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## International Law Commission

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### Sea-level rise in relation to international law

#### First issues paper by Bogdan Aurescu and Nilüfer Oral, Co-Chairs of the Study Group on sea-level rise in relation to international law

##### Corrigendum

##### 1. Paragraph 94

For the existing text *substitute*

94. Jamaica, in its 2019 statement,<sup>189</sup> hoped that the Commission's work on sea-level rise would spur the development of international law on climate change in a manner that supported security and stability and protected the most vulnerable communities and States. Jamaica also reported that it could not afford not to protect itself from sea-level rise, however high the cost.

##### 2. Paragraph 173

*For* territorial sea would become part of the coastal State's internal waters *read* internal waters of the coastal State would become part of its territorial sea

##### 3. Paragraphs 175 and 176

For the existing text *substitute*

175. The transition of part of the internal waters into the territorial sea could change the regime of passage for foreign-flagged vessels from that of the internal waters, where the coastal State enjoys complete prescriptive and enforcement jurisdiction, including rights to exercise criminal and civil jurisdiction, to that of recognizing the right of innocent passage. The rights of the coastal State in the seabed and subsoil in the territorial sea would not be altered as the coastal State exercises sovereignty over its seabed and subsoil.

176. By contrast, the shift in maritime zone and concomitant regime would benefit third States and their nationals, as foreign-flagged vessels would acquire the

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<sup>189</sup> Jamaica (A/C.6/74/SR.27, paras. 2–3).



international customary law rights of innocent passage, as codified in both the Convention on the Territorial Sea and Contiguous Zone and the United Nations Convention on the Law of the Sea. In the converse situation, article 8, paragraph 2, of the United Nations Convention on the Law of the Sea provides that, where the drawing of a straight baseline has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in the Convention shall exist in those waters. This is an indication that the Convention was drafted by taking into account the concern of preserving the regimes of maritime zones, and thus the stability of the law of the sea. Lastly, the coastal State competence over overflight rights would not be affected as there is no innocent passage right of overflight for foreign aircraft over the territorial sea.

**4. Paragraph 183**

*For* South Pacific *read* North Pacific

**5. Paragraph 190 (a)**

For the existing text *substitute*

The landward movement of the baseline and the outer limits of maritime zones would result in the coastal State losing sovereignty and jurisdiction rights over regulating the navigation of third States and their nationals, however third States and their nationals would gain rights of innocent passage in the territorial sea that was once part of the internal waters of the coastal State;

**6. Paragraph 195**

*Delete* the last sentence.

**7. Footnote 409**

At the end of the footnote, *insert* See Myron H. Nordquist and William G. Phalen, “Interpretation of UNCLOS article 121 and Itu Aba (Taiping) in the South China Sea Arbitration award”, in *International Marine Economy: Law and Policy*, Centre for Oceans and Law Policy, vol. 20, Myron H. Nordquist, John Norton Moore and Ronan Long, eds., (Brill Nijhoff, 2017), p. 5.