line with the two global advisory opinions” from the International Tribunal for the Law of the Sea and an expected advisory opinion of the International Court of Justice. However, it should be also emphasized that the International Court of Justice relies frequently on the work of the International Law Commission. While the International Court of Justice is the principal judicial organ of the United Nations, the International Law Commission is the principal United Nations institution for the codification and progressive development of international law. The positions of both Courts need to be carefully considered in accordance with their legal nature and substantive authority.

Now, let me address briefly the statehood in the context of the issues that we are discussing today. In recent history, climate change and, in particular, the phenomenon of the sea-level rise, have not been recognized as being consequential for the status of certain entities (States, for instance) and their boundaries. In other words, no legal norms have been created to deal with the consequences of the sea-level rise for statehood and State boundaries.

With regard to statehood, international legal practice provides no solution to the problem of a sea-level rise. However, it is believed that it is necessary to address the right to existence of States facing a loss of statehood due to the sea-level rise. Frequently, the law does not provide solutions to all challenges that must be addressed in the political process. There is no doubt that this political process needs to be conducted in accordance with the principles and rules of international law, particularly those concerning cooperation under the United Nations Charter. In resolving this very important issue, it must also be emphasized that, in accordance with Article 1 of the United Nations Charter, one of the purposes of our Organization is to serve as a centre for harmonizing the actions of nations in an effort to attain the interests of the international community.

One of the fundamental principles of international law is the protection of the territorial integrity and political independence of States. However, this relates primarily to protection from various unacceptable human activities, such as an aggression or unlawful interference in internal affairs. However, the sea-level rise is completely different in nature and protection of the territorial integrity needs to be considered in the new context.

UNCLOS provisions on straight and normal baselines, as well as their ambulatory nature are well elaborated in the reports. While there are various proposals concerning the preservation of existing baselines, none of the proposed interpretations guarantee an acceptable level of stability and legal security. Solutions such as reliance on the absence of a duty to revise baselines and to provide appropriate notification cannot solve the problem. These can only serve as short- or mid-term solutions until a final resolution is found. It is on the International Law Commission to provide clear guidance as to whether there is a need for the progressive development of the law of the sea in this context.

The need to preserve existing maritime boundaries is promoted by certain States, particularly those gathered in the Pacific Islands Forum. Their legitimate interests need to be recognized. Legal security must be a fundamental component of any future solution to the problem of maritime baselines in the context of the sea-level rise. In that context, we need to consider how to preserve these legitimate interests and also to preserve integrity of the UNCLOS.

Serbia welcomes the ongoing efforts under the umbrella of the United Nations, particularly those of the International Law Commission, to provide an appropriate legal framework for addressing concerns caused by the sea-level rise. The preservation of statehood, territorial integrity and the protection of vulnerable nations are issues of global concern. Serbia stands ready to contribute to these discussions and support the development of international law in order to safeguard the interests of the international community, particularly the legitimate interests and rights of States facing the consequences of the sea-level rise.

Thank you.