

**Submission from the United States of America to the International Law Commission  
on the topic “Sea-level rise in relation to international law” concerning the subtopics of  
statehood and protection of persons affected by sea-level rise**

July 20, 2023

**Introduction**

The United States welcomes the opportunity to provide this submission in response to the Commission’s request for information on the topic of “Sea-level Rise in Relation to International Law.” The United States extends its appreciation to the Study Group’s co-chairs Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Patricia Galvão Teles, Ms. Nilüfer Oral and Mr. Juan José Ruda Santolaria, as well as to the other members of the Commission who have participated or intend to participate in the Study Group.

The Commission has requested examples from States of their practice that may be relevant in response to various issues concerning the subtopics of statehood and protection of persons affected by sea-level rise. The United States offers the following comments and examples of U.S. practice that may be relevant to the Commission’s work on this topic. The U.S. comments are organized in response to the specific issues identified by the Study Group.

**I. Statehood**

**(a) in relation to the subtopic of statehood, 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 United States notes the qualifications for statehood outlined in the Montevideo Convention on the Rights and Duties of States: (1) a permanent population; (2) a defined territory; (3) government; and (4) capacity to enter into relations with States. The issue of continuance of statehood in the context of sea-level rise raises complex questions related to foundational aspects of international law. Given the lack of applicable State practice in relevant areas, it is difficult to draw definitive conclusions on how international law may develop. The United States is committed to working with other countries to address legal issues of statehood as they arise.

**(iv) practice regarding measures of a different nature adopted by States in relation to sea-level rise in order to provide for their conservation and with respect to international cooperation on the subject;**

In 2022, the United States announced a new policy on sea-level rise and maritime zones, available at <https://www.state.gov/marine-environment/#sea-level-rise> and reproduced below in its entirety:

### **U.S. Policy on Sea-level Rise and Maritime Zones**

Sea-level rise due to climate change poses substantial threats to coastal communities and island nations around the world. The United States believes that sea-level rise driven by human-induced climate change should not diminish the maritime zones on which island States and other coastal States rely, including for food and livelihoods. States should adopt practices that will facilitate the avoidance of such an outcome. The United States recognizes that new trends are developing in the practices and views of States on the need for stable maritime zones in the face of sea-level rise. This is reflected in the approach taken by the members of the Pacific Islands Forum and the Alliance of Small Island States. The United States encourages all States to adopt practices consistent with this approach. The United States applauds the Pacific Island States' initiative to take steps now to determine, memorialize, and publish their coastal baselines in accordance with the international law of the sea as set out in the United Nations Convention on the Law of the Sea.

In support of this important initiative and bearing in mind the Pacific Islands Forum's Declaration on Preserving Maritime Zones in the Face of Climate Change-Related Sea-Level Rise, the United States is committed to preserving the legitimacy of maritime zones, and associated rights and entitlements, that have been established consistent with international law as reflected in the Convention and that are not subsequently updated despite sea-level rise caused by climate change. The United States will work with Pacific Island States and other countries toward the goal of lawfully establishing and maintaining baselines and maritime zone limits and will not challenge such baselines and maritime zone limits that are not subsequently updated despite sea-level rise caused by climate change. We urge other countries to do the same in order to promote the stability, security, certainty, and predictability of maritime entitlements that are vulnerable to sea-level rise.

## **II. Protection of persons affected by sea-level rise**

**(b) in relation to the subtopic on protection of persons affected by sea-level rise, 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;**

The United States publishes a National Climate Assessment, which includes information on impacts, risks, and adaptation related to climate change in the United States, including as relating to sea-level rise. See Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States, available at <https://nca2018.globalchange.gov/>

Information regarding the United States international efforts to assist developing countries in adapting to and managing the impacts of climate change can be found in the PREPARE Action Plan (September 2022), available at [www.whitehouse.gov/prepare](http://www.whitehouse.gov/prepare)