The United States Mission to the United Nations presents its compliments to the United Nations and has the honor to refer to the Secretariat’s Note No. LA/COD/40 dated 21 August 2019, regarding a request for comments on specific issues that would be of particular interest to the Commission. The United States hereby presents its comments regarding sea-level rise in relation to the Law of the Sea and requests the Secretariat’s assistance in transmitting this response to the International Law Commission.

The United States Mission avails itself of this opportunity to renew to the United Nations the assurances of its highest consideration.

Enclosure: As stated.
The United States welcomes the opportunity to provide written comments regarding U.S. practice relevant to sea-level rise in relation to the law of the sea. The United States extends its appreciation to the co-chairs of the Study Group on Sea-Level Rise in Relation to International Law, Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Patricia Galvão Teles, Ms. Niltifer 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 (even if indirectly) to sea-level rise or other changes in circumstances of a similar nature. 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 rules governing coastal baselines, from which the seaward limits of maritime zones are measured, are set forth in Part II of the Law of the Sea Convention ("Convention"). The United States considers these rules to reflect customary international law.

The normal baseline is the low-water line along the coast, as described in Article 5 of the Convention. The Convention also permits the method of straight baselines, but only where the coastal geography meets certain geographic conditions set forth in Article 7 of the Convention. The United States, as a matter of longstanding practice, uses the normal baseline. This is the practice of the United States even in locations where the coastal geography meets the conditions specified in Article 7.

Certain artificial structures, such as permanent harbor works, can be considered part of the coast for purposes of determining the low-water line from which a coastal State's maritime zones are measured. The U.S. Supreme Court has concluded that structures and installations that are "part of the land", *i.e.* those that "in some sense enclose[] and shelter[] the waters within", constitute part of the coast for purposes of determining U.S. coastal baselines. In contrast, offshore installations, lighthouses that are unconnected to the land, and structures such as open piers that are elevated above the surface of the water (and that do not enclose and shelter the waters within) are not considered part of the coast and, therefore, are not part of the baseline from which U.S. maritime zones are measured.

Under existing international law, coastal baselines are generally ambulatory, meaning that if the low-water line along the coast shifts (either landward or seaward), such shifts may impact the outer limits of the coastal State's maritime zones.

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1 See Convention, Article 11.

The United States conducts routine surveys of its coasts and evaluates potential resulting changes to its baselines. For shifts other than de minimis ones (i.e., shifts that are greater than 500 meters), an interagency baseline committee reviews and approves any changes to the U.S. baselines. In these instances, any associated changes to the outer limits of maritime zones are also made on official charts. The baseline committee also reviews and approves closing lines, such as those drawn across the mouths of bays and rivers.

The United States generally considers maritime boundaries established by treaty to be final. A maritime boundary established by treaty would not be affected by any subsequent changes to the baseline points that may have contributed to the construction of a maritime boundary, unless the treaty establishing the boundary provides otherwise.

The United States recognizes that sea-level rise may lead to increases in inundation and coastal erosion, which may result in changes to baselines and the corresponding limits of a coastal State’s maritime zones. In this regard, the United States supports efforts to protect States’ maritime zones in a manner that is consistent with the rights and obligations of other States. Such efforts could include physical measures for coastal reinforcement, such as the construction of seawalls, and coastal ecosystem protection and restoration. The United States also supports States’ negotiation and conclusion of maritime boundary agreements, as well as the delineation and publication of the limits of their maritime zones in accordance with international law as reflected in the Convention.