

Comments and Observations on the ILC's Topic of "Sea-Level Rise in Relation to International Law" in relation to the Subtopics of Statehood and the Protection of Persons Affected by Sea-Level Rise

Republic of Korea

The Republic of Korea looks forward to the progressive development of international law through the International Law Commission's work on sea-level rise. This will serve as an important basis for finding and developing legal solutions, especially for Member States that are significantly impacted by the sea-level rise. In addition to emphasizing the importance of taking a comprehensive approach, the Republic of Korea stresses that this issue should be addressed from the perspective of *lex ferenda*, not just *lex lata*, to address the emerging challenges in international law.

The Republic of Korea commends the ILC's efforts and the commitment of the ILC members to this topic and is pleased to provide the following information in response to the Commission's request in Chapter III. C. of the Report.

1. In relation to the subtopic of statehood

- (a) information on the practice of States, international organizations and other relevant entities, and other pertinent information concerning:**
- (i) appraisals and/or practice on the requirements for the configuration of a State as a subject of international law and for the continuance of its existence in the context of the phenomenon of sea-level rise**

The Republic of Korea welcomes the perspective of the Study Group, which has suggested that the criteria outlined in the 1933 Montevideo Convention could serve as a foundational starting point for discussions concerning statehood. Korea recognizes that climate change and its consequences, such as sea-level rise, present significantly varied challenges to different states. Specifically, sea-level rise disproportionately impacts small island states and low-lying communities, posing threats to their statehood and sovereignty. In this regard, Korea

is considering this disproportionate impact when it appraises the configuration of a State and the continuance of its existence..

In September 2023, the Republic of Korea assumed a leadership role within the Coalition for Addressing Sea-Level Rise and its Existential Threats (C-SET) and, in January 2024, collaborated with countries from the Group of Champions to present a joint statement¹ at the UN General Assembly's plenary meeting. This statement underscored that no effort should be spared to safeguard the inalienability of the sovereignty and statehood of the affected Member States, affirming that their UN membership must remain secure and unchanged despite sea-level rise. Moreover, as the joint statement highlights, the Republic of Korea asserts the necessity of ensuring legal stability, security, certainty, and predictability amidst the challenges of sea-level rise.

Additionally, in 2022, the Republic of Korea expressed its intention to participate in the Rising Nations Initiative (RNI)² for the vulnerable Pacific Atoll countries, which was initiated by Tuvalu, and, since 2023, has been a financial contributor to the RNI. This needs-driven initiative aims to preserve the continuity of the sovereignty and statehood of the Pacific Atoll countries and safeguard the rights and heritage of their populations.

(ii) appraisals and/or practice regarding the nature of the territory of a State, including therein the land surface and the jurisdictional maritime zones, particularly in the context of the sea-level rise;

The 2021 Pacific Islands Forum (PIF) Declaration on Preserving Maritime Zones in the Face of Climate Change-related Sea-Level Rise³ addresses the issue of climate change-related sea-level rise and its impact on maritime zones. The 2021 Declaration acknowledges that the 1982 United Nations Convention on the Law of the Sea (UNCLOS) did not anticipate sea-level rise at the time of its drafting. However, it emphasizes that the principles of UNCLOS,

¹ Available at https://estatemts.unmeetings.org/estatemts/10.0010/20240116150000000/uYgsvCxavaaq/dw8sssAEx-kuA_en.pdf.

² Available at <https://sdgs.un.org/partnerships/rising-nations-initiative>.

³ Available at <https://forumsec.org/publications/declaration-preserving-maritime-zones-face-climate-change-related-sea-level-rise>

including legal stability, security, equity, fairness, and justice, should still be upheld. The leaders of PIF affirm the commitment of Pacific Island nations to protect their maritime zones despite the challenges posed by climate change. The 2021 Declaration proclaims that maritime zones, established in accordance with UNLCOS, and the rights and entitlements that flow from them, shall continue to apply without reduction, notwithstanding any physical changes connected to climate change-related sea-level rise.

In the 2023 Korea-Pacific Islands Leader’s Declaration, considering the particularly special circumstances faced by the Pacific Islands and their concerns, the Republic of Korea expressed its support for the 2021 Declaration.⁴

- (iii) practice related to the protection of the rights of peoples and communities, as well as to the preservation of their identity, that may contribute with elements or be considered by analogy when addressing the phenomenon of sea-level rise;**

The RNI⁵ embarked on a mission to preserve the heritage of affected populations in Pacific Atoll countries through the implementation of heritage programs. These programs are focused on collecting and digitizing heritage for future generations. Among its initiatives, the RNI operates the Tuvalu Digital Nation State Program to establish a new digital ecosystem. In April 2022, in support of the RNI’s endeavors, the Republic of Korea committed to financially support the RNI, contributing \$200,000 in 2023, with plans to increase its contribution to \$300,000 in 2024.

2. In relation to the subtopic on protection of persons affected by sea-level rise

- (b) information on the practice of States, international organizations, and other relevant entities, as well as other pertinent information concerning:**
 - (i) measures relating to risk reduction specific to the mitigation of the adverse impacts of sea-level rise;**

⁴ See the 2023 Korea-Pacific Islands Leader’s Declaration: “A Partnership in Pursuit of Freedom, Peace and Prosperity for a Resilient Pacific”, 29 May 2023, para 12, available at <https://eng.president.go.kr/briefing/EYexaLA6>.

⁵ Available at <https://sdgs.un.org/partnerships/rising-nations-initiative>.

The Korea Hydrographic and Oceanographic Agency of the Ministry of Oceans and Fisheries, offers visual information on its website about the long-term projections for sea-level rise around the coastlines of the Korean peninsula.⁶ The information was derived by applying the new Shared Socioeconomic Pathways (SSP) from the Intergovernmental Panel on Climate Change (IPCC)'s Sixth Assessment Report. The government of the Republic of Korea is actively using the information as a fundamental basis for addressing the risks posed by sea-level rise, such as harbor flooding and coastal area disasters, and for developing strategies for medium- to long-term adaptation to sea-level rise. /END/

⁶ Available at <http://www.khoa.go.kr/oceangrid/gis/category/observe/observeSearch.do?type=EYS> and select the 'climate change long term sea-level' submenu (second-last item on the left-hand side).