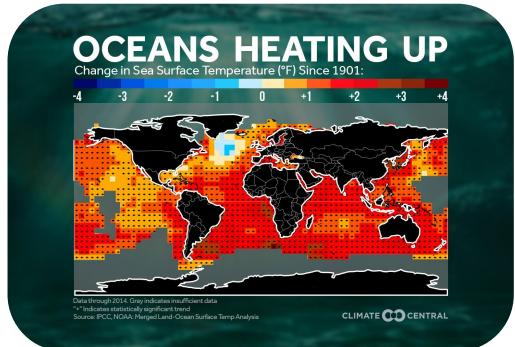


*Disruptors of Peaceful Uses of the
Ocean*
Sea Level Rise

Nilufer Oral
Centre for International Law-NUS
CIL-NUS and IOJI
Ocean and Peace Conference
Jakarta 9 December 2025

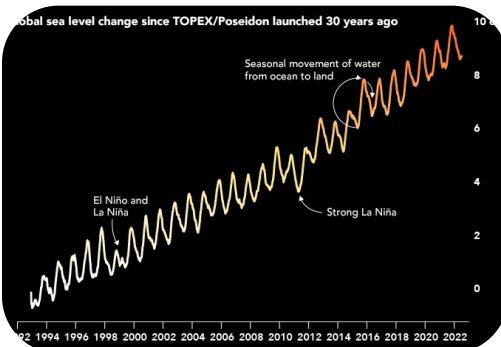
Climate change threats to the Ocean



Ocean warming



Sea Level Rise



Deoxygenation



Ocean Acidification

Sea Level Rise



Warming ocean = thermal expansion

Ice and glacial melt

2014 IPCC Fifth Assessment Report

- It is **virtually certain that global mean sea level rise will continue for many centuries beyond 2100**, with the amount of rise dependent on future emissions
- By the end of the 21st century, it is very likely that sea level will rise in more than about 95% of the ocean area. About 70% of the coastlines worldwide are projected to experience a sea level change within $\pm 20\%$ of the global mean

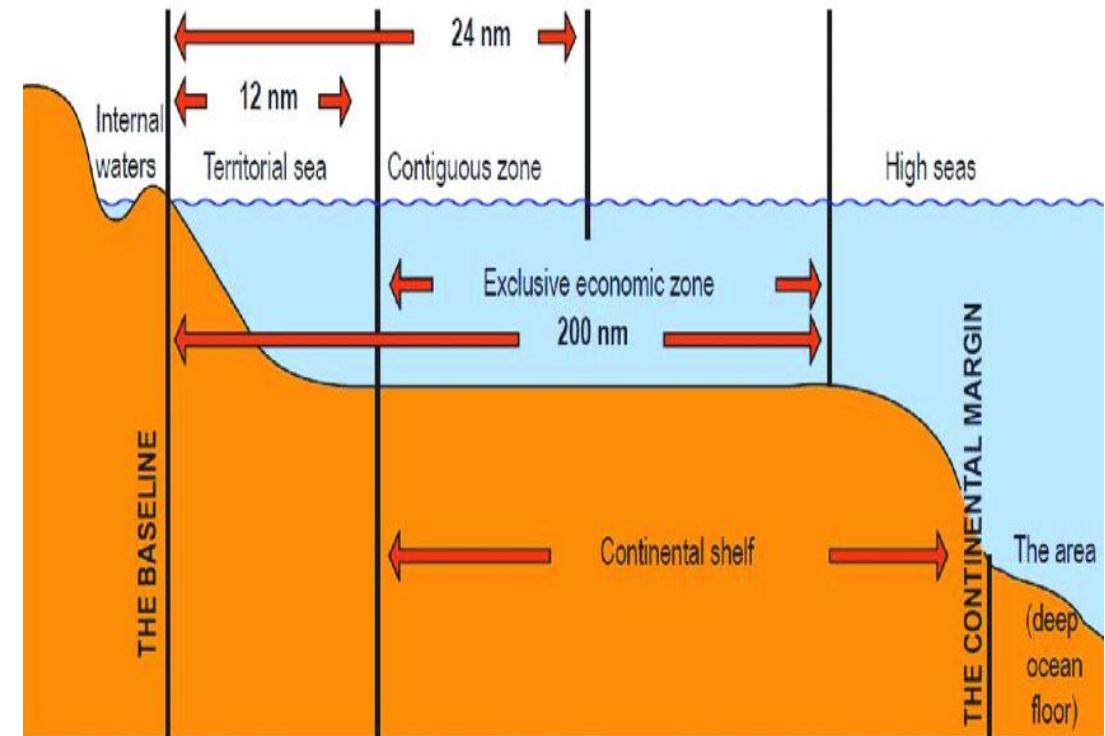


2050
sea level

2030
sea level

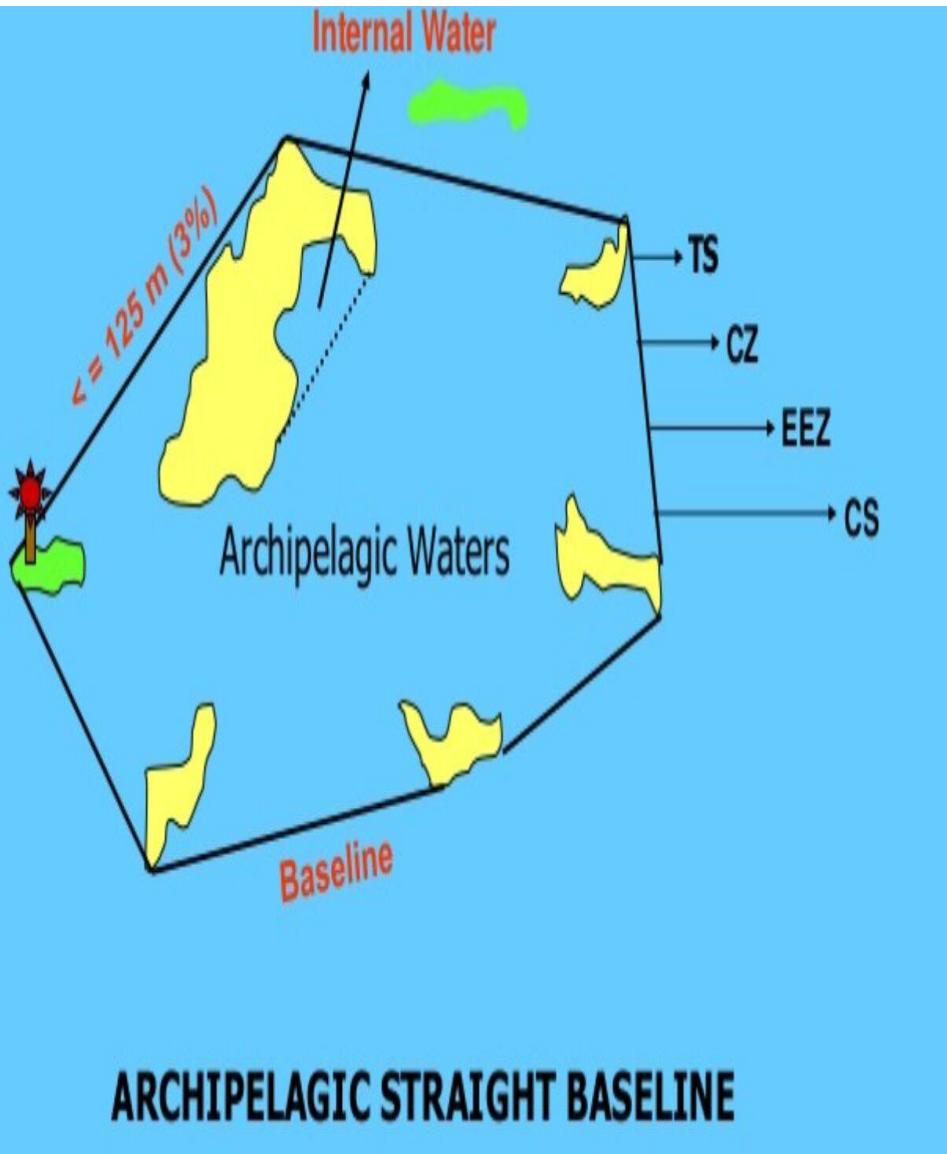
Maritime boundaries and Entitlements: Legal Issues?

1. Change in maritime boundaries and entitlements?
2. Loss of maritime zones?
3. Islands become rocks or disappear?



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Article 47 Archipelagic baselines

1. An archipelagic State may draw **straight archipelagic baselines** joining the **outermost points** of the **outermost islands and drying reefs** of the archipelago provided that within such baselines are included the main islands and an area in which the **ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1**.
2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.
3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

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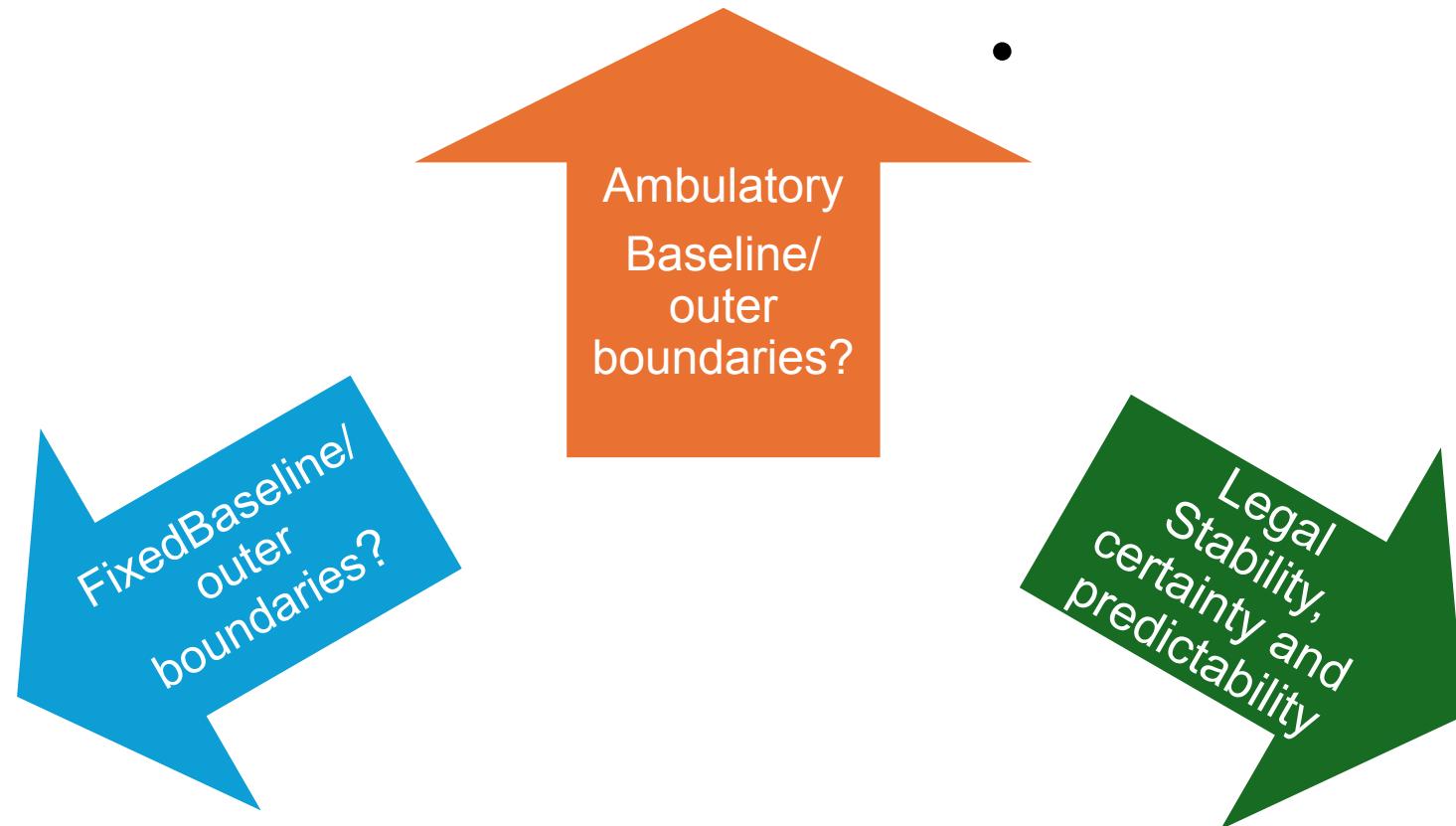
Indonesia:

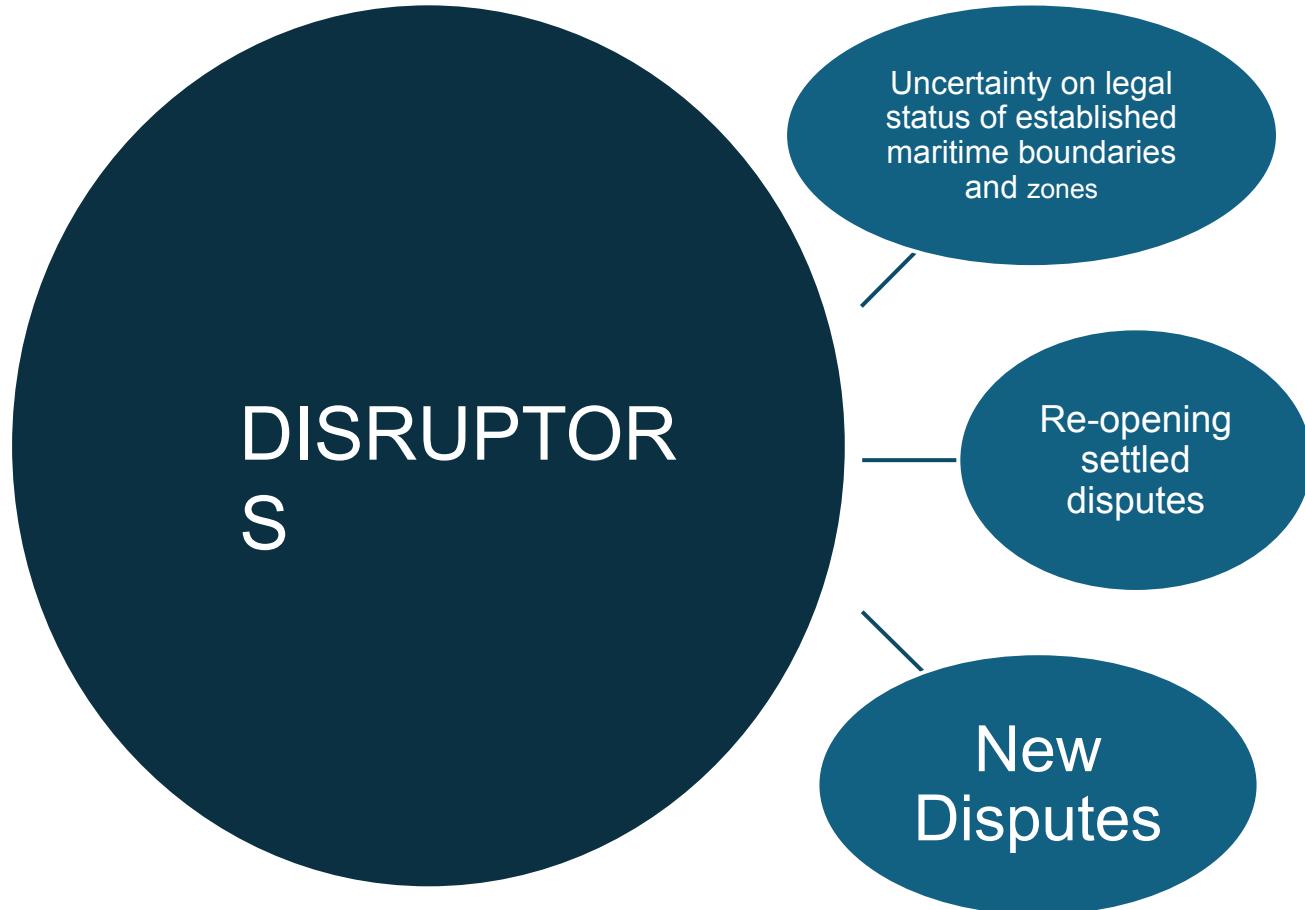
- National Research and Innovation Agency has projected that at least 115 of the State's islands will be under water by 2100

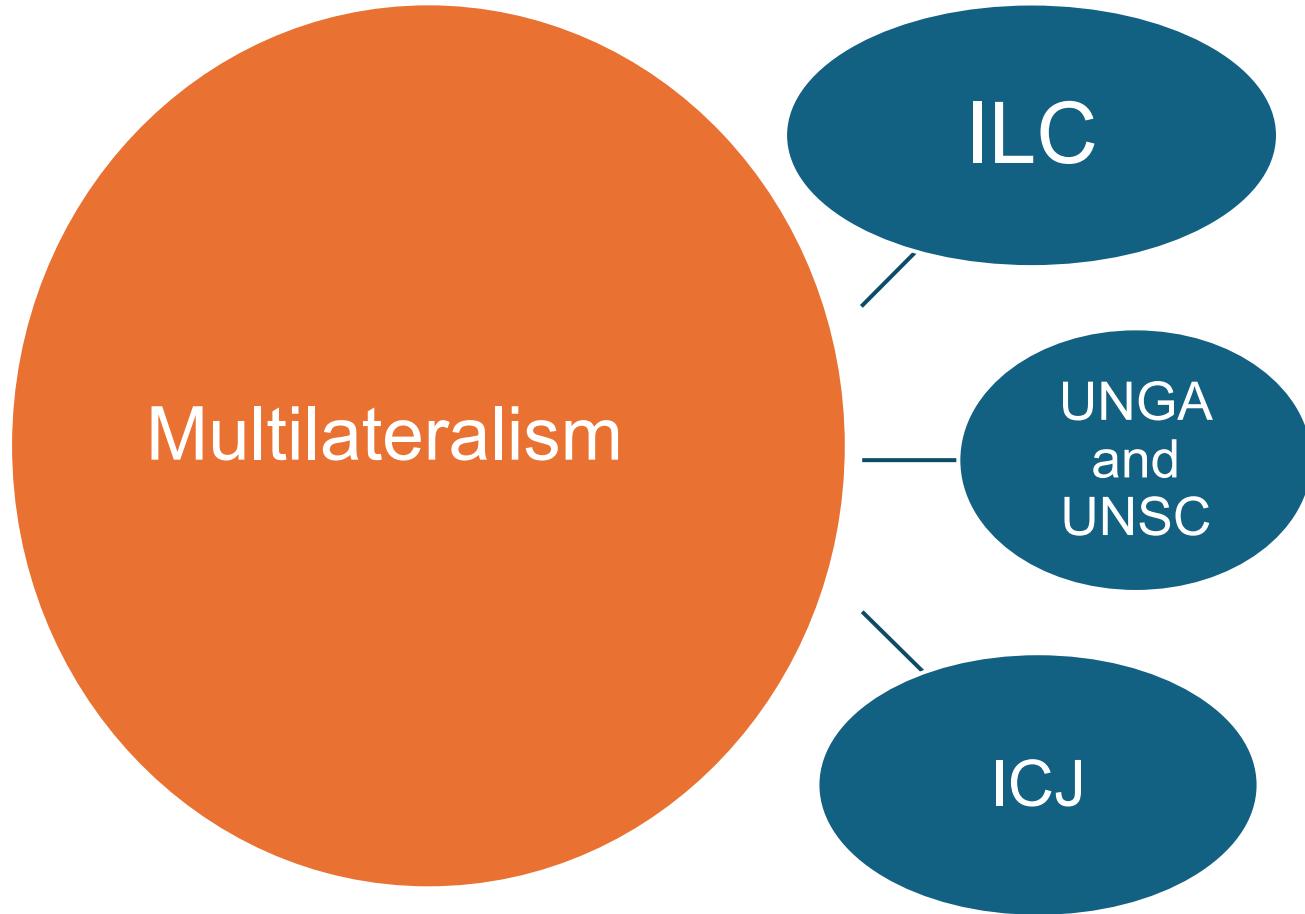
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Ambulatory vs Fixed Baselines or Outer Boundaries?







Legal stability, Certainty and Predictability

2021 Indonesia Sixth Committee statement:

[W]e concur that the principles of certainty, security and predictability and the preservation of the balance of rights and obligations should be maintained.

- We believe that ... maintaining existing maritime baselines and limits corresponding to the principles of certainty, security and predictability ... also reflects the interests of many States in connection with the effects of sea-level rise

Final Consolidated Report: Significant developments in the views of States may be observed between 2020 and 2024

“In the first issues paper, in 2020, the Co-Chairs **observed that it was early to draw a definitive conclusion on the emergence of a particular or regional customary rule (or even of a general customary rule)** of international law regarding the preservation of baselines and of outer limits of maritime zones measured from the baselines.

However, since then, a very strong trend – indeed, **a convergence of views** – has emerged among States **across different regions** in support of the following views:

1. United Nations Convention on the Law of the Sea does not require baselines or maritime zones to be modified because of climate change-related sea-level rise;
2. Preservation of baselines and maritime zones is directly linked to stability, certainty and predictability;
3. There is no obligation under the Convention to review baselines and accordingly update nautical charts to account for changes to the coast as a result of sea-level rise; and
4. The principle of fundamental change of circumstances cannot be applied to terminate or suspend maritime boundary agreements.

Conclusions of the Study Group as adopted by the International Law Commission 2025

25. Climate change-related sea-level rise was not an issue of concern for the international community at the time of the negotiation and adoption of the United Nations Convention on the Law of the Sea. Consequently, no provisions were included in the Convention to address climate change-related sea-level rise in relation to baselines, the outer limits of maritime zones and the status of islands and of archipelagic waters.

26. Many States Parties have stressed that the United Nations Convention on the Law of the Sea is of fundamental importance, its integrity is to be preserved and any solution relating to climate change-related sea-level rise must be consistent with it.

27. **The preservation of legal stability, certainty and predictability is directly linked to an interpretation of the United Nations Convention on the Law of the Sea and other rules of international law that allows for the preservation of baselines, the outer limits of maritime zones and associated entitlements notwithstanding changes to the coastline as a result of climate change-related sea-level rise. Bringing into question maritime boundaries agreed upon or otherwise duly established under international law owing to climate change-related sea-level rise would risk creating legal uncertainty and fresh disputes over maritime areas that had previously been settled.**

28. An approach that required baselines and the outer limits of maritime zones to shift landward as a result of sea-level rise having led to the physical submergence of land territory could create an inequitable outcome whereby third States could gain rights in maritime zones, in particular in the exclusive economic zone, to the detriment of the coastal State.

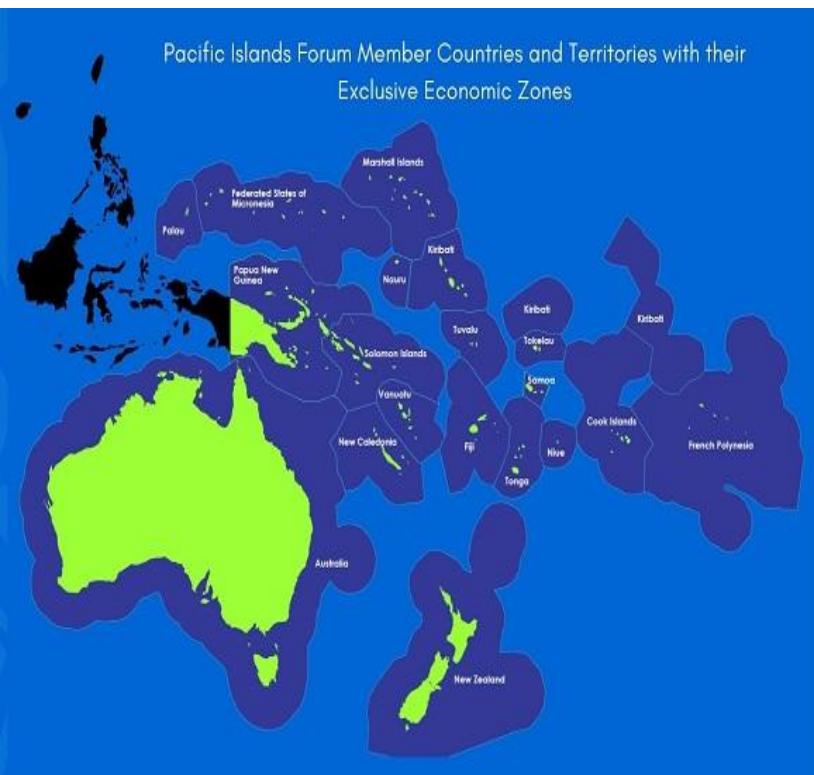
29. **There is no provision in the United Nations Convention on the Law of the Sea that imposes an obligation on States to update baselines, geographical coordinates or the outer limits of maritime zones once duly deposited with the Secretary-General in accordance with the Convention, and nor is there evidence of widespread State practice to that effect. Consequently, States are under no obligation to update baselines, geographical coordinates or the outer limits of maritime zones to account for changes as a result of climate change-related sea-level rise.**

Conclusions of the Study Group as adopted by the International Law Commission 2025

30. There is **no provision in the United Nations Convention on the Law of the Sea or other rules of international law that imposes an obligation on States to update charts** in relation to baselines, geographical coordinates or the outer limits of maritime zones, and nor is there evidence of widespread State practice to that effect. Consequently, States are under no obligation to update charts to account for changes as a result of climate change-related sea-level rise, without prejudice to issues relating to the safety of navigation.
31. There is no provision in the United Nations Convention on the Law of the Sea or other rules of international law that prevents States from preserving existing and lawfully established baselines, geographical coordinates and outer limits of maritime zones once duly deposited with the Secretary-General.
32. There is widespread support among States for the 2021 Pacific Islands Forum Declaration on Preserving Maritime Zones in the Face of Climate Change-related Sea-level Rise. General State practice exists, as evidenced by statements expressing widespread and consistent support, with regard to the preservation of baselines and the outer limits of maritime zones notwithstanding sea-level rise, in the interests of maintaining legal stability, certainty and predictability.
33. The **principle of fundamental change of circumstances (*rebus sic stantibus*)**, as codified in article 62, paragraph 1, of the Vienna Convention on the Law of Treaties, does not apply to maritime delimitation agreements, as they are covered by the exclusion for treaties establishing boundaries under article 62, paragraph 2 (a).
34. The preservation of baselines and maritime entitlements notwithstanding sea-level rise is consistent with the **principle of permanent sovereignty over natural resources**.

Other Developments

PACIFIC ISLAND FORUM DECLARATION ON PRESERVING MARITIME ZONES IN THE FACE OF CLIMATE CHANGE-RELATED SEA-LEVEL RISE 6 August 2021



- **Affirm** that the Convention imposes no affirmative obligation to keep baselines and outer limits of maritime zones under review nor to update charts or lists of geographical coordinates once deposited with the Secretary-General of the United Nations,
- **Record** the position of Members of the Pacific Islands Forum that maintaining maritime zones established in accordance with the Convention, and rights and entitlements that flow from them, notwithstanding climate change-related sea-level rise, is supported by both the Convention and the legal principles underpinning it,
- **Declare** that once having, in accordance with the Convention, established and notified our maritime zones to the Secretary-General of the United Nations, we intend to maintain these zones without reduction, notwithstanding climate change-related sea-level rise,
- **Further declare** that we do not intend to review and update the baselines and outer limits of our maritime zones as a consequence of climate change-related sea-level rise, and
- **Proclaim** that our maritime zones, as established and notified to the Secretary-General of the United Nations in accordance with the Convention, and the rights and entitlements that flow from them, shall continue to apply, without reduction, notwithstanding any physical changes connected to climate change-related sea-level rise.

PACIFIC ISLAND FORUM DECLARATION ON PRESERVING MARITIME ZONES IN THE FACE OF CLIMATE CHANGE-RELATED SEA-LEVEL RISE 6 August 2021

Broad support from

- 68 members of the Climate Vulnerable Forum
- 39 members of the Alliance of Small Island States (AOSIS) (2021 Leaders Declaration and 2024 Leaders Declaration)
- 79 members of the Organisation of African, Caribbean and Pacific States
- 59 member States of The Commonwealth

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Legal stability and the preservation of baselines and maritime zones

Apia Commonwealth Ocean Declaration, adopted on 26 October 2024 at the Commonwealth Heads of Government Meeting held in Samoa:

“We, the Heads of Government of the Commonwealth:] In view of the urgent threat of climate change-related sea-level rise, and the fundamental need to secure the rights, entitlements, and interests of all States and peoples of the Commonwealth, *affirm* that members can maintain their maritime zones, as established and notified to the Secretary-General of the United Nations in accordance with [the United Nations Convention on the Law of the Sea], and **the rights and entitlements that flow from them, [which] shall continue to apply, without reduction, notwithstanding any physical changes connected to climate change-related sea-level rise”**



Sea-Level Rise at the UN Security Council

- UN Security Council held first ever debate on the global implications of sea level rise on 15 February 2023
- “Sea-level rise: implications for international peace and security”, under the agenda item “Threats to international peace and security”
- UN Secretary-General António Guterres spoke
- ILC represented at UNSC for the first time



Sea-Level Rise at the UNGA

- **2023** Informal Plenary Meeting of the General Assembly on Existential Threats of Sea-level Rise Amidst the Climate Crisis held by UNGA President 3 November 2023
- **2024** High Level Plenary Meeting of the General Assembly on Existential Threats of Sea-level Rise held by UNGA President held on 25 September 2024
- Next one will be held in 2025

Obligations of States in respect of Climate Change (Request for Advisory Opinion) before the ICJ

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ICJ Advisory Opinion

Paras 355-365 addressing the legal aspects of sea level rise

Para 355

- The Court notes that many participants voiced strong concerns about sea level rise and its implications, especially for the stability of maritime zones. They contend that sea level rise should not have the effect of diminishing the maritime entitlements of States. They argue that existing baselines, maritime entitlements, maritime delimitations and statehood should be preserved, notwithstanding the physical effects of sea level rise, including coastal recession. They further contend that the complete submergence of their territory should not deprive them of their maritime entitlements.

ICJ Advisory Opinion Obligations of States in respect of Climate Change

Para. 361

- The **Court is aware of the work undertaken by the ILC on sea level rise** in relation to international law since 2018. The final report of the Study Group on sea level rise in relation to international law, adopted by the ILC at its seventy-sixth session (2025), **shows a convergence of views among States across all regions** in support of the absence of an obligation of States parties to UNCLOS to update charts or lists of geographical co-ordinates relating to their maritime zones once they have been duly established, in conformity with UNCLOS

ICJ Advisory Opinion Obligations of States in respect of **Climate Change**

Para. 362

- The Court considers that the provisions of UNCLOS **do not require States parties, in the context of physical changes resulting from climate-change related sea level rise, to update their charts or lists of geographical co-ordinates that show the baselines and outer limit lines of their maritime zones** once they have been duly established in conformity with the Convention. For this reason, States parties to UNCLOS are under no obligation to update such charts or lists of geographical co-ordinates.

Terima Kasih