

Translated from French

Chapter III of the report of the seventy-second session of the Commission: sea-level rise in relation to international law

Information from Belgium

June 2022

The report on the seventy-second session of the International Law Commission contained an invitation to States to provide, by 30 June 2022, information on:

“Examples from States of their practice that may be relevant (even if indirectly) to sea-level rise or other changes in circumstances of a similar nature. Such practice could, for example, relate to baselines and where applicable archipelagic baselines, closing lines, low-tide elevations, islands, artificial islands, land reclamation and other coastal fortification measures, limits of maritime zones, delimitation of maritime boundaries, and any other issues relevant to the subject. Relevant materials could include:

“(a) bilateral or multilateral treaties, in particular maritime boundary delimitation treaties;

“(b) national legislation or regulations, in particular any provisions related to the effects of sea-level rise on baselines and/or more generally on maritime zones;

“(c) declarations, statements or other communications in relation to treaties or State practice;

“(d) jurisprudence of national or international courts or tribunals and outcomes of other relevant processes for the settlement of disputes related to the law of the sea;

“(e) any observations in relation to sea-level rise in the context of the obligation of States parties under the United Nations Convention on the Law of the Sea to deposit charts and/or lists of geographical coordinates of points; and

“(f) any other relevant information, for example, statements made at international forums, as well as legal opinions, and studies.” (See chapter III of the report on the seventy-first session of the Commission)

In addition to:

“(a) examples of practice relating to the updating, and frequency of updating, national laws regarding baselines used for measuring the breadth of maritime zones; practice relating to the frequency of updating national maritime zone notifications deposited with the Secretary-General of the United Nations;

“(b) examples of practice relating to the updating, and frequency of updating, charts on which baselines and outer limits of the exclusive economic zone and of the continental shelf are drawn, as well as lists of geographical coordinates prepared in accordance with the relevant provisions of the United Nations Convention on the Law of the Sea and/or national legislation, including those which are deposited with the Secretary-General of the United Nations and given due publicity; examples of practice relating to updating, and frequency of updating, navigational charts, including for purposes of evidencing changes of the physical contours of the coastal zones;

“(c) any examples of the taking into account or modification of maritime boundary treaties due to sea-level rise;

“(d) information on the amount of actual and/or projected coastal regression due to sea-level rise, including possible impact on basepoints and baselines used to measure the territorial sea;

“(e) information on existing or projected activities related to coastal adaptation measures in relation to sea-level rise, including preservation of basepoints and baselines.” (See chapter III of the report on the seventy-second session of the Commission)

Belgium would like to submit the following information to the Commission:

- Bilateral or multilateral treaties, in particular maritime boundary delimitation treaties:

Agreement between the Government of the Kingdom of Belgium and the Government of the French Republic relating to the delimitation of the territorial sea, signed at Brussels on 8 October 1990;

Agreement between the Government of the Kingdom of Belgium and the Government of the French Republic relating to the delimitation of the continental shelf, signed at Brussels on 8 October 1990;

Agreement between the Kingdom of Belgium and the Kingdom of the Netherlands relating to the delimitation of the territorial sea, signed at Brussels on 18 December 1996;

Agreement between the Kingdom of Belgium and the Kingdom of the Netherlands relating to the delimitation of the continental shelf, and annex, and exchange of letters, signed at Brussels on 18 December 1996;

Agreement between the Government of the Kingdom of Belgium and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the delimitation of the continental shelf between the two countries, signed at Brussels on 29 May 1991;

Agreement between the Government of the Kingdom of Belgium and the Government of the United Kingdom of Great Britain and Northern Ireland, concluded by exchange of notes dated 21 March 2005 and 7 June 2005 (Brussels), amending the Agreement of 29 May 1991 relating to the delimitation of the continental shelf;

Agreement between the Government of the Kingdom of Belgium and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the delimitation of the exclusive

economic zone between the two countries, concluded by exchange of letters dated 25 June 2013 and 12 August 2013 (Brussels), amending the Agreement between the Government of the Kingdom of Belgium and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the delimitation of the continental shelf under the North Sea between the two countries, signed at Brussels on 29 May 1991, as amended by the exchange of letters dated 21 March 2005 and 7 June 2005 (Brussels).

- National legislation or regulations, in particular any provisions related to the effects of sea-level rise on baselines and/or more generally on maritime zones:

- Act of 6 October 1987 establishing the breadth of the territorial sea of Belgium:

The description of the baseline and the breadth of the territorial sea (12 nautical miles) are established by the Act of 6 October 1987 defining the breadth of the territorial sea of Belgium.

- Act of 22 April 1999 concerning the exclusive economic zone of Belgium in the North Sea:

This is the Act establishing the exclusive economic zone of Belgium and its delimitation.

- Act of 20 January 1999 on the protection of the marine environment and the organization of maritime spatial planning under the jurisdiction of Belgium:

The purpose of the Act is to preserve the intrinsic nature, biodiversity and integrity of the marine environment through protective measures and through measures to prevent, reduce and remediate environmental damage and disruptions, including sustainable management measures and enforcement measures.

The Act provides for maritime spatial planning in the maritime zones under the jurisdiction of Belgium. Specifically, chapter VII of the Marine Environment Act provides that any activity in maritime zones that is subject to a permit or authorization, either under the Marine Environment Act and decisions made pursuant thereto or under other applicable laws or regulations, shall be subject

to an environmental impact assessment by the competent authority designated by the minister, both before and after the permit or authorization is granted. The environmental impact assessment must enable the effects of such activities on the marine environment to be evaluated. Persons wishing to undertake such activities must attach an environmental impact assessment to their application for a permit or authorization.

Once permits or authorizations are granted, activities are subject to monitoring programmes and ongoing environmental impact assessments. If such investigations show that there have been new adverse effects on the marine environment, the permits or authorizations may be suspended or withdrawn.

Article 5 bis stipulates that a royal decree must establish a procedure for the adoption of a maritime spatial plan for the maritime zones of Belgium, in accordance with European and international regulations, and in particular with regard to consultation with the sectors and bodies concerned.

The maritime spatial plan is evaluated every six years and amended if necessary. The competent authority may also provide (by royal decree) for a provisional amendment procedure.

The maritime spatial plan follows the structure set out below:

1. A spatial analysis of the maritime zones of Belgium;
2. A long-term vision concerning the spatial use of the maritime zones of Belgium;
3. Clear economic, social, environmental and safety objectives;
4. Measures, instruments and actions for the implementation of the maritime spatial plan.

- Royal Decree of 22 May 2019 on the establishment of the maritime spatial plan for the period from 2020 to 2026 in the maritime zones of Belgium:

The current maritime spatial plan for the period from 2020 to 2026 was adopted in line with the Marine Environment Act.

Article 16 (section 9) contains a provision on coastal defences. Pursuant to this article, dyke surveys are allowed everywhere unless otherwise provided. In addition, an area has been established for tests of new maritime defence methods. Authorizations for tests with a potential impact on natural protected areas are subject to the issuance of Natura 2000 permits.

- Marine Strategy Framework Directive

This Framework Directive establishes a policy framework within the European Union to afford the marine environment a high level of protection. Coastal waters, including the seabed and subsoil, are covered by the Framework Directive.

The Framework Directive has been (partially) transposed into domestic law by the Royal Decree of 23 June 2010 on the marine strategy for the maritime zones of Belgium.

• Examples of practice relating to the updating, and frequency of updating, national laws regarding baselines used for measuring the breadth of maritime zones; practice relating to the frequency of updating national maritime zone notifications deposited with the Secretary-General of the United Nations:

The most up-to-date version of the maritime boundaries of Belgium was compiled by the (Flemish) Maritime and Coastal Services Agency (Agentschap Maritieme Dienstverlening en Kust) in 2018.

• Information on the amount of actual and/or projected coastal regression due to sea-level rise, including possible impact on basepoints and baselines used to measure the territorial sea:

The (Flemish) Maritime and Coastal Services Agency (Agentschap Maritieme Dienstverlening en Kust) specializes in dykes and coastal protection. One of its missions is the implementation of the master plan for coastal safety.

In this regard, mention should also be made of the Climate Resilient Coast (CREST) project

(www.crestproject.be), under which the Flemish government and several university institutes are conducting research on coastal processes, including sea-level rise, based on the results of the CORDEX.be project (<http://cordex.meteo.be/>). CORDEX.be has produced models of the local impact of climate change on the Belgian coast, focusing on waves and storm surges.

Three 2018 climate projections of the Intergovernmental Panel on Climate Change (representative concentration pathways (RCP) 2.6, 4.5 and 8.5), including the United Kingdom Climate Projections 2018 (UKCP18) (Palmer et al., 2018), were translated for the Belgian coast and supplemented by a table of extreme values. This resulted in sea-level-rise projections of 50 cm (38 – 73), 60 cm (39 – 86), 85 cm (56 – 112) and 295 cm (extreme value) between 1990 and 2100. The fifth and ninety-fifth percentiles are shown in parentheses.

The Flanders Marine Institute has developed and operates, within the framework of the Global Sea Level Observing System, a real-time data system to capture sea-level data from measuring stations worldwide (<https://www.gloss-sealevel.org/real-time-data-delivery>).

Tidal data for the coastline of Belgium are provided by the Flemish bank monitoring network (<https://meetnetvlaamsebanken.be/>) operated by the hydrography department of the (Flemish) Maritime and Coastal Services Agency. This monitoring network has additional sea-level sensors along the coastline of Flanders and at some offshore locations, which have been monitoring sea-level height for several decades. The array of sea-level sensors is essential for studying the impact of sea-level rise on coastal communities.

- Information on existing or projected activities related to coastal adaptation measures in relation to sea-level rise, including preservation of basepoints and baselines. (See chapter III of the report on the seventy-second session of the Commission):

The Flemish regional (Belgian subnational) authorities responsible for flood defence are preparing an update of the current master plan for coastal safety. This plan was approved by the

Flemish (Belgian subnational) government in 2011 and includes safety measures to protect against a 1,000-year storm between now and 2050, taking into account a 30 cm sea-level rise by 2050. To prepare for the longer term, up to the year 2100, the Coastal Vision project (www.kustvisie.be) has been launched. The project, which takes into account a sea-level rise of up to 3 m, is aimed at ensuring long-term protection for the coast and the hinterland against heavy storms beyond 2050.
