

Chapter IV

Sea-level rise in relation to international law

A. Introduction

30. At its seventy-first session (2019), the International Law Commission decided to include the topic “Sea-level rise in relation to international law” in its programme of work. The Commission also decided to establish an open-ended Study Group on the topic, to be co-chaired, on a rotating basis, by Mr. Bogdan Aurescu,⁶ Mr. Yacouba Cissé, Ms. Patrícia Galvão Teles, Ms. Nilüfer Oral and Mr. Juan José Ruda Santolaria.⁷ The Study Group decided to examine the three subtopics identified in the syllabus for the topic prepared in 2018,⁸ namely: (a) issues related to the law of the sea (to be co-chaired by Mr. Aurescu and Ms. Oral); (b) issues related to statehood (Mr. Ruda Santolaria); and (c) issues related to the protection of persons affected by sea-level rise (Ms. Galvão Teles).

31. At each session from the seventy-second (2021) to the seventy-fifth (2024) sessions, the Commission reconstituted the Study Group. Over that period, the Study Group considered the first issues paper on the topic, on issues related to the law of the sea,⁹ the second issues paper, on issues related to statehood and to the protection of persons affected by sea-level rise,¹⁰ and an additional paper to each issues paper.¹¹ Each paper was issued together with a selected bibliography.¹² The Commission considered and adopted the reports of the Study Group on its work at each session over that period.¹³

B. Consideration of the topic at the present session

32. At the present session, the Commission reconstituted the Study Group on sea-level rise in relation to international law, chaired by three of the Co-Chairs, namely Ms. Galvão Teles, Ms. Oral and Mr. Ruda Santolaria.

33. In accordance with the agreed programme of work and methods of work, the Study Group had before it the final consolidated report of the Co-Chairs of the Study Group on the topic ([A/CN.4/783](#)), prepared by Ms. Galvão Teles, Ms. Oral and Mr. Ruda Santolaria. In the final consolidated report, the Co-Chairs provided a summary of the preliminary observations in the issues papers and the additional papers to the issues papers regarding the three subtopics; a summary of the statements made by States during the most recent debates in the Sixth Committee and of the submissions by States to the Commission; and an overview of recent relevant developments at the international level. The Co-Chairs then presented the following cross-cutting issues and interlinkages between the three subtopics: stability, predictability and certainty; preservation of existing rights; self-determination; permanent sovereignty over natural resources; equity and solidarity; international cooperation; and international law as adaptation. In the conclusion, the Co-Chairs presented reflections and final observations and outlined possible ways forward. A draft final report of the Study Group was contained in an annex to the final consolidated report of the Co-Chairs, and was

⁶ Mr. Aurescu resigned from the Commission in 2024, following his election to the International Court of Justice.

⁷ *Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 10 (A/74/10)*, para. 265.

⁸ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, annex B.

⁹ [A/CN.4/740](#) and [Corr.1](#).

¹⁰ [A/CN.4/752](#).

¹¹ [A/CN.4/761](#) and [A/CN.4/774](#).

¹² [A/CN.4/740/Add.1](#), [A/CN.4/752/Add.1](#), [A/CN.4/761/Add.1](#) and [A/CN.4/774/Add.1](#).

¹³ *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 10 (A/76/10)*, paras. 247–296; *Official Records of the General Assembly, Seventy-seventh Session, Supplement No. 10 (A/77/10)*, paras. 153–237; *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 10 (A/78/10)*, paras. 131–230; and *Official Records of the General Assembly, Seventy-ninth Session, Supplement No. 10 (A/79/10)*, paras. 335–417.

submitted for the consideration of the Study Group. A summary of the deliberations on the final consolidated report of the Co-Chairs is given below.

34. The Study Group, which at the present session comprised 28 members, held six meetings, from 28 April to 5 May 2025.

35. At its 3719th meeting, on 26 May 2025, the Commission took note of the oral report of the Study Group, in which, *inter alia*, the Study Group recommended that the Commission: (a) adopt the draft final report of the Study Group on the topic, which provided useful guidance for States; and (b) conclude its consideration of the topic “Sea-level rise in relation to international law”.

36. At its 3720th meeting, on 26 May 2025, the Commission adopted the final report of the Study Group on the topic “Sea-level rise in relation to international law” and concluded its consideration of the topic. The final report of the Study Group is contained in annex I to the present report.

1. Introduction of the final consolidated report of the Co-Chairs (A/CN.4/783)

(a) Procedure followed by the Study Group

37. At the first meeting of the Study Group, held on 28 April 2025, the Co-Chair (Ms. Galvão Teles) indicated that the purpose of the six meetings scheduled in the session was to allow for an exchange of views on the final consolidated report of the Co-Chairs, and on the draft final report of the Study Group, as contained in the annex thereto.

(b) Presentation of the final consolidated report of the Co-Chairs

38. At the first meeting of the Study Group, the Co-Chairs (Ms. Galvão Teles, Ms. Oral and Mr. Ruda Santolaria) gave a general presentation of their final consolidated report. The Co-Chairs recalled the mandate of the Study Group and emphasized that since 2018, when the Commission had recommended the inclusion of the topic in its long-term programme of work, the importance of the topic had grown for the international community. Attention was drawn to the work of various United Nations organs addressing the topic of sea-level rise, including the high-level plenary meeting of the General Assembly on “Addressing the existential threats posed by sea-level rise”, on 25 September 2024. The Co-Chairs then proceeded, in turn, to introduce the sections of the final consolidated report dealing with each of the three subtopics: issues related to the law of the sea, issues related to statehood and issues related to the protection of persons affected by sea-level rise.

39. The Co-Chair on issues related to the law of the sea (Ms. Oral) reiterated that since the Study Group had begun its consideration of the topic, there had been wide engagement and support on the part of States in the Sixth Committee, with more than 100 States having expressed views on the topic. She noted that a convergence of views had emerged among States across the various regions regarding key issues concerning the law of the sea in relation to sea-level rise.

40. The Co-Chair noted that among such views were the following: that the United Nations Convention on the Law of the Sea¹⁴ did not address sea-level rise as it was not an issue that had been discussed at the time of its negotiation; that the Convention did not prohibit the preservation of baselines and maritime zones; that there was no obligation for States to update baselines on nautical charts to account for changes as a result of sea-level rise; and that the principle of fundamental change of circumstances (*rebus sic stantibus*), as provided for in article 62 of the Vienna Convention on the Law of Treaties,¹⁵ did not apply to maritime boundaries. Furthermore, she recalled recent advisory proceedings on climate

¹⁴ United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982), United Nations, *Treaty Series*, vol. 1833, No. 31363, p. 3.

¹⁵ Vienna Convention on the Law of Treaties (Vienna, 23 May 1969), *ibid.*, vol. 1155, No. 18232, p. 331.

change before the International Tribunal for the Law of the Sea and the International Court of Justice,¹⁶ during which a number of States had referred to sea-level rise in their statements.

41. The Co-Chair noted that the three subtopics were interconnected, and recalled that several States had requested the Study Group to examine cross-cutting issues and interlinkages, such as legal stability, predictability and certainty, the preservation of existing rights, and international law as adaptation. On the basis of the statements and comments from States, legal stability, predictability and certainty had emerged as foundational principles for all three subtopics. The favoured approach was to seek to ensure the preservation of the legitimate rights of affected States. In addressing the effects of sea-level rise, existing international law should be interpreted and applied in such a way as to meet the needs of States and populations that might be affected by the possible adverse consequences of climate change and sea-level rise, in order to ensure legal stability, predictability and certainty, equity and the preservation of existing rights. Such an approach could entail evolutive or adaptive interpretation and consideration of subsequent agreements and subsequent practice.

42. The Co-Chair on issues related to statehood (Mr. Ruda Santolaria) recalled the multidimensional global impact of sea-level rise, which was an existential question for specially affected States, given, *inter alia*, the impact on peoples' lives and livelihoods and on the functioning of States. Regarding the debates in the Sixth Committee, he noted that the majority of States that had taken the floor had considered that article 1 of the 1933 Convention on the Rights and Duties of States¹⁷ dealt only with the creation of States and not with the continuity or extinction of existing States. He also recalled the Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-related Sea-level Rise, issued by the leaders of the Pacific Islands Forum on 9 November 2023.¹⁸

43. The Co-Chair noted that a number of States had linked statehood to self-determination, in that the States most affected by sea-level rise could express their right to self-determination by preserving statehood or by opting for another form of organization. Other States had been more cautious in invoking the principle of self-determination, which they considered applicable principally in the context of decolonization. States had referred to a number of fundamental principles of international law that had not been originally conceived of in relation to sea-level rise, but were nonetheless relevant when analysing the phenomenon. He recalled that at the high-level plenary meeting of the General Assembly, held on 25 September 2024, States had recognized the work of the Commission and expressed their support for the continuity of statehood of the most affected States.

44. The Co-Chair highlighted developments in relation to regional and bilateral declarations and initiatives, including the following: the Declaration of the Heads of State and Government of the Alliance of Small Island States on Sea-level Rise and Statehood, adopted on 23 September 2024,¹⁹ in which the continuity of statehood was recognized as a principle of international law; the Australia-Tuvalu Falepili Union Treaty, concluded in Rarotonga on 9 November 2023;²⁰ the joint communiqué on the reaffirmation of diplomatic relations between Latvia and Tuvalu, signed by the Ministers for Foreign Affairs of the two States in New York on 24 September 2024;²¹ and the launch by the Inter-American Juridical Committee, of the Organization of American States, of a topic entitled "Legal implications of sea-level rise in the inter-American regional context".²² He also referred to the advisory

¹⁶ See <https://www.itlos.org/en/main/cases/list-of-cases/request-for-an-advisory-opinion-submitted-by-the-commission-of-small-island-states-on-climate-change-and-international-law-request-for-advisory-opinion-submitted-to-the-tribunal/> and <https://www.icj-cij.org/case/187>.

¹⁷ Convention on the Rights and Duties of States (Montevideo, 26 December 1933), League of Nations, *Treaty Series*, vol. CLXV, No. 3802, p. 19.

¹⁸ Available at <https://forumsec.org/publications/reports-communique-52nd-pacific-islands-leaders-forum-2023>.

¹⁹ Available at <https://aosis-website.azurewebsites.net/aosis-leaders-declaration-on-sea-level-rise-and-statehood>.

²⁰ Available at <https://www.dfat.gov.au/geo/tuvalu/australia-tuvalu-falepili-union-treaty>.

²¹ Available at <https://www.mfa.gov.lv/en/media/15961/download?attachment>.

²² See https://www.oas.org/en/sla/iajc/docs/CJI-RES_283_CIII-O-23_ENG_rev1.pdf and https://www.oas.org/en/sla/iajc/docs/Legal_Implications_of_Sea-Level_Rise_in_the_Inter-American_Regional_Context.pdf.

proceedings on climate change before the International Court of Justice, during which several States had expressed support for the above-mentioned declarations. Regarding cross-cutting issues, he highlighted the importance of self-determination, including consultation of the affected populations on the measures to be applied, and the relevance of permanent sovereignty over natural resources, which had been linked by several States to statehood, self-determination and the preservation of the territorial integrity of States.

45. The Co-Chair on issues related to the protection of persons affected by sea-level rise (Ms. Galvão Teles) reiterated that existing legal frameworks for such protection were fragmented and non-specific to sea-level rise, and that relevant State practice was sparse at the global level, but more developed in States already affected by the phenomenon. In the debate in the Sixth Committee in 2024, States had discussed the need to examine the adequacy of existing legal frameworks, the principle of human dignity as a guiding principle, and the requirement for a combination of needs-based and rights-based approaches to address the issue effectively. States recognized that there was no binding international legal instrument that specifically addressed climate change-related displacement. Several States called for new bilateral or multilateral legal instruments to strengthen protection for climate-displaced individuals.

46. The Co-Chair further recalled that at the high-level plenary meeting of the General Assembly, held on 25 September 2024, States had reiterated the importance of equity, solidarity and international cooperation as essential principles to address sea-level rise. In relation to the recent advisory proceedings before international courts and tribunals, she noted that issues related to the protection of persons affected by climate change had been raised by several participants in the proceedings before the International Court of Justice, and that the duty to cooperate, non-discrimination and the rights of vulnerable groups affected by climate change had been discussed during the hearings for the proceedings before the Inter-American Court of Human Rights.²³

47. The Co-Chair recalled the cases *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*²⁴ and *Duarte Agostinho and Others v. Portugal and 32 Others*,²⁵ in which the European Court of Human Rights had emphasized the need for effective State action on climate change while clarifying the limitations of individual claims. The final report of the Committee on International Law and Sea-Level Rise, adopted at the Eighty-First Conference of the International Law Association, in June 2024, contained a comprehensive review of key legal issues related to statehood, human rights and international cooperation. On cross-cutting issues, she emphasized the role of equity, solidarity and international cooperation. Lastly, she made several observations reflecting a convergence of views in the Study Group and of States, including the need to develop legal and practical solutions to better protect persons affected by sea-level rise and the need for international cooperation. She also emphasized the role of human dignity as a guiding principle for any action to be taken in the context of sea-level rise, and the importance of consultation with the persons concerned in respect of decisions affecting them.

2. Summary of the exchange of views

(a) General comments on the topic and the final consolidated report of the Co-Chairs

48. Members of the Study Group thanked the Co-Chairs for their work on the topic and congratulated them for producing their final consolidated report, which included a detailed synthesis of the comments from States. Members also thanked the Co-Chairs for their efforts to produce a draft report of the Study Group. Members underscored the relevance of the topic and welcomed the fact that the Commission was working on an issue of paramount importance for States, paving the way for further developments in international law. The

²³ See https://www.corteidh.or.cr/observaciones_oc_new.cfm?nId_oc=2634.

²⁴ European Court of Human Rights, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Application No. 53600/20, Judgment, 9 April 2024.

²⁵ European Court of Human Rights, *Duarte Agostinho and Others v. Portugal and 32 Others*, Application No. 39371/20, Decision, 9 April 2024.

work of the Commission on the topic was timely, and provided evidence of the value of its role and continued commitment to justice, equality, equity, stability and human dignity.

49. Members noted that the work of the Commission on the topic had catalysed the practice of States and had created space for the development of such practice. There had been significant developments in relation to the legal regulation of the effects of sea-level rise since the Commission had first adopted its programme of work on the topic in 2019, including a growing convergence of views among States. The efforts of the Co-Chairs and their engagement with States were welcomed, and such interactions were considered to be a possible model for the Commission in future topics.

50. Members stressed that the Study Group's focus on the legal aspects of the topic had enabled the identification of legal issues and certain general principles, which could be helpful to guide the practice of States and policy decisions. The Commission had been able to record the developments and changes in State practice, in relation to important issues such as the law of the sea, during the period over which the Study Group had been considering the topic. The position of certain States had evolved as the topic was considered, and the work of the Commission could be perceived as having been useful in contributing to the development of international law.

51. However, the view was expressed that the format of a study group as a method of work had imposed certain constraints on the scope of the study of the topic. First, the final work of the Commission consisted of a synthesis of issues and possibilities, whereas the preparation of a concrete instrument could have allowed the Commission to identify in more detail the legal issues arising from sea-level rise. Second, the consideration of the topic within the Study Group did not follow the Commission's traditional methods of work: while the views of the Co-Chairs were detailed in the issues papers and the final consolidated report, the views and nuances provided by other members of the Commission were only summarized briefly in the annual reports, and the final consolidated report of the Co-Chairs had few references to the debates held in the Study Group in previous years.

52. In relation to the final outcome of the Commission's work on the topic, different views were expressed as to whether the Commission should have focused on producing a draft interpretive declaration on the United Nations Convention on the Law of the Sea. According to one view, such a draft interpretive declaration could have been of assistance to States in continuing their work on the topic. Another view was that such an interpretive declaration could hinder further developments in the field and was beyond the mandate of the Study Group. A different view was that it would not have been possible to amend the Convention in time to address the impact of sea-level rise, given the immediacy of the phenomenon and the complexity of the amendment procedure. A further view was that the final work of the Study Group could have also addressed the issue of the modalities that a State could choose to preserve its existence, and the role that international cooperation could play in that regard.

53. It was suggested that the final report of the Study Group should deduce principles and considerations that States could use to continue developing or adapting legal frameworks with regard to the occurrence of sea-level rise. The final report of the Study Group should evidence the developments in the Commission's analysis of the topic and should be presented to States in a practical manner, reflecting the consensus achieved around certain key aspects. Members also considered that the final report of the Study Group should be read in the context of the debates held by the Study Group over the years, separately from the views of the Co-Chairs as reflected in their final consolidated report. The final report of the Study Group should not only focus on actions before other entities, including advisory proceedings and interpretive statements, but also offer solutions to States on the basis of existing frameworks.

(b) Law of the sea

54. Members generally considered that the existing legal framework remained applicable in the context of sea-level rise, and added that the scope of application of such rules could be made clearer.

55. In relation to the question of baselines, it was noted that States had largely considered the notion of fixed baselines. The view was expressed that the United Nations Convention on the Law of the Sea did not require the modification or updating of charts to reflect changes in baselines. It was stressed that, as noted by the Co-Chair in her introduction on issues related to the law of the sea, many States considered that there was no obligation for them to update nautical charts. However, the view was expressed that the absence of such an obligation did not necessarily imply consensus as to whether baselines were fixed. Some members expressed a preference for referring to fixed or final baselines, rather than to the immutability of boundaries. According to another view, the notion of fixed baselines was a consequence of, and not a basis for, legal stability.

56. Furthermore, members of the Study Group emphasized the need to preserve legal stability, which was one of the underlying arguments for the preservation of the maritime entitlements of States affected by sea-level rise. It was suggested that the final report of the Study Group should refer expressly to that connection. Also in relation to the preservation of legal stability, a suggestion was made to refer to the effects of article 76 of the United Nations Convention on the Law of the Sea, according to which the outer limits of the continental shelf established by a coastal State on the basis of a recommendation by the Commission on the Limits of the Continental Shelf were final and binding, and were independent of the question of baselines, even if they had been considered as the basis for initial claims to such areas.

57. Members noted that, as had been observed by the Co-Chair and many States, the principle of fundamental change of circumstances (*rebus sic stantibus*) was not applicable to the provisions of the United Nations Convention on the Law of the Sea in the context of sea-level rise, because, as indicated in article 62, paragraph 2 (a), of the Vienna Convention on the Law of Treaties, the principle did not apply to treaties establishing territorial boundaries. Members also noted that defending such a proposition would run against the importance of legal stability.

58. Some members considered it desirable to clarify some expressions referred to as international legal principles. For example, it was considered crucial to indicate that the principle that “the land dominates the sea” was not absolute and that it should be evaluated in the light of equitable considerations and the stability of boundaries, since it was the coastline, not the land mass itself, that determined the baselines and corresponding maritime entitlements. Some concern was voiced that a reference to that principle might give the impression that loss of land would extinguish entitlements, and it was also welcomed that the draft final report of the Study Group did not include such a reference.

59. Members suggested a cautious approach regarding an adaptive interpretation of the United Nations Convention on the Law of the Sea. By reference to the case law of the International Court of Justice,²⁶ the view was expressed that an evolutive interpretation had a limited application to terms intended to evolve over time, and would not allow for the introduction of entirely new concepts.

60. Members suggested that the proposal of the Co-Chairs to view international law as adaptation could be simplified and brought closer to more established approaches of interpretation. That included subsequent agreements and subsequent practice, as provided for in the Vienna Convention on the Law of Treaties, in addition to the original meaning of the terms of the treaty and taking into account its object and purpose. It was noted that there could be challenges in establishing the existence of a subsequent agreement, as practice was often diverse and contradictory.

(c) Statehood

61. As in previous years, general support was expressed in the Study Group for the continuity of statehood. Members emphasized that, in the context of the preservation of statehood, the principle of cooperation implied a duty for all States. It was noted that non-continuity could have multiple implications, including for international peace and security, existing treaty regimes, the right of peoples to self-determination and the rights of

²⁶ *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, I.C.J. Reports 2009, p. 213.

persons affected by sea-level rise, and for the permanent sovereignty over natural resources enjoyed by the low-lying coastal States and small island developing States affected by the phenomenon.

62. Regarding the legal characterization of the continuity of statehood, it was noted that during the debates on the topic in the Sixth Committee, and in the comments submitted directly to the Commission, some States had referred to continuity as a principle, while others had referred to it as a presumption. It was emphasized that the characterization of continuity of statehood as a presumption could place the burden of proof on the State affected by sea-level rise to demonstrate such continuity, which could be opposed by other States and might give rise to a discussion as to the possible existence of rebuttable and irrebuttable presumptions. Instead, the characterization of continuity as a principle captured a more complex concept that could encompass nuances to adapt to the specific situation of States affected by sea-level rise without creating the challenges and complexities of referring to a presumption.

63. Concerns were expressed about the practical challenges of the total or partial submersion of the land surface of States. Some of the difficulties mentioned included the potential absence of enforcement jurisdiction over a physical area, and challenges for other States as to how to respect the sovereignty of another State in the absence of territory, which could potentially lead to a differentiation between States with and States without a clearly defined territory. Another example of possible practical challenges pertained to the construction of artificial structures within the current limits of areas under the jurisdiction of the State to support the continuity of statehood, and the consequent applicability of special regulations on artificial islands under the United Nations Convention on the Law of the Sea.

(d) Protection of persons affected by sea-level rise

64. As in previous sessions, members agreed that respect for human dignity should constitute a guiding principle in the protection of persons affected by sea-level rise. Members particularly noted that a balanced endorsement of complementary needs-based and rights-based approaches should be favoured and had received support from States in the Sixth Committee. The protection of vulnerable people and their dignity was not merely a moral imperative: positive measures were needed to ensure the enjoyment of human rights. It was suggested that, for the sake of consistency of interpretation and legal certainty, the Commission should recognize dignity as a functional legal principle that allowed for the interpretation of existing obligations in fragmented regimes. It was further suggested that needs-based approaches should be understood as mechanisms for implementing rights-based obligations, in order to ensure that legal legitimacy and operational flexibility operated in conformity with the principle of accountability.

65. Members reaffirmed the significant challenges posed by sea-level rise for the protection of persons, particularly those in vulnerable coastal communities, and considered that such challenges would be more pronounced for developing States and States whose coastlines were more vulnerable to rising sea levels, even if they had contributed the least to the creation of the problem.

66. The view was expressed that the principle of *non-refoulement* was well established in international law, and that it could be relevant to the protection of persons affected by sea-level rise as a guarantee that such persons would not be put at risk. The importance of the consideration of regional practice was also highlighted, and reference was made, *inter alia*, to the Cartagena Declaration on Refugees and its broad definition of refugees.²⁷

67. The view was expressed that in the light of the fragmented and inadequate nature of existing legal frameworks, further development of the international legal framework in a more specific, coherent and complete manner was most needed. Members of the Study Group agreed that there was a need for more specific and widespread State practice on the matter,

²⁷ Cartagena Declaration on Refugees, adopted at the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama: Legal and Humanitarian Problems, held in Cartagena, Colombia, 19–22 November 1984. Available at www.oas.org/dil/1984_Cartagena_Declaration_on_Refugees.pdf.

as it remained sparse at the international level and mostly not specific to sea-level rise. It was noted that some States considered that the Commission's draft articles on the protection of persons in the event of disasters²⁸ were a potential basis for addressing sea-level rise. Some members considered that further examination was required before adopting such route. Specifically, questions would arise as to the legal characterization of sea-level rise as a disaster within the scope of those draft articles, and its possible definition as a slow-onset disaster or as a consequence of human-made climate change.

68. Noting broad agreement on the matter, members acknowledged that the continuity of statehood was crucial in facilitating the protection of affected populations, especially in relation to nationality and institutional continuity. A more nuanced formulation was recommended, however, to avoid insinuating that loss of statehood could potentially entail loss of human rights protection. The view was expressed that, even in the absence of territorial continuity, recognition that human rights obligations continued to be binding and applicable extraterritorially was essential to avoid the exclusion of vulnerable people from the reach of the law.

69. Members reiterated that all States had a legal duty to cooperate with affected States to protect persons affected by sea-level rise. However, the view was expressed that the Study Group should elaborate on the specific obligations that would arise with regard to international cooperation, and on how States could be supported to develop tools to avoid the statelessness of persons affected by sea-level rise. Analysis of the scope of cooperation with regard to persons affected by sea-level rise should focus on the duty bearers of those obligations, with a view to incorporating the principle of cooperation into a more concrete legal framework, which could be implemented and monitored. Certain members affirmed that due consideration should be given to the capacities and resources of both the affected and the assisting States, particularly in the case of developing States.

70. It was noted that risk reduction was central to addressing matters such as the effects of statelessness and internal displacement, and that a preventive approach could be followed. Regarding the protection of Indigenous Peoples as specifically affected persons, it was suggested not to limit the discussion to mechanisms for prior consultation, but also to examine whether the current framework sufficiently protected their rights and identify the potential gaps.

(e) Cross-cutting issues and interlinkages between the subtopics

71. Members exchanged views in relation to various notions that were relevant across all three subtopics. As in past sessions, several members recalled the importance of international cooperation in addressing the effects of sea-level rise. The duty to cooperate appeared in a number of legal instruments, including the United Nations Convention on the Law of the Sea, and in the past work of the Commission on the draft articles on the protection of persons in the event of disasters. Some other members considered that the Commission should not categorize cooperation as a general principle of law, as such categorization should only be done in conformity with the methodology proposed by the Commission in its ongoing work on that type of source of international law.

72. It was noted that one of the aspects of the duty to cooperate pertained to whether there was a duty to assist States affected by sea-level rise. Some members considered that the duty to cooperate did not entail a duty to assist affected States, recalling that the Commission had not made such an assertion in draft article 7, on the duty to cooperate, of the draft articles on the protection of persons in the event of disasters. The view was expressed that the scope of the duty to cooperate should take into consideration the respective capabilities of States.

73. Members stressed the importance of respect for the right of peoples in those States affected by sea-level rise to self-determination. Some members considered that the concept of self-determination could be overly broad and did not necessarily reflect the views of States from all regions. Some members expressed the view that the principle of self-determination was primarily applicable in the context of decolonization, and questioned the extent to which it could be applicable in situations arising from sea-level rise. Other members considered that

²⁸ *Yearbook ... 2016*, vol. II (Part Two), para. 48.

the exercise of self-determination was linked to other concepts, such as the permanent sovereignty of the affected State over natural resources, and that it was applicable to situations beyond decolonization.

74. In relation to equity, members stressed its relevance in the consideration of options to address the effects of sea-level rise, and debated whether it should be qualified as a general principle of law. The view was expressed that equitable considerations needed to be taken into account at all times, in particular in relation to the evolution of statehood and alternatives to the continuity of statehood under international law. Given the various views of both members and States in relation to the precise content and scope of equity, it was suggested that it could be considered as a guiding principle, but not as a customary norm or a general principle of law. It was stated that equity might be addressed in practice only when other legal notions did not provide a specific course of action. It was noted that equitable considerations were referred to in instruments such as the United Nations Convention on the Law of the Sea.

75. Several members referred to the importance of the concept of solidarity in relation to challenges posed by sea-level rise. Some members supported the view that solidarity should be characterized as a principle, as found in various regional instruments, including the Charter of the Organization of American States²⁹ and the African Charter on Human and Peoples' Rights.³⁰ They noted that the concept also played an important role in the context of the law of the European Union. It was recalled that there was ongoing work on the matter within the United Nations context, including the appointment of the Independent Expert on human rights and international solidarity, who had called for a declaration on the right to international solidarity. However, others held the view that categorizing solidarity as a general principle would not be in conformity with the criteria that the Commission had been studying in its ongoing work on general principles of law, as there was insufficient practice of States or judicial decisions that qualified it as a principle.

76. References were also made to the principle of common but differentiated responsibilities and respective capacities, which had been mentioned by the International Tribunal for the Law of the Sea in its advisory opinion on climate change,³¹ and which was at the core of the climate change regime. That principle was also crucial in the context of sea-level rise, as the States that had contributed the least to climate change would suffer the adverse consequences most severely.

C. Tribute to the Study Group and its Co-Chairs

77. At its 3720th meeting, held on 26 May 2025, the Commission, after adopting the final report of the Study Group on sea-level rise in relation to international law, which is contained in annex I to the present report, adopted the following resolution by acclamation:

“The International Law Commission,

Having adopted the final report of the Study Group on sea-level rise in relation to international law,

²⁹ Charter of the Organization of American States (Bogotá, 30 April 1948), United Nations, *Treaty Series*, vol. 119, No. 1609, p. 3.

³⁰ African Charter on Human and Peoples' Rights (Nairobi, 27 June 1981), *ibid.*, vol. 1520, No. 26363, p. 217.

³¹ International Tribunal for the Law of the Sea, Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion, 21 May 2024, Case No. 31.

Expresses to the Study Group and its Co-Chairs, Ms. Patrícia Galvão Teles, Ms. Nilüfer Oral and Mr. Juan José Ruda Santolaria, as well as to the former Co-Chair, Mr. Bogdan Aurescu,¹ its deep appreciation and warm congratulations for the outstanding contribution that they have made in the preparation of the issues papers, the additional papers thereto and the final consolidated report of the Co-Chairs of the Study Group on sea-level rise in relation to international law through their tireless efforts and devoted work, and for the results achieved in the elaboration of the final report of the Study Group on sea-level rise in relation to international law.

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¹ Mr. Aurescu resigned from the Commission in 2024, following his election to the International Court of Justice.”