

**Pacific Islands Forum
with United Nations Missions**

Australia, Federated States of Micronesia, Fiji,
Kiribati, Nauru, New Zealand, Palau,
Papua New Guinea, Republic of Marshall Islands,
Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.



NY 6/10/4

Dear Secretary of the International Law Commission,

As Chair of the Pacific Islands Forum (the “PIF”) and on behalf of the group, we welcome the decision of the International Law Commission (the “ILC”) to include the sub-topics of “*Sea-level rise in relation to Statehood and to the Protection of Persons affected by Sea-Level Rise*” at its 73rd Session (2022).

We further welcome the ILC’s invitation for submissions relating to the above sub-topics, as outlined under Chapter III of the ILC 2021 Annual Report (72nd Session), and we thank the ILC for outlining the five key areas to guide our responses to the two sub-topics.

Herewith, I am very pleased to convey a **PIF Submission** in response to the ILC’s invitation. Our submission is presented in the form of an “Information Paper” containing four key parts: (1) Introduction; (2) General Comments; (3) Specific Comments; and (4) Concluding Comments.

In addition, the Information Paper is supplemented by several reference documents that are available for access under the following google drive:

<https://drive.google.com/drive/folders/1EWFE2VzMA6vF2Qc7awy4rxIHVPEdRyB9>.

I kindly refer you to the first and second parts of the Information Paper, which clearly articulate the important context and key considerations considered by PIF Members in making this submission.

In particular, and as outlined under paragraphs 14 – 16 of the Information Paper, we are very mindful that these are complex issues of vital importance to PIF Members and the entire global community, and we further note that more time is needed to work through the issues.

In this respect, the PIF group has not had the opportunity to consider a collective position specific to the two sub-topics, although these may be considered in future to assist in responding to these issues.

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Importantly, PIF Members believe that due consideration of these two sub-topics should be guided and informed by applicable principles and norms of international law and relevant international frameworks and standards to address the need for an effective response to the urgent threats posed by sea-level rise.

Against this backdrop, the PIF group highly appreciates the opportunity afforded to all UN Members and relevant partners to provide information on these two critical sub-topics.

We commend the ILC's ongoing study on "Sea-Level Rise in relation to International Law" and we stand ready to provide continued and active support to the Study Group's programme of work for the seventy third session (2022).

Allow me to also seize this opportunity to thank all members of the International Law Commission for their commitment and dedication in discharging their mandate under Article 13 (1) (a) of the United Nations Charter working toward a foundation for peaceful international relations. Our warmest Pacific wishes for a prosperous New Year.

Please accept, the renewed assurances of my highest consideration.

[Signed]



PACIFIC ISLANDS FORUM

SUBMISSION TO THE INTERNATIONAL LAW COMMISSION ON THE SUB-TOPICS OF SEA-LEVEL RISE IN RELATION TO STATEHOOD AND TO THE PROTECTION OF PERSONS AFFECTED BY SEA-LEVEL RISE

31 December 2021

INFORMATION PAPER

A. INTRODUCTION

1. The Pacific Islands Forum (PIF) welcomes the decision of the International Law Commission (ILC) to include the sub-topics of “sea-level rise in relation to statehood” and “the protection of persons affected by sea-level rise” in its current study of the topic “Sea-level rise in relation to International Law”.

2. This submission is a PIF submission of information provided by individual PIF Members as well as relevant regional organisations. It follows the PIF Submissions to the ILC in 2019 on the first sub-topic of “sea-level rise in relation to law of the sea issues”¹, and in 2021 in response to the “First Issues Paper by Bogdan Aurescu and Nilüfer Oral, Co-Chairs of the Study Group on sea-level rise in relation to international law”.

3. This Information Paper attempts to respond to the five areas outlined by the ILC under Chapter III of its 2021 Annual Report (72nd Session), paragraph 26, as follows:

- (a) practice with regard to the construction of artificial islands or measures to reinforce coastlines, in each case in order to take into account sea-level rise;
- (b) instances of cession or allocation of territory, with or without transferral of sovereignty, for the settlement of persons originating from other States, in particular small island developing States, affected by sea-level rise;
- (c) regional and national legislation, policies and strategies, as applicable, regarding the protection of persons affected by sea-level rise;
- (d) practice, information and experience of relevant international organizations and the International Red Cross and Red Crescent Movement regarding the protection of persons affected by sea-level rise;
- (e) measures taken by third States with regard to small island developing States, in particular those affected by sea-level rise, including:
 - (i) modalities for cooperation or association with such States, including the possibility of persons travelling to, as well as establishing residency and developing professional activities in, such third States;
 - (ii) maintenance of the original nationality and/or access to the nationality or citizenship of the third State; and
 - (iii) conservation of the cultural identity of such persons or groups.

¹ https://legal.un.org/ilc/sessions/72/pdfs/english/slr_pif.pdf

4. In responding to the above, this Information Paper is compiled from related information from PIF Members, including the information collated in the following online Compendium: <https://drive.google.com/drive/folders/1EWF2VzMA6vF2Qc7awy4rxIHVPEdRyB9>.

5. For reference purposes, this Information Paper captures PIF responses to the respective areas under two headings:

- Firstly, as **general comments** under Part B; and
- Secondly, as **specific responses and comments** under Part C from individual PIF Members, as well as inputs from regional organisations and international agencies operating in the region.

6. Not all PIF Members have provided specific responses at this time. The specific responses under Part C are therefore non-exhaustive, but demonstrate examples of national and regional practice across the region with regard to the areas outlined by the ILC.

7. Furthermore, it is important to note that the specific responses and substantive assessments under Part C are representative of national practices and positions of individual PIF Members, and therefore do not reflect a collective PIF position on the particular issue, unless stated otherwise.

B. GENERAL COMMENTS

8. The Pacific Islands Forum is an international organisation currently comprised of 18 independent and self-governing states and territories: Australia, the Cook Islands, the Federated States of Micronesia (FSM), Fiji, French Polynesia, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea (PNG), the Republic of the Marshall Islands (RMI), Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

9. Independence, statehood and self-determination have been central to the creation and operation of the Forum since its establishment just over 50 years ago in August 1971. These key tenets are fundamental to advancing Pacific regionalism to address the many challenges facing the Blue Pacific region.

10. PIF Members have been at the forefront of tackling issues such as the protection of persons affected by sea-level rise through climate change and disaster resilience efforts. States such as Kiribati, the RMI, and Tuvalu are taking urgent actions to protect their people who live the reality of climate change and sea-level rise on a daily basis. They represent the plight of our Blue Pacific region against climate change and its impacts.

11. The *Boe Declaration on Regional Security*², endorsed by PIF Leaders in 2018, recalls the principles of good governance, the liberty of the individual under the law, and democratic processes and institutions. It recognises the vulnerability of PIF Members to security threats, as well as the importance placed on an expanded concept of security inclusive of human security, humanitarian assistance, prioritising environmental security, and regional cooperation in building resilience to disasters and climate change, including through regional cooperation and support.

² <https://www.forumsec.org/2018/09/05/boe-declaration-on-regional-security/>

12. In 2019, at their annual meeting held in Tuvalu, PIF Leaders endorsed the *Kainaki II Declaration for Urgent Climate Action Now*, in recognition of the “climate change crisis facing our Pacific Island Nations”³. In 2021, Leaders endorsed the *Declaration on Preserving Maritime Zones in the face of Climate Change-related Sea-level rise*, which recognises “the threat of climate change and sea-level rise as the defining issue that imperils the livelihoods and wellbeing of our peoples and undermines the full realisation of a peaceful, secure and sustainable future for our region”⁴.

13. At the COP26 negotiations in Glasgow, Pacific Islands and Small Island Developing States (SIDS) made a considerable achievement in including onto the agenda of the *UN Framework Convention on Climate Change* (UNFCCC) the issue of the ocean-climate nexus, noting the intrinsic link between the two issues and their significance for SIDS.

14. In considering the two sub-topics of “sea-level rise in relation to statehood” and “the protection of persons affected by sea-level rise”, PIF Members note that these are complex issues of vital importance to PIF Members and the entire global community, and further note that more time is needed to work through the issues.

15. In this respect, the PIF has not had the opportunity to consider a collective position specific to the sub-topics of sea-level rise in relation to statehood and the protection of our people. PIF Members may further consider these issues in the future, particularly relating to the rights of those affected by sea-level rise, to assist in responding to these issues.

16. Importantly, PIF Members believe that due consideration of these two sub-topics should be guided and informed by applicable principles and norms of international law and relevant international frameworks and standards to address the need for an effective response to the urgent threats posed by sea-level rise.

C. PIF MEMBER RESPONSES TO THE ILC REQUEST FOR INFORMATION

PRACTICE WITH REGARD TO THE CONSTRUCTION OF ARTIFICIAL ISLANDS OR MEASURES TO REINFORCE COASTLINES, IN EACH CASE IN ORDER TO TAKE INTO ACCOUNT SEA-LEVEL RISE

Cook Islands

17. There are no artificial islands in the Cook Islands, nor are any currently planned for construction. There are some coastal reinforcement measures used in the capital of Rarotonga, which are intended to protect against erosion, including erosion caused by sea-level rise. These are mostly hard structures such as concrete seawalls, groynes, and rock walls. There is currently one pilot project at a coastal site, using sand filled geotextile bags as a coastal protection measure. Vetiver grass and other vegetation were planted behind the sandbags, so that by the time the sandbags fail, the vegetation will be well established. This semi-nature based solution may become more popular in Rarotonga and on outer islands in future. The *Cook Islands Joint National Action Plan* identifies construction and upgrade of coastal protection structures as a priority action for prevention of flooding and protection against erosion.⁵

³ 2019 PIF *Kainaki II Declaration for Urgent Climate Action Now*, <https://www.forumsec.org/2020/11/11/kainaki/>, preambular paragraph 1

⁴ 2021 PIF *Declaration on Preserving Maritime Zones in the face of Climate Change-related Sea-level rise*, <https://www.forumsec.org/2021/08/11/declaration-on-preserving-maritime-zones-in-the-face-of-climate-change-related-sea-level-rise/>, preambular paragraph 9

⁵ The following sources are also available on the PIF Compendium: Coastal Protection – Best Practices in the Pacific (Chapter 4.1 Selected examples of coastal protection interventions in the Cook Islands), by the Pacific

Federated States of Micronesia

18. The *FSM Code* recognises the jurisdiction of the FSM National Government “with regard to the establishment and use of artificial islands, installations, and structures”⁶. There is also an ancient practice in some parts of the FSM with respect to the construction of artificial islands and similar structures as seats and projections of political power and authority. For example, Nan Madol, a series of artificial islands and coastal structures in FSM built as early as 900 C.E., were the “political and ceremonial centre for the ruling chiefs of the Sau Deleur dynasty [from] 1100-1628.”⁷ The structures are now a UNESCO World Heritage Site and continue to represent chiefly authority of particular groups on the island of Pohnpei in the FSM. Recently, the site was also inscribed as a UNESCO World Heritage in Danger, in part because of the threats posed by sea-level rise, but the traditional authority of the site will persist in perpetuity even if inundated.

Fiji

19. Aligned to its *National Green Growth Framework*, the iTaukei Affairs Board of Fiji, representing the indigenous peoples and local communities, has elevated its participation in Government’s strategic plan by establishing a Conservation Unit whose key tasks include empowering communities to make informed decisions in regard to sustainable development, providing information on villages’ vulnerability against the impacts of climate change, and providing information on adaptation and mitigation programmes to be implemented in order to minimise its adverse impacts.

20. The Fiji Ministry of iTaukei Affairs provides advisory support on National Oceans Policy reform processes through its membership of the following bodies:

- National Oceans Policy Steering Committee
- Protected Areas Committee
- Maritime Affairs Coordinating Committee
- Marine Protected Areas Technical Committee
- Marine Spill Pollution Advisory Committee
- National iTaukei Resources Owners Council
- National Relocation Taskforce
- National Relocation SOP Steering Committee
- Ridge to Reef Project Steering Committee

21. With respect to measures protecting coastlines, the Fijian Government has constructed seawalls in local communities that have been challenged by sea-level rise. These include hybrid seawalls built recently in Viro Village, Ovalau using an ingenious combination of human-made and nature-based solutions to provide protection that is more effective and less expensive than a concrete wall.

Centre for Environment and Sustainable Development and the University of the South Pacific; Te Ipukarea Society sandbag project – <https://www.iucncongress2020.org/newsroom/all-news/coastal-protection-its-bag>; *The Cook Islands 2nd Joint National Action Plan 2016 – 2020*; Umeyama, M. (2012) *Shore Protection against Sea Level Rise and Tropical Cyclones in Small Island States*; and NIWA PACC – Decision support tools for climate-resilient coastal development - Cook Islands Case study available here https://www.sprep.org/attachments/Publications/CC/PACCTechRep12_lr.pdf

⁶ F.S.M. Code, Territory, Economic Zones and Ports of Entry, Title 18 § 105 (2).

⁷ Dr. Billie Lythberg, Nan Madol: “In the Space Between Things”, KHAN ACADEMY, <https://www.khanacademy.org/humanities/ap-art-history/pacific-apah/micronesia-apah/a/nan-madol-in-the-space-between-things> (last visited Nov. 27, 2021).

22. An additional 19 communities have been identified by the Fijian Government for the building of seawalls for the fiscal year 2020 – 2021 as the impacts of climate change become more severe, especially for coastal communities or those in low lying areas.

Nauru

Republic of Nauru Framework for Climate Change Adaptation and Disaster Risk Reduction

23. The *Republic of Nauru Framework for Climate Change Adaptation and Disaster Risk Reduction* represents the Government of Nauru’s response to the risks to sustainable development posed by climate change and disasters.⁸ It clearly articulates immediate priorities relating to climate change adaptation and disaster risk reduction, and provides a general framework for longer term planning and programming of climate change adaptation and disaster risk reduction activities, including guidance on their mainstreaming in national and sectoral development policies.

24. The Framework recognises that “[s]ea level rise threatens to increase saltwater intrusion into precious groundwater reserves as well as to exacerbate coastal erosion and flooding during storm events. Changes in rainfall patterns will likely affect water scarcity, while important fish resources may be affected by changes in ocean temperature and acidification”.

25. Priority actions in the infrastructure and coastal protection sector relate to reducing coastal risks to key infrastructure and reducing flooding occurrence and intensity. Specifically, “develop[ing] an Integrated Coastal Zone Management Plan (as part of a Nauru Land Use Plan), identifying priority areas for reinforcement/protection, adjustments in land management, and possible relocation needs for specific high risk assets”⁹.

Republic of the Marshall Islands

National Strategic Plan 2020 – 2030

26. The *National Strategic Plan 2020 – 2030*¹⁰ sets out one of RMI’s goals for sound, resilient, efficient public facilities for sustainable social and economic development and well-being. A related policy objective is for well-designed, built and maintained public facilities including roads, runways, buildings, amenities, schools, dispensaries, and seawalls.

27. The Plan notes that further analysis is required to ensure that the RMI reaps the greatest possible benefit from infrastructure development. Planning will help to avoid the negative impact of poorly planned infrastructure such as coastal erosion, pollution and other negative impacts. Building an effective, integrated, maintained and sustainable infrastructure is needed to improve overall infrastructure resilience in the RMI.

28. The Plan further notes that the RMI will integrate climate-sensitive approaches to existing laws and planning processes and will work with individuals and communities at all levels to improve natural resource management and mitigate the impacts of climate change and other environmental hazards.

⁸ Republic of Nauru Framework for Climate Change Adaptation and Disaster Risk Reduction, <https://nauru-data.sprep.org/resource/ronadapt-2015>

⁹ Republic of Nauru Framework for Climate Change Adaptation and Disaster Risk Reduction, page 49

¹⁰ <https://www.rmieppo.org/national-plan/rmi-national-strategic-plan>

29. The RMI does not have a consistent practice for the construction of “artificial” islands, but coastal and island strengthening through “hard” structural interventions is one planning consideration of national adaptation strategies, including in urban areas, as the atoll nation has an average of between one to two meters (in the range of long-term sea-level rise projections). Measures to reinforce coastlines would be addressed in part through the *Coast Conservation Act 1998*¹¹ as well as the *Ministry of Environment Act 2018*¹². The practice of modern-era coastal reinforcement or structural alternation dates back to the early post-WWII era and US military actions, and has since been a consistent factor in the subsequent growth of population centres. However, such structural measures can also result in a range of negative environmental impacts.¹³ As a general observation, sea-level rise poses complex planning, implementation and policy challenges in an atoll environment.

Samoa

30. The *Samoa Ocean Strategy 2020 – 2030* refers to the goal of finalising its EEZ boundaries by 2025 and highlights the “importance of preserving Members’ existing rights stemming from maritime zones, in the face of sea level rise, noting the existing and ongoing regional mechanisms to support maritime boundaries delimitation. Samoa, with the Blue Pacific, has committed to a collective effort, including to develop an international law with the aim of ensuring that, once a Forum Member’s maritime zones are delineated in accordance with the UNCLOS, the Member’s maritime zones could not be challenged or reduced as a result of sea-level rise and climate change”.¹⁴

31. The *Samoa Climate Change Policy 2020*¹⁵ acknowledges that “the Pacific Island leaders have recently affirmed that climate change represents the single greatest threat to the livelihoods, security and wellbeing of the peoples of the Pacific. They are concerned about the impacts of natural disasters, exacerbated by climate change, on Pacific peoples’ social, economic, cultural and environmental wellbeing, increasing the burden and risk of [the region’s] security”. It is also noted that “Government has made it clear that adapting to climate change impacts will continue to be ‘the major occupation and priority policy determinant for Samoa well into the future’ and that it was ‘an urgent crisis, which dwarfed all others’”¹⁶.

32. Relevant laws include the *Constitution of the Independent State of Samoa*, the *Maritime Zones Act 1999* (as amended in 2004 and 2015), the *Fisheries Management Act 2016*, the *Maritime Zones Order 2017*, and the *Marine Pollution Prevention Act 2008*.¹⁷

Solomon Islands

33. A permanent concrete seawall was developed at Tulagi to protect the coastline from impacts of sea-level rise. Semi-permanent seawalls have been constructed by individuals throughout the country at their private sea fronts. Building of artificial islands as means of

¹¹ http://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/1988/1988-0013/CoastConservationAct1988_1.pdf

¹² https://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/2019/2019-0108/MinistryofEnvironmentAct2018_1.pdf

¹³ Also refer 2020 National Adaptation Communication, available here: https://unfccc.int/sites/default/files/resource/RMI-AdaptationCommunication_Dec2020.pdf

Also refer Adapting to rising sea levels in Marshall Islands, available here: <https://storymaps.arcgis.com/stories/8c715dcc5781421ebff46f35ef34a04d>

¹⁴ https://www.mnre.gov.ws/wp-content/uploads/2018/11/Samoa-Ocean-Strategy_2020-2030.pdf

¹⁵ <https://www.mnre.gov.ws/wp-content/uploads/2021/03/Samoa-Climate-Change-Policy-2020-2030.pdf>

¹⁶ <https://www.mnre.gov.ws/wp-content/uploads/2021/03/Samoa-Climate-Change-Policy-2020-2030.pdf>

¹⁷ <http://www.palemene.ws/new/parliament-business/acts-regulations/>

coastal protection is a normal practice of the people of Malaita Province, particularly, in parts of the Lau lagoon in the North, Walande in the South, East Are'are in the East, and Langa langa lagoon in the west of the province. Planting of trees and mangroves for coastal protection is being encouraged where appropriate.

Tuvalu

TE KETE – Tuvalu National Strategy for Sustainable Development 2021 – 2030

34. Under TE KETE's Strategic Priority Area 1 – Enabling Environment, climate change is listed as National Outcome 4 (Climate Change and Disaster Resilience Increased). Given the status of Tuvalu as a fragile and vulnerable atoll nation, it may be among one of the first nations to disappear under the rising seas. Thus, National Outcome 4 seeks a greater degree of security not only from climate change but also from the impacts of disasters by increasing Tuvalu's adaptive capacity through enhanced levels of financing from global climate funding sources and high-tech innovative development measures like large-scale land reclamation.

35. Some of the key outcome results under TE KETE include the following:

- (a) develop a long-term national adaptation strategy, including a staged land reclamation programme that takes into account a worst-case scenario of sea levels around Tuvalu rising by one meter by 2100;
- (b) secure increased funding from global climate financing facilities;
- (c) develop effective frameworks for disaster risk and resilience management; and
- (d) implement a land rehabilitation and reclamation framework that is resilient to sea-level rise and climate change impacts.

Tuvalu Coastal Adaptation Project (TCAP)

36. Co-financed by the Green Climate Fund (GCF) and the Government of Tuvalu, this 7-year project (launched in August 2017 and lasting until 2024) contributes to strengthening Tuvalu's resilience as one of the countries most vulnerable to climate change and sea-level rise. The project is intended to improve coastal protection in key locations on the islands of Tuvalu. These new measures not only act as a buffer during storms, but also build the capacity of national and island governments and local communities in adapting to climate change over the long term.

Constitutional Review Parliamentary Select Committee

37. The Committee has endorsed the recommendation to include in the Constitution provisions declaring Tuvalu's Statehood and maritime zones, and related rights and entitlements, as permanent regardless of the impacts of climate change and sea-level rise.

Regional

Regional commitments

38. As it relates to the issue of climate change-related sea-level rise, maritime zones and coastlines, Forum Members have been at the forefront of oceans governance instruments, including as follows:

- *2010 Framework for a Pacific Oceanscape – Our sea of islands, our livelihood*, adopted by the PIF, calls upon States to address their baselines that are vulnerable due to sea-level rise;
- *2014 Palau Declaration on The Ocean: Life and Future*, adopted by the PIF, calls for strengthened regional efforts to fix maritime baselines and boundaries to ensure that the impacts of climate change and sea-level rise do not result in reduced jurisdiction;
- *2015 Taputapuātea Declaration*, made by the 8 Members of the Polynesian Leaders Group¹⁸, underlines the importance of the permanency of established baselines without taking account of sea-level rise;
- *2018 Delap Commitment*, signed by 8 Pacific Islands Leaders of the Parties to the Nauru Agreement¹⁹, agrees “to pursue legal recognition” that “the defined baselines established under United Nations Convention on the Law of the Sea (UNCLOS) remain in perpetuity irrespective of the impacts of sea level rise”.

39. The 48th PIF Communique in 2017²⁰ called for a united regional effort that established and secured international recognition of the permanent protection and integrity of the maritime zones and sovereignty from the impacts of climate change and sea-level rise.

40. The 50th PIF Communique in 2019²¹ reaffirmed the importance of preserving Forum Members’ existing rights stemming from maritime zones in the face of sea-level rise. Forum Leaders committed to a collective effort, including the development of international law, with the aim of ensuring that once a Forum Member’s maritime zones were delineated in accordance with the Convention, that the Member’s maritime zones could not be challenged or reduced as a result of sea-level rise and climate change.

41. Consequently, the 2021 PIF *Declaration on Preserving Maritime Zones in the face of Climate Change-related Sea-level rise* records the PIF position that maritime zones, once established in accordance with UNCLOS and notified to the Secretary-General of the United Nations (UN), will be maintained as such, along with rights and entitlements flowing from them, without reduction notwithstanding any physical changes connected to climate change-related sea-level rise.

42. The Declaration is firmly based and grounded on the primacy of UNCLOS. It clarifies our interpretation of UNCLOS as it stands, and represents our formal collective view on how UNCLOS rules on maritime zones apply in the situation of climate change-related sea-level rise, a view which is supported by the Convention and its underpinning legal principles, including those of stability, security, certainty and predictability.

43. Preserving maritime zones in the manner set out in the Declaration contributes to a just international response to climate change-related sea-level rise and towards the goal that our legal entitlements as sovereign nations are not lost nor challenged due to sea-level rise.

¹⁸ American Samoa, Cook Islands, French Polynesia, Niue, Samoa, Tokelau, Tonga and Tuvalu.

¹⁹ FSM, Kiribati, Nauru, Palau, PNG, the RMI, Solomon Islands, and Tuvalu.

²⁰ Forty-Eighth PIF Communique (2017), https://www.forumsec.org/wp-content/uploads/2018/02/Final_48-PIF-Communique_2017_14Sep17.pdf, paragraph 10

²¹ Fiftieth PIF Communique (2019), <https://www.forumsec.org/wp-content/uploads/2019/08/50th-Pacific-Islands-Forum-Communique.pdf>, paragraphs 25 – 26

44. Fiji's *Climate Change Act 2021* is a most recent state practice that recognises by law the permanence of Fiji's maritime boundaries and maritime zones notwithstanding the effects of climate change and sea-level rise, aligned to the PIF position in the 2021 PIF Declaration.²²

Regional projects

45. There are several projects in the region supported by development funding assistance. For example, the Pacific Regional Infrastructure Facility, hosted by ADB Sydney, developed in 2017, in collaboration with a host of regional partners, the following guidelines on coastal protection: (1) Affordable Coastal Protection in the Pacific Islands (2017)²³, and (2) Guidance for coastal protection works in Pacific island countries (2017)²⁴.

46. Under the GCF Tuvalu TCAP, the SPC has worked with the UN Development Programme to develop a science-based, risk-informed approach to developing coastal protection strategies, including proposed land reclamation.²⁵ National scale high resolution, accurate baseline data (lidar), now enable the assessment of risks at national scale for Tuvalu and support for long-term adaptation strategy like never before. TCAP is looking at extending and elevating land in lagoons and establishing beach top barriers on the ocean coastlines in Tuvalu. A beach top barrier uses sand and geotextile to elevate the beach berm as strengthening one of the major natural coastal defence.

47. The EU Global Climate Change Alliance Project funds a number of major coastal protection initiatives in small, low-lying Pacific SIDS.²⁶ A relevant study conducted in Lifuka, Ha'apai, Tonga in 2014 outlined the zones vulnerable to hazards in Lifuka and suggested a number of strategies for solutions or adaptation options, including managed retreat.²⁷

48. The World Bank is currently funding work to investigate coastal adaptation in atolls (led by DELTARES in the Netherlands). The RMI and Netherlands have signed an MOU to this effect.²⁸ Furthermore, the World Bank Pacific Resilience Program (PREP)²⁹ established in 2016 funds a series of projects to strengthen early warning and resilient investments of participating countries.

INSTANCES OF CESSION OR ALLOCATION OF TERRITORY, WITH OR WITHOUT TRANSFERRAL OF SOVEREIGNTY, FOR THE SETTLEMENT OF PERSONS ORIGINATING FROM OTHER STATES, IN PARTICULAR SMALL ISLAND DEVELOPING STATES, AFFECTED BY SEA-LEVEL RISE

Cook Islands

49. There are no instances of cession or allocation of territory in the Cook Islands for the settlement of persons originating from other States affected by sea-level rise. The customary land tenure system of the Cook Islands, combined with the potential future need to relocate

²² Section 80(1)-(2), Climate Change Act 2021 (Fiji)

²³ <https://www.theprif.org/document/regional/coastal-protection/affordable-coastal-protection-pacific-islands>

²⁴ <https://www.theprif.org/document/regional/coastal-protection/guidance-coastal-protection-works-pacific-island-countries>

²⁵ <https://tcap.tv/>

²⁶ Some of this has been captured and is available for example for the RMI on this website <http://ccprojects.gsd.spc.int/climate-change-coastal-protection/>

²⁷ https://www.spc.int/DigitalLibrary/Doc/GSD/GEM_Public_Reports/Lifuka_C_1.0_Coastal_hazards.pdf

²⁸ <https://www.dutchwatersector.com/news/deltares-and-marshall-islands-work-together-on-battle-against-climate-change>

²⁹ <https://projects.worldbank.org/en/projects-operations/project-detail/P147839?lang=en>

Cook Islanders who reside in the low-lying Northern Group atolls, makes such allocations unlikely in the near future.

REGIONAL AND NATIONAL LEGISLATION, POLICIES AND STRATEGIES, AS APPLICABLE, REGARDING THE PROTECTION OF PERSONS AFFECTED BY SEA-LEVEL RISE

Federated States of Micronesia

50. Helping its population remain in their island homes is a major priority of the FSM. In its *Nationwide Climate Change Policy*, the FSM “reaffirms ... its people’s rights and desire to continue to live sustainably on their islands.”³⁰ Additionally, in its *Nationwide Integrated Disaster Risk Management and Climate Change Policy*, the FSM states its goal to “prevent environmental migration through adaptation strategies”³¹.

51. In implementing adaptation, the FSM lays out a number of common principles to be followed: Both the FSM’s *Disaster Risk Management and Climate Change Policy* and *National Disaster Response Plan* emphasise the need for coordination between national, state, and local actors and across multiple sectors.³² The FSM also calls for a “[h]olistic, integrated, community and ecosystem based ‘ridge to reef’ approach to risk reduction and national resources management,” as well as “[s]pecial attention to gender issues and the needs of marginalized groups.”³³ Furthermore, the FSM incorporates climate change adaptation, like “climate-proofing” coastal infrastructure, into its *Strategic Development Plan*.³⁴

52. The *Constitution of the FSM*³⁵ enshrines the right of citizens or persons to migrate within the borders of the State, a right that is particularly critical in the face of displacement induced by climate change, including sea-level rise and inundation of atolls and low-lying atolls in the FSM.

Fiji

53. Apart from the Constitution, Fiji’s *Marine Spaces Act 1997* also speaks to the sovereignty of the country beyond its land territory and internal waters, its archipelagic waters and territorial seas, and this sovereignty also extends to Fiji’s airspace, seabed and subsoil³⁶.

54. Fiji has also put in place various policies and frameworks to address the adverse impacts of climate change, including sea-level rise, in relation to the possible displacement of people and communities. For instance, the *National Climate Change Policy 2018 – 2030* (NCCP), which has now been encapsulated under the *Climate Change Act 2021*, highlights strategies to reduce climate change-related impacts on human well-being and national sovereignty through robust regional and international policy.

55. In particular, human mobility is established as a priority human security and national security issue and prioritises the need for legal frameworks, policies and strategies to manage climate and disaster-induced displacement to protect human rights and reduce long term risks,

³⁰ *Nationwide Climate Change Policy 2009*, sec. I (Micr.).

³¹ *Nationwide Integrated Disaster Risk Management and Climate Change Policy*, 2013 (Micr.).

³² *Nationwide Integrated Disaster Risk Management and Climate Change Policy*, 2013, at 2 (Micr.); FSM *National Disaster Response Plan 2016*, at 6.

³³ *Nationwide Integrated Disaster Risk Management and Climate Change Policy*, 2013, at 2 (Micr.).

³⁴ FSM’s *Strategic Development Plan (2004-2023)*, Ch. 7, ¶ 61.

³⁵ CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA, art. IV, sec. 12.

³⁶ Section 9 (1) – (3), *Marine Spaces Act 1977* (Fiji)

through planned relocation, relevant resourcing and national policies and strategies as a form of adaptation. The NCCP also speaks to cross-border migration issues and acknowledges the UN and the Global Compact for Safe, Orderly and Regular Migration as useful guides to address this issue.

56. The NCCP also looks to the UN Security Council and the need to include climate change-related security threats, ensuring that the climate-security nexus is elevated and addressed appropriately within the global security dialogue.

57. Fiji also has developed a *Displacement Guideline in the Context of Climate Change and Disasters* and *National Adaptation Plan* to address climate change in relation to sea-level rise and the relocation of communities affected. Fiji also adopted the *National Ocean Policy* in early 2021, further encompassed under the *Climate Change Act 2021*, and the Government is guided by broader its *National Green Growth Framework* ensuring sustainable solutions to address climate change-related challenges across the board.

58. It is also important to note the constitutional provisions relating to sovereignty and statehood. The *Constitution of the Republic of Fiji* provides that “[e]very person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations”³⁷. Drawing similarities with other Pacific Island States, the *Constitution of the Independent State of Papua New Guinea*, for instance, provides that “The sovereignty of Papua New Guinea over its territory, and over the natural resources of its territory, is and shall remain absolute, subject only to such obligations at international law as are freely accepted by Papua New Guinea in accordance with this Constitution”³⁸.

59. Fiji’s *Climate Change Act 2021* provides a conducive legal framework for addressing the climate emergency in Fiji. It encapsulates the broad obligations of various in-country actors, including the Ministry of iTaukei and iTaukei Institutions, in the fight against the devastating impacts of climate change and sea-level rise. Consideration must also be given to the indigenous people and local communities. In Fiji, the custodianship rights of indigenous peoples and Rotuman of their land is paramount, as legally recognised in the Act.

60. Holistically, it is obvious that the rapid occurrence of sea-level rise has a massive impact on the lives of rural communities with respect to their socio-economic, cultural and environmental welfare and wellbeing. The looming impacts of climate change-related sea-level rise will have unprecedented repercussions on the sources of livelihoods of 1010 Coastal iTaukei communities at the backdrop of dwindling marine and terrestrial resources to meet the demands of an increase in population in the long term.

61. Reinforcing the preservation and practicality of Traditional Knowledge and Expression of Culture is pivotal and can provide a solid foundational platform that can inform mitigation and adaptation actions against the impacts of climate change-related sea-level rise at national level and the perceived implications on persons affected by it in the long term. A national level refocus on Fijian context and methods is feasible. Building on country specific know-how provides a unique opportunity for nationwide improvisation in the following areas:

- Nationwide advocacy and awareness on Traditional Knowledge

³⁷ Constitution of the Republic of Fiji, <https://www.laws.gov.fj/Home/information/constitutionoftherepublicoffiji>, section 40(1)

³⁸ Constitution of the Independent State of PNG, http://www.paclii.org/pg/legis/consol_act/cotisopng534/, section 2(2)

- Use of Traditional Structural Designs
- Traditional Food Preservation to address Food Security
- Sustaining the Fijian “Tabu” concept through Traditional Local Marine Managed Areas
- Establishment of Yaubula Committees (Village, District, Provincial) to oversee and monitor climate change-related issues

62. Fiji’s climate change adaptation measures, which try and deal with the current and future impacts of climate change, include a wide range of actions. Relocation is probably the most drastic step one can take as rarely do people want to move from places where they have grown up and which provide them with sustenance. However, if the risks are too great and will impact not just on the livelihoods but on the very existence of communities, relocation is a sensible option. This needs to be done in a manner that ensures long-term survival, options for economic activity and with due regard to the support and services for the relocated communities. Fiji strongly believes in the development of alternative sustainable livelihoods options backed by a combination of traditional knowledge and modern science to cushion long-term pressures on current resource stock.

63. In total, there have been 4 local communities that have been relocated in Fiji, with another 80 communities being earmarked for relocation due to sea-level rise and other adverse impacts of climate change. Displacement and relocation of persons within a State is another issue that needs to be addressed, ensuring that their rights are protected and that their security is guaranteed when moving into new communities where social issues and potential conflicts over limited resources can arise.

Universal Periodic Review (UPR) Report 2019

64. Fiji launched its first *National Adaptation Plan* at COP24. The Plan outlines progressive strategies to ensure an inclusive, systematic and strategic approach to climate adaptation and building disaster resilience such as building seawalls and relocating communities threatened by rising seas, and strengthening Fiji’s infrastructure through improved building codes to withstand extreme weather events that are becoming more frequent and intense.

65. COP24 also saw Fiji launch the first ever *Planned Relocation Guidelines*. The Guidelines provide a blueprint that inculcates a human rights approach in relation to relocation processes, ensuring proper coordination between various agencies, sensitising the process to issues of marginalisation particularly in relation to vulnerable groups such as women, children, the elderly and those living with disabilities.

66. Fiji recognises the value of a human rights-based approach in ensuring recognition and protection of the richness of indigenous knowledge, the multi-cultural and interfaith composition of the Fijian population, when addressing communities experiencing uncertainty about their future due to climate change.

Palau

67. The National Climate Change Coordination Committee (NC4) and its Working Group were established in 2017 to mainstream the Action Plan of the *Palau Climate Change Policy: For Climate and Disaster Resilient Low Emissions Development*³⁹, including inter alia the following areas of focus:

³⁹ <https://library.sprep.org/sites/default/files/Palau-climate-change-policy-resilient.pdf>

- Strengthening resilience within vulnerable communities through innovative financing for relocation and/or climate proofing; and
- Establishing relocation/displacement or emergency support program for vulnerable members of society.

68. Climate change-related sea-level rise has necessitated urgent action to protect our access to health care services. The current location of the Belau National Hospital is along the coast and is accessed by a majority of Palau’s population by a single causeway. Access to the Hospital will cease should storm surge damage the causeway. Structurally, the Hospital is also exposed to sea-level rise and storm surge as its highest point is about 6 feet above sea level. Consequently, the Office of the President established *Executive Order No. 461* in 2021 to constitute the Belau National Hospital Relocation Committee that is tasked to evaluate new locations which are more resilient to climate change, access financing, and navigate continuity of care issues in order to relocate the National Hospital inland away from coastal hazards.

Papua New Guinea

69. A well-known and clear example in PNG of the impact of sea-level rise and displacement and relocation in-country relates to the relocation of the people of Carteret Islands in PNG’s Bougainville Autonomous region, often dubbed as “the world’s first climate change refugees”. It reflects how efforts have been made not only by national and sub-national level authorities, but also between the Government, local land owners in mainland Bougainville, and also the civil society, particularly the Catholic Church, in facilitating relocation of those affected by sea-level rise in the Carteret Islands.

Republic of the Marshall Islands

70. National policies regarding the protection of persons affected by sea-level rise would be included in national adaptation planning initiatives, and, more broadly, within the more general national human rights architecture and the Bill of Rights under the RMI Constitution⁴⁰ (which are non-specific to sea-level rise).

National Strategic Plan 2020 – 2030

71. The *National Strategic Plan 2020 – 2030*⁴¹ is the RMI’s apex planning document outlining its over-arching policy framework and objectives. It provides a roadmap for progress regarding RMI’s national priorities in strategic areas of social services and cultural identity, economic development, infrastructure, environmental awareness and climate change and governance.⁴²

72. The plan recognises the unique challenges faced by the RMI, “including geographic isolation, rising sea levels and climate change impacts”⁴³ and “[a]s one of the only four atoll countries in the world, we face threats to our existence and national survival from a variety of issues including the impacts of climate change and sea level rise”⁴⁴.

⁴⁰ The RMI Constitution can be accessed here:

https://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/1979/1979-0000/ConstitutionoftheRepublicoftheMarshallIslands_1.pdf

⁴¹ RMI National Strategic Plan 2020 – 2030, <https://www.rmieppso.org/national-plan/rmi-national-strategic-plan>

⁴² RMI National Strategic Plan 2020 – 2030, Message from the President

⁴³ RMI National Strategic Plan 2020 – 2030, Message from the President

⁴⁴ RMI National Strategic Plan 2020 – 2030, page 6

73. Some of the main questions that the Plan addresses include – “*How do we Marshallese envisage our future? What kind of society do we want to become? How can we maintain and enhance a united and inclusive Marshallese identity? What are the transformations needed to improve our social and economic situation? How can we ensure sustainable development in the face of the growing concerns for the survival of the country from the existential threat of climate change and sea level rise, in addition to the unresolved nuclear legacy we continue to endure?*”⁴⁵

74. The Plan identifies six cross-cutting issues of outer island development, resilience, adaptation to climate change and sea level rise, nuclear justice, human development, and security. Specific to “adaptation to climate change and sea level rise”, the Plan provides as follows:

“While sea-level rise is an undeniably real threat for the people who live on islands in the Pacific, the likely impacts of climate change over the next 50 to 100 years are going to have repercussions for the atolls and islands of the Republic of Marshall Islands.

Sea level rise combined with more frequent and severe periodic wave surges are likely to create tipping points for tolerability of habitation. This will be made more pronounced in some atolls by coastal erosion and by more frequent and extended droughts and contamination of fresh water lenses.

RMI therefore faces the stark choice as a low-lying Pacific island nation: either relocate or find other options. The RMI is considering whether to relocate all 55,000 citizens (making them climate refugees) or to find other feasible options.

Understanding these risks atoll by atoll will be necessary to allow adaptation measures for well-being and livelihood (‘business as usual’) measures to be established with local atoll and village groups. This would be done with a view to strengthen resilience, defer the tipping points and provide time to prepare for more extreme measures. The key principles that underpin our approach to climate change adaptation are located in Annex 6. Additional information is found in the National Environment Management Strategy 2017-22.

*Additionally, RMI continues to call for strong and decisive global action, especially from the larger emitters, to reduce greenhouse gases, the root cause of global warming. Last year, Marshall Islands lawmakers called on the international community to address what they declared to be a “national climate crisis.”*⁴⁶

75. Furthermore, Annex 6 to the Plan sets out the following Climate Change Adaptation Principles for the RMI:

“For Marshall Islands, key principles that underpin that country’s approach to adaptation, are:

1. ***Right to remain:*** *citizens of RMI have a natural right to remain in their homelands and this right should be protected;*
2. ***Resilience imperative:*** *resilience must be a fundamental focus across all sectors and areas of atoll development; building resilience to climate and disaster risks is an imperative given the high and unique vulnerability of atolls;*

⁴⁵ RMI National Strategic Plan 2020 – 2030, page 1

⁴⁶ RMI National Strategic Plan 2020 – 2030, page 22

3. **Integrated adaptation:** climate change is complex and multidimensional, therefore efforts to adapt must be multidimensional and integrated, considering both the physical and non-physical;
4. **Knowledge first:** RMI would follow a “knowledge first” principle, using science and evidence-based decision making and identifying key knowledge gaps;
5. **Adaptive capacity:** adaptive capacity needs to be strengthened to improve the ability to respond to changing circumstances; as conditions are likely to deteriorate, atoll nations will need to be dynamic in their ability to adapt;
6. **Consensus and inclusion:** adaptation should go hand-in-hand with consultation and consensus building, so that the views of all stakeholders are taken into account; and
7. **Technology and tradition:** adaptation approaches should embrace innovation and modern technology as well as traditional knowledge.”⁴⁷

Samoa

76. The *Constitution of the Independent State of Samoa*⁴⁸ is the supreme law of the land. Part II sets out the fundamental rights recognised by Samoa, including the right to life, the right to personal liberty, freedom from inhuman treatment, freedom from forced labour, right to a fair trial, rights concerning criminal law, freedom of religion, rights concerning religious instruction, rights regarding freedom of speech, assembly, association, movement and residence, rights regarding property and freedom from discriminatory legislation. Part II also provides for remedies for enforcement of fundamental rights.

77. In terms of protection of customary land rights, Article 102 of the Constitution guarantees non-alienation of customary land. The *Leasing and Licensing of Customary Land Act 1965*⁴⁹ makes reference to the constitutional protection of customary land under Article 102 and in section 4(4) of that Act. Thus, the protection of customary land rights for Samoan communities are well protected under Samoan law.

78. While these fundamental protections are guaranteed, and irrespective of climate change and sea-level rise, “the inherent vulnerabilities to impacts of climate change will continue to challenge Samoa’s SDG and human rights implementation efforts”⁵⁰.

Strategy for the Development of Samoa, and Samoa 2040

79. The new *Strategy for the Development of Samoa* (SDS), currently being finalised, maintains climate change and disaster risk management as priorities. The theme for the new strategy is “empowering communities, sharing prosperity and building resilience”. The *Samoa 2040* strategy recognises that the maintenance of peace, security, and inclusivity is critical for Samoa’s sustainable development aspirations, and thus the need to improve education, social protection, and awareness raising.⁵¹

⁴⁷ RMI National Strategic Plan 2020 – 2030, pages 29 – 30

⁴⁸ *Constitution of the Independent State of Samoa*, <https://www.palemene.ws/wp-content/uploads/Constitution-Eng.pdf>

⁴⁹ *Leasing and Licensing of Customary Land Act 1965*, http://www.paclii.org/ws/legis/consol_act_2020/lalocla1965352/

⁵⁰ Samoa National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/12, A/HRC/WG.6/39/WSM/1, paragraph 113

⁵¹ Samoa National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/12, A/HRC/WG.6/39/WSM/1, paragraph 32

National Security Policy

80. Samoa's first *National Security Policy*, launched in 2018, contains an expanded definition of security covering not only border security and transnational crimes but also climate change and human security. Its implementation is closely aligned to the Samoa *2020 Climate Change Policy* and efforts to promote human rights through dedicated actions highlighted in the relevant sector plans such as Community, Environment, Health, Education and Law and Justice.⁵²

Community Development Sector Plan 2021 – 2026

81. The *Community Development Sector Plan 2021 – 2026* promotes family and community safety particularly in sexual violence and ensuring resilience of communities to disasters and climate change.

2017 State of Human Rights Report

82. The 2017 *State of Human Rights Report* of the Office of the Ombudsman/National Human Rights Institution of Samoa⁵³ focused on the impact of climate change on the full enjoyment of human rights in Samoa, including impacts of sea-level rise. It highlighted the climate change impact in human rights terms, and also considered how the Government of Samoa can embrace a human rights approach to climate change policies.

83. As Samoa responds to the ongoing threats of climate change, COVID-19 and any other shocks that will come, Samoa commits to ensuring that they do so while still promoting the respect of, protection and fulfilment of all human rights and fundamental freedoms in Samoa.⁵⁴ Further information regarding human rights and climate change as cross cutting issues in Samoa are provided in the Annex to this Information Paper.

Tuvalu

Climate Change and Disaster Survival Fund Act 2015

84. The *Climate Change and Disaster Survival Fund Act 2015*⁵⁵ establishes the Tuvalu Climate Change and Survival Fund through which the Government provides vital services to its people in the face of the effects of climate change, and as a response measure in the face of future climate change impacts and disasters in Tuvalu.

Climate Change Resilience Act 2019

85. The *Climate Change Resilience Act 2019*⁵⁶ builds an effective response to climate change and aims to ensure a long-term and just transition to a climate resilient and lower carbon economy and society.

⁵² Samoa National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/12, A/HRC/WG.6/39/WSM/1, paragraph 33

⁵³ Samoa State of Human Rights Report 2017, available at https://ombudsman.gov.ws/wp-content/uploads/2019/01/2017_State-of-Human-Rights-Report-Climate-Change_-_English.pdf

⁵⁴ Samoa National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/12, A/HRC/WG.6/39/WSM/1, paragraph 117

⁵⁵ https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0011/ClimateChangeandDisasterSurvivalFundAct2015_1.pdf

⁵⁶ https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2019/2019-0009/ClimateChangeResilienceAct2019_1.pdf

Tuvalu's Future Now Project (Te Ataeani Nei Project)

86. The Project takes a proactive stance towards what has been considered the potential worst-case scenario for Tuvalu under climate change – Tuvalu's threatened disappearance as lands are submerged due to sea-level rise. The Project, which was launched in October, reflects on four major initiatives as follows:

- (a) promoting values-based diplomacy that will encourage other nations to halt their contributions to global emissions and climate change;
- (b) ensuring through national, regional, and international legislation and legal frameworks the permanency of Statehood and maritime zones despite the effects of sea-level rise;
- (c) building a digital nation and creating a digital Government administrative system that can, in the very worst case scenario, allow Tuvalu to shift its Government operations to another location and continue to fully function as a sovereign state; and
- (d) taking a more strategic, consistent, and coordinated approach towards advocacy on climate change and sea-level rise both within Tuvalu and throughout the Blue Pacific.

Tuvalu Readiness-1 Project

87. Currently, the Project is developing a Country Programme for Tuvalu under the GCF. This Country Programme will reflect all of Tuvalu's priority needs for the future and shape them into major projects to be submitted to the GCF for further funding. Consultations have been concluded with island communities, relevant stakeholders and the private sector on these needs, and the first draft of the Country Programme will be submitted in January 2022.

Tuvalu National Climate Change Policy (2012 – 2021)

88. The National Climate Change Policy prescribes strategic policies for the Government and the people of Tuvalu so that they can adapt and respond to climate change impacts and related disaster risks over a 9-year period (2012 – 2021). The policy defines 7 thematic goals, strategies and desired outcomes that the Government and people of Tuvalu have prioritised for implementation to ensure that safety and resilience are achieved. The policy is "cross cutting," meaning that because climate change affects every development sector and Tuvaluan way of life, the policy must address all of these sectors as well. Sea-level rise is listed as one of the key climate change impacts in the policy and is gauged as a direct threat to lives, assets, livelihoods and ecosystems.

89. Goal 7 relates to *Guaranteeing the security of the people of Tuvalu against the impacts of climate change and maintaining national sovereignty*. It lists 4 strategies as follows:

- (1) secure the EEZ of Tuvalu (approved coordinates) as belonging to the Government and people of Tuvalu regardless of coastal areas or islands shrinking due to impacts of climate change such as sea-level rise;
- (2) ensure that Tuvalu continues to have the capacity to remain a nation regardless of negative impacts to land territory due to sea-level rise;
- (3) implement a Special Pacific Access Category for Tuvaluans considering climate change vulnerability and climate migrants;
- (4) develop a climate change migration/resettlement plan for each island in case of climate change impacts causing a worst-case scenario.

90. A new Policy recently endorsed will succeed this 2012 – 2021 Policy.

Tuvalu Foreign Policy 2020 – Te Sikulagi

91. Under the Policy’s Priority Area 2 on Bilateral Engagements, Tuvalu requires that all countries forming relations with Tuvalu recognise the maritime zones and Statehood of Tuvalu as permanent regardless of the impacts of sea-level rise.

UPR, Treaty Body and Other Special Procedures

92. Further to the information noted above in relation to UPRs of the human rights records of PIF Member UN states, examples of relevant specific excerpts drawn from PIF Members’ UPR, treaty body and other special procedures reports are recorded in the Annex to this Information Paper.

Regional

93. In 2016, PIF Leaders endorsed the *Framework for Resilient Development in the Pacific* (FRDP) and agreed for it to be fully elaborated and operationalised upon the entry into force of the Paris Agreement, and recognised its potential to support coordination and action on a number of key issues related to climate change and disaster risk management. Leaders noted that the FRDP is a voluntary non-political framework which does not replace the role of existing regional political statements or declarations on climate change and disaster risk management. Leaders agreed that the *Pohnpei Statement: Strengthening Pacific Resilience to Climate Change and Disaster Risk* would complement the FRDP.⁵⁷

94. To complement the FRPD, an inclusive multi-stakeholder Pacific Resilience Partnership⁵⁸ (PRP) was established to facilitate and increase capacity for a multi-actor response to climate change and disaster risk in the Pacific.

95. To date, key progress through the PRP includes the establishment of five Technical Working Groups (TWG)⁵⁹ on Human Mobility, Information, Knowledge and Management, Disaster Risk Finance, Risk Governance, and Localisation. A new TWG being formed for resilient infrastructure will have an initial focus on resilient housing.

96. The TWGs serve as expert groups or think tanks for specific issues currently facing the region on climate change and disaster risk, and provide a platform for stakeholders to work as a collective to support national responses. In February 2021, the TWG on Human Mobility facilitated a Pacific Regional Consultation on Internal Displacement⁶⁰ with the UN Secretary General’s High-Level Panel on Internal Displacement. Fourteen Pacific governments participated, and an outcome of this consultation was the incorporation of inputs and recommendations from the Pacific region in the new High-Level Panel on Internal Displacement’s Report⁶¹.

⁵⁷ https://www.forumsec.org/wp-content/uploads/2016/09/2016-Forum-Communique_-Pohnpei_-FSM_-8-10-Sept.pdf, para 15

⁵⁸ <https://www.resilientpacific.org/en>

⁵⁹ <https://www.resilientpacific.org/en/technical-working-groups>

⁶⁰ <https://www.resilientpacific.org/en/events/pacific-regional-consultation-internal-displacement>

⁶¹ https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/idp_report_web.pdf

97. In response to Goal 3 of the FRDP regarding strengthening governance frameworks, the TWG on Risk Governance brings together national officials and practitioners to discuss ways to strengthen risk governance for resilient development in the Pacific, with a focus on climate smart disaster risk management legal frameworks and institutional support mechanisms for disaster risk management.⁶² The Risk Governance TWG is supported by the Pacific Office of the International Federation of Red Cross and Red Crescent Societies (IFRC) in partnership with the PIF Secretariat, UN and other agencies in the region. A regional workshop in 2018⁶³ focused on rights, roles and responsibilities in the climate smart DRM process, integration of protection and inclusive approaches, as well as climate change and DRM integration.

PRACTICE, INFORMATION AND EXPERIENCE OF RELEVANT INTERNATIONAL ORGANIZATIONS AND THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT REGARDING THE PROTECTION OF PERSONS AFFECTED BY SEA-LEVEL RISE

Tuvalu

UNPS Outcome 1 – Climate Change, Disaster Resilience and Environmental Protection

98. The UN cooperates in the achievement of the sustainable national energy targets of Tuvalu (FASNETT). These include coastal adaptation to prevent against the effects of sea-level rise, strengthening the capacity of government agencies to collect, analyse and provide climate information and knowledge services, climate security, support to enhance delivery of early warning services for coastal inundation/flooding from ocean waves, an integrated agroecosystem approach for enhancing livelihoods and climate resilience, and the preservation of ecosystem services, sustainable livelihoods and resilience (a ridge-to-reef approach).

Republic of the Marshall Islands

99. The RMI hosts an active National Red Cross organisation, as well as a field office of the International Organization for Migration (IOM). IOM is an implementing entity for a UN Peacebuilding Fund on climate change and atoll nation security, which includes analysis of displacement and relocation.⁶⁴

Regional

Pacific Climate Change Migration and Human Security

100. In the region, a Pacific Climate Change Migration and Human Security⁶⁵ programme is currently working with a number of Pacific States to protect and empower communities adversely affected by climate change and disasters in the Pacific region, focusing specifically on climate change and disaster-related migration, displacement, and planned relocation.

101. The programme is delivered through a partnership between the UN Agencies of the IOM, the UN Economic and Social Commission for Asia and the Pacific (ESCAP),

⁶² Article 16, PRM Outcome Statement

⁶³ Legislating for Climate Smart Disaster Risk Management in the Pacific, 2018 Workshop Report, <https://reliefweb.int/sites/reliefweb.int/files/resources/Pacific%20CC%20DRM%20Law%20Workshop%20Report%20FINAL%20for%20PARTICIPANTS.pdf>

⁶⁴ https://publications.iom.int/system/files/pdf/policy_brief_series_vol5_issue1.pdf

⁶⁵ <https://environmentalmigration.iom.int/projects/pccmhs>

International Labour Organization (ILO), and the Office of the High Commissioner for Human Rights. The Platform on Disaster Displacement and the PIF Secretariat are non-UN implementing partners.

Pacific Human Rights Situational Analysis Report (SPC)

102. The SPC's 2020 *Situational Analysis of Human Rights in the Pacific*⁶⁶, while covering many issues, examines climate justice and what countries are concretely doing to protect persons affected by sea-level rise. The following are examples of relevant excerpts from the report:

- ***Fiji*** – Rising sea levels continues to erode shorelines and encroach on coastal communities. For example, Tropical Cyclone Winston tore through Fiji with unprecedented strength in 2016, killing more than 44 people, destroying thousands of homes and impacting 30% of Fiji's GDP. Fiji provides extensive humanitarian assistance in the context of natural disasters. Fiji is one of the eight Pacific Island countries considered at high risk for climate change-related adverse impacts that is also faced with climate-induced migration and has signalled the possibility of accepting persons affected by climate change in the event that nations go underwater due to sea-level rise.
- ***RMI*** – A National Adaptation Plan, currently in development, will present and assess a series of adaptation options to support the livelihood of the Marshallese and national economic development. Due to the projected level of risk, in particular due to sea-level rise, ambitious adaptation options, including protection, elevation, consolidation and relocation, need to be evaluated, as well as their potential impacts on the Marshallese way of life. These aspects will be included in the review and appraisal of the adaptation options.
- ***Nauru*** – The *Republic of Nauru Framework for Climate Change Adaptation and Disaster Risk Reduction*⁶⁷ responds to the risks to sustainable development posed by climate change and disasters. The framework identifies the potential of climate variability and climate change to challenge Nauru's efforts to secure sustainable development, stating that sea-level rise threatens to increase saltwater intrusion into precious groundwater reserves as well as exacerbate coastal erosion and flooding during storm events. Changes in rainfall patterns were expected to affect water scarcity, while important fish resources may be affected by changes in ocean temperature and acidification. A scarcity of arable land and freshwater resources, geographic isolation, dependence on imports for meeting basic food and energy needs, environmental degradation and the emergence of chronic health problems all make achieving sustainable development a difficult task, creating vulnerabilities to other stresses such as climate change, according to the framework.
- ***PNG*** – Reports and projections, including by the Pacific Climate Change Science Programme⁶⁸, suggest climate change is having significant effects on communities in PNG, including increasing intensity of cyclones, rising temperatures, changing rainfall patterns, sea-level rise, increasing ocean acidification and pressures on food

⁶⁶ [https://hrsd.spc.int/sites/default/files/2021-](https://hrsd.spc.int/sites/default/files/2021-07/HRSD%20SIT%20ANALYSIS%20FINAL%20Revised%20version%2012%20july%202021%20web.pdf)

[07/HRSD%20SIT%20ANALYSIS%20FINAL%20Revised%20version%2012%20july%202021%20web.pdf](https://hrsd.spc.int/sites/default/files/2021-07/HRSD%20SIT%20ANALYSIS%20FINAL%20Revised%20version%2012%20july%202021%20web.pdf)

⁶⁷ <https://nauru-data.sprep.org/dataset/republic-nauru-framework-climate-change-adaptation-and-disaster-risk-reduction>

⁶⁸ <https://www.pacificclimatechangescience.org/>

security. Information gathered from a series of community workshops held in various parts of PNG included the fact that changes in rainfall and rising temperatures were considered to be the most important climate variables impacting people and the environment. Additional hot days were limiting the number of hours that women reported working in the food garden and there were concerns about the potential for wildfires, particularly in community forest conservation areas. Flow-on effects to food security, and human and ecological health and function were also concerning. Women and children emerged as the most disadvantaged by local environmental change. Challenges identified include a lack of resources (financial, knowledge and equipment) to implement the plans and weaknesses in local and provincial governments to take effective action.

- **Solomon Islands** – Solomon Islands acceded to the 1951 *Convention on the Status of Refugees* on 28 February 1995 and its 1967 Protocol on 12 April 1995. There are currently few cases of international refugees (three in 2015) or asylum seekers in the Solomon Islands. During the colonial era in the 1950s, the British Protectorate Administration resettled Gilbertese people in the western part of the country. These people and their descendants are Solomon Islands citizens with rights comparable to the indigenous population, except in the case of customary land ownership. Since then, there has never been a large-scale resettlement of international refugees or other groups in the country; however, there have been groups of people in the country who have been internally displaced due to conflict or the effects of climate change and natural disasters.
- In 2017, the government resettled victims of the 2014 April floods in the east side of Honiara and named the new settlement April Valley. Further, people in Walande and Fanalei Atolls in Malaita Province had to be relocated to the main Island due to sea-level rise that washed away their land.
- **Tuvalu** – Currently, over half of the population lives in Funafuti and the number is expected to increase over time as families from the more threatened outer islands lose their livelihoods through sea inundation and drought. A 2015 survey found that 8% of internal migrants named climate change as a reason for internal migration. Over 70% of households in the survey felt that migration would be a likely future response if sea-level rise, flooding, saltwater intrusion or droughts become more severe. The Tuvalu National Labour Migration Policy and Action Plan (approved in August 2015) promotes continued bilateral and regional dialogue and cooperation on labour migration, with the aim of strengthening Tuvalu's existing labour migration arrangements and developing new opportunities.
- Climate change remains one of the biggest threats to the right to life and security of the general population of Tuvalu. Droughts, irregular rain, cyclones, floods and sea-level rise affect households, particularly on the outer islands, and continues to threaten livelihoods of Tuvaluans. A participatory survey conducted in 2015 of 320 households across three islands identified the main risks to livelihoods as: cyclones, drought and irregular rains, floods, saltwater intrusion into crops and drinking water, sea-level rises and storm surges. 97% of household respondents reported being impacted by natural hazards in the previous 10 years, with outer-island households more likely to have been affected than people living in Funafuti. Amongst the conclusions drawn were that future migration, both internal and international, is likely to be influenced by environmental change and household economics.

Triennial Outcomes Document

103. Several outcomes from the 14th Triennial Conference of Pacific Women and the 7th Meeting of the Pacific Ministers for Women, from 27 – 29 April 2021 and 4 May 2021, relate to the protection of persons affected by climate change with specific emphasis on women and other marginalised communities. For example, the Conference and Ministerial noted the interrelated crises of COVID-19 and climate change as well as the disproportionate impact these challenges have on women, girls, and persons with disabilities.

104. As per its outcomes and recommendations⁶⁹, the Conference called on governments, with the assistance of civil society organisations, faith-based organisations, Pacific regional organisations, development partners and the private sector (as appropriate), to implement specific actions to promote gender equality alongside reducing the impacts of climate change, especially within marginalised communities.

General comments

105. According to *Climate Change and Migration Issues in the Pacific*⁷⁰ – a publication by the UN ESCAP, in conjunction with the ILO – to date, most national adaptation policy instruments, and the projects or programmes that they guide, are predominantly focused on *in situ* adaptation activities aimed at sustaining the “life support” capability of island environments so that communities can continue to live there. Examples of *in situ* adaptation activities include disaster risk reduction, improved agricultural practices, improved access to freshwater and coral reef conservation, and less on direct protection of persons affected by sea-level rise.

106. Migration-related adaptation policy options have yet to be comprehensively addressed by most Pacific Governments. This is primarily because the issue is both culturally and politically sensitive with many potential costs and also because there is a lack of data on the scale and patterns of possible climate change-related migration (or on environmental migration more broadly), and migration-related adaptation policy is a cross-cutting issue requiring a whole-of-government response that can be difficult to garner.

107. Furthermore, very few Pacific Island governments refer to migration in the context of adaptation in their joint national action plans or national adaptation programmes of action.⁷¹

International Federation of Red Cross and Red Crescent Societies (IFRC)

108. The Red Cross Movement’s mission is to prevent and alleviate human suffering wherever it may be found, to protect life and health, to ensure respect for human dignity to work for the prevention of disease and the promotion of health and social welfare, to encourage voluntary service and a constant readiness to help, and to foster a universal sense of solidarity towards all those in need of the Movement’s protection and assistance.

⁶⁹ Outcomes and Recommendations (Endorsed on 4 May 2021) of the 14th Triennial Conference of Pacific Women and the 7th Meeting of the Pacific Ministers for Women, 27 – 29 April and 4 May 2021, <https://www.spc.int/sites/default/files/documents/14th%20Triennial%20Conference%20of%20Pacific%20Women%20Eng.pdf>

⁷⁰ Campbell, John and Olivia Warrick, UN ESCAP, Pacific Office, August 2014 (Fiji), available at <https://www.ilo.org/dyn/migpractice/docs/261/Pacific.pdf> (accessed 24 December 2021).

⁷¹ Id. at 8.

109. The 14 Red Cross National Societies in the Pacific⁷² deliver a range of programs in the areas of disaster management, protection and gender inclusion, disaster risk reduction, climate change, health, social welfare and situations of violence. Through its auxiliary role, Red Cross Societies also support Pacific governments on various efforts for the protection of persons affected by climate change, including the following:

- developing minimum standards for protection, gender and inclusion in emergencies, ensuring dignity, access, participation and safety for all people affected by disasters or crisis;⁷³
- restoring family links for families separated as a result of a humanitarian crisis, natural disaster or migration;⁷⁴
- Housing, Land and Property (HLP) rights mapping, and strengthening humanitarian assistance operations;⁷⁵
- supporting relocation across affected communities⁷⁶, and supporting communities to build long-term resilience and bring about the behaviour and social changes needed to address risks and underlying vulnerabilities;⁷⁷
- supporting community climate change adaptation, including early warning and early action;
- supporting Governments in the review of disaster, climate and emergency management laws and policy through the use of climate smart disaster law tools, including international disaster response laws⁷⁸.

MEASURES TAKEN BY THIRD STATES WITH REGARD TO SMALL ISLAND DEVELOPING STATES, IN PARTICULAR THOSE AFFECTED BY SEA-LEVEL RISE, INCLUDING: (I) MODALITIES FOR COOPERATION OR ASSOCIATION WITH SUCH STATES, INCLUDING THE POSSIBILITY OF PERSONS TRAVELLING TO, AS WELL AS ESTABLISHING RESIDENCY AND DEVELOPING PROFESSIONAL ACTIVITIES IN, SUCH THIRD STATES; (II) MAINTENANCE OF THE ORIGINAL NATIONALITY AND/OR ACCESS TO THE NATIONALITY OR CITIZENSHIP OF THE THIRD STATE; AND (III) CONSERVATION OF THE CULTURAL IDENTITY OF SUCH PERSONS OR GROUPS.

Cook Islands

110. Cook Islanders hold New Zealand citizenship.⁷⁹ As such, Cook Islanders can resettle in New Zealand for any reason, and are also allowed to reside and work in Australia, with some restrictions, under the Trans-Tasman Travel Arrangement. There are large communities of Cook Islanders in both New Zealand and Australia. With over 60,000 Cook Islands Maori people living in New Zealand, cultural preservation is particularly strong there. The New Zealand Government has a Ministry for Pacific Peoples, which implements a number of initiatives aimed at reviving and preserving different Pacific Island cultures.⁸⁰

⁷² Australia, Cook Islands, FSM, Fiji, Kiribati, Palau, PNG, RMI, New Zealand, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

⁷³ <https://www.ifrc.org/sites/default/files/Minimum-standards-for-protection-gender-and-inclusion-in-emergencies-LR.pdf>

⁷⁴ [Restoring Family Links - Home \(icrc.org\)](https://www.ifrc.org/sites/default/files/Restoring-Family-Links-Home-icrc.org)

⁷⁵ [ifrc-nrc-hlp-report-2016.pdf \(globalprotectioncluster.org\)](https://www.ifrc.org/sites/default/files/ifrc-nrc-hlp-report-2016.pdf)

⁷⁶ <https://reliefweb.int/sites/reliefweb.int/files/resources/2018-IFRC-Climate-Change-Disasters-Displacement-Report-LR.pdf>

⁷⁷ [Guide to Community Engagement and Accountability | IFRC](https://www.ifrc.org/sites/default/files/Guide-to-Community-Engagement-and-Accountability-IFRC)

⁷⁸ [Introduction to the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance \(IDRL Guidelines\) | IFRC](https://www.ifrc.org/sites/default/files/Introduction-to-the-Guidelines-for-the-domestic-facilitation-and-regulation-of-international-disaster-relief-and-initial-recovery-assistance-IDRL-Guidelines-IFRC)

⁷⁹ See *Cook Islands Constitution Act 1964*, section 6.

⁸⁰ <https://www.mpp.govt.nz/about-us/>

Federated States of Micronesia

111. FSM practice strongly favours remaining on its islands for perpetuity.⁸¹ Movement abroad is a “last resort.”⁸² This is not, however, to say that the FSM is not considering the possibility of relocating its citizens abroad.

112. The FSM, along with Palau and the RMI, are each party to their respective Compacts of Free Association (the Compacts) with the United States (US). The Compacts make it easier for citizens of the RMI, Palau, and FSM to enter and establish non-immigrant residence in the U.S., by *inter alia*, waiving visa and labour certification requirements.⁸³ The Compacts do not confer “the right to establish the residence necessary for naturalization,” or “to petition for benefits for [noncitizen] relatives,” though they do not preclude citizens of the RMI, the FSM, or Palau from pursuing those rights under the Immigration and Nationality Act.⁸⁴

113. Because of the Compacts, emigration to the US from the party States is continuing.⁸⁵ At this time, as the FSM reports, the primary reasons for this movement is for “education, employment and health reasons,” not climate displacement,⁸⁶ but this will likely change in the near future to becoming driven primarily by climate displacement, especially from atolls and low-lying islands in the three States (indeed, there is already evidence that this is happening with citizens of the RMI at an accelerated rate).

114. The Compacts allow citizens of the FSM, RMI, and Palau to become and remain non-immigrant noncitizen residents in the US indefinitely without the need of a visa or any other similar immigration document; only an appropriate FSM/RMI/Palau passport is required for entry. This status allows citizens of the FSM, RMI, and Palau to retain their original citizenships while present in the US indefinitely. The status also allows citizens of the FSM, RMI, and Palau to pursue gainful employment, seek educational opportunities, and obtain health/medical services, among other things, while in the US.

115. The Compacts were crafted in order to, *inter alia*, maintain the ability of the US to deny military forces of other States access to the lands, waters, and airspace of the sovereign and independent States of the FSM, RMI, and Palau after the termination of its trusteeship agreement with the UN. In return, the US not only confers particular residency privileges to citizens of all three States (as discussed above), but also commits, in its Compacts with the FSM and RMI, to, *inter alia*, “promote efforts to prevent or eliminate damage to the

⁸¹ See CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA, preamble (“Our ancestors, who made their homes on these islands, displaced no other people. We, who remain, wish no other home than this.”); Republic of the Marshall Islands National Climate Change Policy Framework, at 5 (Jan. 2011) (“While longer-term impacts such as sea-level rise could result in the unavoidable out-migration of some of our people, we have a right to pursue any and all means to ensure our nation survives and our legacy remains in these islands, with our future generations living productive lives on these islands.”).

⁸² Statement by Mr. Jeem Lippwe (Charge d’Affaires, a.i.), for the Federated States of Micronesia on behalf of the Alliance of Small Island States (AOSIS) at the IPI Policy Forum: Monitoring Disaster Displacement in the Context of Climate Change (Nov. 2, 2009) (“Climate displacement cannot be seen as a safety valve for a failure in political will, but rather, an option of last resort available only after all good faith efforts at mitigation and adaptation have failed.”); National Framework for Climate Change and Climate Change Adaptation (2013), at 27 (Kiribati) (“this is only our option of last resort as we will first and foremost do all that we can to ensure that we are able to remain as a people in this nation of ours”).

⁸³ Compact of Free Association Amendments Act of 2003, Pub. L. No. 108–188, 117 Stat. 2772, Title One, art. IV, sec. 141 (2003) [hereinafter “Compact”].

⁸⁴ *Id.*, sec. 141(c).

⁸⁵ Adaptation Communication – Republic of the Marshall Islands (RMI) at 6 (Dec. 2020), available at https://unfccc.int/sites/default/files/resource/RMI-AdaptationCommunication_Dec2020.pdf.

⁸⁶ National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21, Federated States of Micronesia, ¶ 4, U.N. Doc. A/HRC/WG.6/37/FSM/1 (Jan. 5, 2021).

environment and biosphere and to enrich understanding of the natural resources of the . . . Federated States of Micronesia [and the RMI].”⁸⁷ The same section of the Compacts obligates the US to apply the *National Environmental Policy Act* (NEPA) to its activities under the Compact “as if the Federated States of Micronesia [and the RMI] were the United States.”⁸⁸ The NEPA involves, *inter alia*, the evaluation of potential environmental harms from climate change and the presentation of possible steps to minimise and/or adapt to those harms.

Republic of the Marshall Islands

116. As noted above, the Compact of Free Association with the US allows for certain citizens to enter the US to live and work without a visa, subject to applicable US immigration laws and regulations. While this provision is distinct from permanent residency, its practice and implementation have been generally for stays in the US for indeterminate length. A substantial and growing proportion of RMI citizens currently live in the US through these provisions, and have also established substantial settlements within particular states and regions of the US, including northwest Arkansas, Hawaii and the Pacific Northwest.

Tuvalu

Persons displaced by climate change and the non-refoulement principle

117. Tuvalu notes the importance of the decision in the communication between Ioane Teitiota and the Government of New Zealand, where the UN Human Rights Committee (HRC) in February 2016 upheld New Zealand’s decision and decided that the claimant’s deportation to Kiribati was not unlawful as it did not pose an imminent danger to his life. However, it recognised that climate change represents a serious threat to the right to life and therefore decision-makers need to take this into account when examining challenges to deportation. The Committee expressed the view that a failure to do so may cause a state to be in breach of the non-refoulement principle. The Committee’s decision suggests that future claims might be successful where the evidence shows “the effects of climate change in receiving states may expose individuals to a violation of their rights”. In this instance, the HRC’s view was that individuals displaced by climate change could be granted protected person status under the *International Covenant on Civil and Political Rights*.

Rising Nations Initiative (RNI)

118. The Permanent Mission of Tuvalu to the UN has commenced work on the Rising Nations Initiative (RNI), which aims to enhance international resilience to the impacts of climate change-related sea-level rise. It seeks to protect the sovereignty, human rights, culture and heritage of peoples impacted by climate change-related sea-level rise.

Commission of Small Island States on Climate Change and International Law

119. Tuvalu and Antigua and Barbuda established the Commission of Small Island States on Climate Change and International Law in late 2021. The Commission will develop and implement fair and just global environmental norms and practices. It is also authorised to request advisory opinions from the International Tribunal for the Law of the Sea on the legal responsibility of States for carbon emissions, marine pollution, and rising sea levels.

⁸⁷ Compact, *supra* note 11, sec. 161.

⁸⁸ *Id.*, sec. 161(a)(2).

Joint-Communiqués

120. The Government of Tuvalu is capitalising on the establishment and/or reaffirmation of diplomatic ties to outline principles relating to the permanency of maritime zones, entitlements and Statehood. The joint communiqués bind Tuvalu’s partners to recognising the maritime zones and Statehood of Tuvalu as permanent despite the impacts of climate change; Tuvalu has made it clear that this recognition is the *sine qua non* requirement for establishing diplomatic relations. Early this year, Tuvalu and Venezuela signed a joint communiqué, and additional communiqués with Taiwan and other Pacific Island countries are under preparation.

D. CONCLUDING COMMENTS

121. As noted above in paragraph 6, it has not been possible to obtain information from all PIF Members at this time, so the information in this paper is by no means exhaustive, but demonstrates the range of information available across our Member countries. The specific responses and comments set out above in Part C reflect the national practice and positions of individual PIF members and do not reflect a collective PIF view, unless otherwise stated.

122. PIF Members, individually and collectively, look forward to making further contributions to the ILC and engaging with ILC Members on these two sub-topics, which are of critical importance to our region.

Pacific Islands Forum
31 December 2021

Excerpts from UPR, Treaty Body and other Special Procedures Reports

Pacific Island Country	UPR	Treaty Body and other Special Procedures Reports ⁸⁹
Fiji	<p>97. Fiji reiterated that the human rights aspects of climate change, such as the sovereignty issues faced by low-lying countries facing flooding, and the human rights of peoples facing displacement as a result of climate change, must be addressed by the Council. As a small island developing State at the forefront of the adverse impacts of climate change, Fiji had adopted an integrated response to climate change and disaster risk management, and a National Green Growth Framework which aimed for sustainable development, economic growth and resilience to the anticipated adverse effects of climate change.</p> <p>A/HRC/28/28 (17 December 2014)</p>	<p>There are about 200 informal settlements in Fiji, home to approximately 15 per cent of the population. Informal settlements often lie on the outskirts of cities and towns, have not been subject to zoning or subdivision plans and are particularly vulnerable to climate change. Most residents have migrated from outer islands or rural areas. Housing quality is poor, increasing vulnerability to climate-related natural disasters, and access to municipal services is limited, leading to pollution and health risks. In Vuniivi and Qauia, the two informal settlements near Lami that the Special Rapporteur visited, the three major concerns are regular flooding, inadequate sanitation and a lack of waste management services.</p> <p>A/HRC/43/53/Add.3 (24 February 2020)</p>
Samoa	<p>D. Cross cutting issues</p> <p>1. Human rights and climate change</p> <p>96. Integrating the SDGs into the Strategy for the Development of Samoa (SDS) ensures that their implementation is suitably contextualized and is part and parcel of the overall national planning, budgeting, and accountability processes. It also ensures that no one is left behind. All SDGs including SDG13 on climate action are aligned to the sector plans which are key to their implementation. Climate change remains a crosscutting issue for our sustainable development agenda and one of our national security priorities.</p> <p>97. Samoa continues to strengthen its adaptive capacity, early warning systems</p>	<p>Impact of climate change on the rights of the child 48. The Committee takes note of the policies and action plans in place to address climate change and manage national disasters. It is concerned, however, that more could be done to take into account the special needs of children, including children with disabilities, when planning disaster risk reduction preparedness, response, and recovery programmes.</p> <p>CRC/C/WSM/CO/2-4 (12 July 2016)</p>

⁸⁹ For the purposes of this submission, the following Treaty Bodies and Special Procedures Reports were analysed as these entities have a history of regularly reporting on climate change-related protections of vulnerable populations: CEDAW, CRC, CMW, and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of safe, clean, healthy, and sustainable environment on their visit to Fiji.

	<p>and disaster risk planning and response to address the impacts of CC including longterm effects across the sectors. The human rights approach is in the extensive engagement of our communities, NGOs, women, persons with disabilities, youth, children, private sector, and all stakeholders in our climate resilience building efforts. In our recently submitted Second Nationally Determined Contributions (NDC), Samoa has increased its ambition by including an economy-wide emissions reduction target, and sector-specific emissions reduction target in the energy, waste and AFOLU³⁶ sectors. The NDC Implementation Roadmap and NDC Investment Plan also includes adaptation targets and gender responsive considerations in the form of guidelines for promoting gender and social inclusion.</p> <p>98. The National Environment Sector Plan (NESP) integrates gender and vulnerable groups needs in all related strategies. Samoa also has a "Gender in Disaster Risk Management Policy" which focuses on gender equity where women are involved across all phases of Disaster Risk Management (DRM). There is a similar policy for persons with disabilities. To complement national plans there are 94 Community/Village Disaster and Climate Management Response Plans and 41 Community Integrated Management Plans that are key to building resilience. These plans are developed in close consultation with communities and offer the opportunity to communities to take ownership of and be involved in adaptation and mitigation solutions. Communities are also receiving training on DRM.</p> <p>99. The Climate Change Policy 2020 promotes synergies identified under the other environmental conventions and assist with the inter-linkages with other related regional and international obligations such as gender equality, oceans and the implementation of the Sustainable Development Goals (SDGs). The policy promotes a coordinated approach and will help ensure the interlinkages of HR and climate change</p>	
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	<p>and their consideration across all development sectors.</p> <p>100. Climate resilience has been mainstreamed across all sectors including having it as part of the school curriculum from ECE to secondary level including a Disaster and Energy Climate Change course at the National University Samoa, with certificates on sustainable energy and climate change and disaster risk management. Climate change, is taught through the social science subjects, social studies, and science under its environment strand.</p> <p>A/HRC/WG.6/39/WSM/1</p>	
<p>Federated States of Micronesia</p>	<p>15. The immediate future of the nation rested on young people. The country’s success would be measured by its climb up the development ladder during the next several decades, and would be determined by the quality of life offered to its children. Investment in children thus afforded the Federated States of Micronesia the most effective protection against any long-term social and economic consequences of the pandemic. While the country did not experience some of the scourges that afflicted the well-being of children in other parts of the world, it was nevertheless apprehensive about the potential effects of climate change and the resultant sea-level rise on the future of its children. The phenomenon threatened the very existence of their homes, culture and history.</p> <p>86. Sign and ratify the <i>International Covenant on Civil and Political Rights</i> with the aim to end discrimination against the most vulnerable groups, including women, children, internally displaced persons, migrants and refugees (Netherlands);</p> <p>13. For the Federated States of Micronesia, a nation of islands, human rights were about human survival. Apart from the ongoing threats of the COVID-19 pandemic, the islands faced the existential threats of sea-level rise and global warming. While the concept of human rights might sound abstract and philosophical, the country had applied it</p>	

	<p>through effective concrete action towards environmental stewardship and protection. The country was one of the first island States to pursue a phase-down of hydrofluorocarbons through the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. Like its sister small island developing States, the country was among the first to join other supportive processes, such as the Paris Agreement, which was critically important to attaining sustainable development and conducive to the fulfilment of human rights.</p> <p>A/HRC/47/4 (26 March 2021)</p>	
<p>Tuvalu</p>	<p>18. Tuvalu was mainstreaming climate change action into its national strategy for sustainable development and the budget. It had established the Climate Change and Disaster Survival Fund, and national strategies on its nationally determined contributions and national action plans. It had embarked on a coastal adaptation project, funded by the Green Climate Fund, to construct protective sea walls for all its islands. Education and capacity-building were extremely vital — a more educated population would cope better with the effects of climate change and sea-level rise.</p> <p>29. The Prime Minister invited the representatives at the Human Rights Council to visit Tuvalu and see for themselves the beauty and culture of the country and its exposure to the elements of climate change and sea-level rise. He also invited them to the Pacific Islands Forum leaders’ summit, which Tuvalu would be hosting again in 2019.</p> <p>17. Tuvalu was currently active in the development of the guidelines for the implementation of the Paris Agreement. It had also proposed two initiatives related to climate change, including with respect to the establishment of the Pacific Islands Climate Change Insurance Facility and the adoption of a General Assembly resolution to give protection to people displaced by the impacts of climate change.</p>	<p>Impact of climate change on the rights of the child</p> <p>(b)The contamination of underground water supplies owing to rising sea levels, which hinders access to safe drinking water and sanitation for children, including in schools;</p> <p>CRC/C/TUV/CO/2-5 (31 March 2020)</p>

	<p>94. Tuvalu had consistently called for effective, enhanced and accelerated action on climate change. It had introduced the issue of insurance facilities in the region and at the United Nations to provide small island developing States with better access to insurance products and systems as tools for coping with climate change impacts. It had also advocated for a General Assembly resolution on protection of the human rights of people displaced by climate change and other human-induced natural disasters. Current international legal instruments did not provide the protection that climate change refugees deserved.</p> <p>A/HRC/39/8 (10 July 2018)</p>	
Solomon Islands	<p>55. Climate change is a pressing global issue that severely impacts the daily lives of Solomon Islanders, especially those living on low-lying islands. Sea level rise, water intrusion, king tides and cyclones had led to relocation, especially from low-lying islands to higher ones. The country continued to lose islands, with women being disempowered as land was swallowed up by the sea. That phenomenon had an impact on the country's diverse culture: as people relocated, they became disconnected from the traditional crops and relied on imported food, leading to the onset of non-communicable diseases, the leading killer in Solomon Islands. Scientists warned that by 2050, the migratory patterns of tuna – a primary commodity, both for income and consumption – would move eastward, resulting in the reduction of tuna stocks in the country's waters. That in turn would lead to poverty, unless more was done to build the resilience of the population. The Government had strengthened its efforts to address climate change through the formulation and implementation of the national climate change policy. In addition, it would be submitting its national determined contributions in the coming weeks.</p> <p>A/HRC/48/13 (28 June 2021)</p>	<p>Impact of climate change and natural disasters on women</p> <p>40. The Committee is concerned that the impact of climate change, the rise in the sea level and other weather-related disasters affect rural women disproportionately in the State party.</p> <p>41. The Committee recommends that the State party include an explicit gender perspective in national policies and its action plan on climate change, disaster response and risk reduction, targeting women not only as victims but also as active participants in the formulation and implementation of such policies.</p> <p>CEDAW/C/SLB/CO/1-3 (14 November 2014)</p>
Palau	<p>28. Regarding climate change, the Government had put in place the Palau</p>	

	<p>Climate Change Policy for Climate and Disaster Resilient Low Emissions Development. That policy aimed at enhancing adaptation capabilities and resilience to the expected impacts of global climate change, improving the ability of Palau to manage unexpected disasters and minimize associated risks while also mitigating global climate change. Numerous other measures in relation to climate change had been taken by the Government.</p> <p>A/HRC/48/12 (16 July 2021)</p>	
PNG		<p>5. The Committee takes note of the fact that the State party is very vulnerable to environmental threats, including coastal erosion and rising sea levels as a result of climate change, as well as national disasters, and notes its particular geographical situation, which poses restrictions on movement and communication.</p> <p>CEDAW/C/PNG/CO/3 (30 July 2010)</p>
Vanuatu	<p>17. In 2018, the Government had conducted the mass evacuation of the entire population of Ambae due to serious volcanic activities on that island. The Government's National Displacement Policy (2018) was aimed at better managing and coordinating such processes in the context of future disasters.</p> <p>A/HRC/41/10 (5 April 2019)</p>	