

Japan



**Session Introduction and Guiding Questions by
H.E. Mr. Tomohiro Mikanagi,
Ambassador Extraordinary and Plenipotentiary to the United Nations,
and Ambassador-at-Large for Cooperation on International Law, at
Island States Ocean Summit,
Special Event: ‘Sea Level Rise and International Law’,
3 June 2026**

Thank you for your kind introduction.

President Whipps, President Heine, Prime Minister Brown, Prime Minister Teo, excellencies, distinguished delegates, it is my great honor to speak in front of such high-level representatives of island States and others.

As introduced by DG Nakamura, I used to be Legal Advisor at the Ministry of Foreign Affairs and currently I am Ambassador Extraordinary and Plenipotentiary to the United Nations. I am also given the title of Ambassador-at-large for Cooperation on International Law, and, today, in the latter capacity, I will give some introductory remarks.

In the following, in view of the limited time available, I will focus on two issues, namely, the issue of the maintenance of

baselines and maritime zones, and the issue of continuity of statehood.

1. The Maintenance of Baselines and Maritime Zones

First, on the issue of maintenance of baselines and maritime zones, under UNCLOS, a coastal State's maritime entitlements, including its territorial sea, EEZ and continental shelf, are measured from its baselines. If sea level rise causes coastlines to retreat and existing baselines are adjusted accordingly, States—particularly island nations—would lose maritime rights and interests.

This would disproportionately affect island nations, despite their minimal contribution to greenhouse gas emissions. Such an outcome would not be desirable from the perspective of justice and legal stability.

UNCLOS, adopted in 1982, did not envisage sea level rise related to climate change, and its provisions did not clearly address whether baselines and maritime zones can be preserved. Against this backdrop, PIF leaders expressed their view as early as 2010, and both PIF and AOSIS leaders later declared that there is no obligation of States to update baselines or maritime zones established in accordance with UNCLOS, notwithstanding coastline regression caused by sea level rise.

In February 2023, then Japanese Foreign Minister Hayashi's remarks at the meeting with PIF delegation supported this position. Japan was the chair of G7 in 2023 and was the first

among G7 members to articulate this position clearly, reflecting its full appreciation of island nations' concerns.

In March 2023, the UN General Assembly requested the ICJ to render an advisory opinion on the obligations of States in respect of climate change. In December 2024, 96 States, including island States and Japan, participated in ICJ's hearing, and many of them expressed support to this view. In 2025, the International Law Commission, ILC, endorsed this view, and the ICJ's Advisory Opinion also endorsed it.¹

This is a significant diplomatic and judicial achievement. As a country advocating the rule of law and the essential role of the ICJ in upholding it, Japan welcomes this clarification given by the ICJ. I also wish to express deep respect for the sustained efforts of island nations in achieving this outcome.

2. The Continuity of Statehood

Next, complete submersion of a State's territory due to sea level rise is emerging as a realistic possibility, and the continuity of statehood in such a case is becoming a matter of vital importance for island nations. Whilst the ICJ and the ILC did not provide a definitive conclusion on this matter, they have suggested the possibility of the continuation of statehood.

The ILC's Final Report last year referred to a degree of flexibility in the interpretation and application of international

¹ Paragraph 362

law regarding statehood and emphasized strong support among States for the continuity of statehood. As for the ICJ, in paragraph 363 of the advisory opinion, the Court found: “*In the view of the Court, once a State is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood.*”

Article I of *the 1933 Montevideo Convention* mentioned four constituent elements: (a) population, (b) territory, (c) government, and (d) capacity to enter into relations with other States. The ICJ indicated that the disappearance of one of them, which is likely to be the territorial element in this context, would not necessarily entail the loss of statehood. This opinion seems to have affirmed the *possibility* of the continuity of statehood in the face of disappearance of land territory caused by sea-level rise. However, the phrase ‘*would not necessarily entail*’ seems to imply that the disappearance of land territory may, in some cases, entail the loss of statehood.

The ICJ’s opinion is an important step forward, but the Court did not clarify circumstances under which a State may continue to exist even after losing land territory. As this issue relates to the contents of customary international law, further clarification of law requires development of State practice and *opinio juris*. Therefore, I believe that it is up to States to use wisdom and diplomatic efforts to build up State practice and *opinio juris*.

In this regard, Japan is committed to engaging sincerely in discussions on this significant challenge, and this session is a

manifestation of this commitment.

To stimulate discussion in this session, I wish to offer my preliminary personal views. One of the most influential authors on issues relating to statehood is Professor and former ICJ judge James Crawford. In his *“The Creation of States in International Law”*, he said: *“The Criteria for statehood ... are flexible enough to allow a variety of entities with differing circumstances to be classified as States.”*² As mentioned earlier, the ILC also pointed out this flexibility. On the other hand, Crawford also said that the four elements mentioned in the *Montevideo Convention* are based on the principle of effectiveness³, and certain level of effectiveness as a State seems to be required for the continuation of statehood. In this regard, the ICJ said *“the disappearance of one of its constituent elements”*, which seems to presuppose the survival of other constituent elements.

Based on these observations and considering the importance of legal stability in international relations, I believe, in the context of sea level rise, we should aim to develop agreement among States whereby, ***in the event of loss of land territory due to sea level rise caused by climate change, statehood can be maintained by ensuring the survival of the other elements of statehood, including the government and population, through, for example, bilateral or multilateral treaties.***

² James Crawford. *“The Creation of States in International Law (2nd edition)”* (2005 Oxford University Press), P.197

³ Ibid. p.46

To develop agreement among States on this premise, we need to discuss how governance over population and maritime areas can be maintained. This is a challenge that requires both the strong resolve of the States facing submersion as well as the commitment of other States to cooperate with them. The international community must now address this issue urgently and earnestly.

About two weeks ago, I attended the adoption of a resolution by the General Assembly welcoming the ICJ's Advisory Opinion. Paragraph 7 of the resolution recalled the ICJ's opinion and affirmed "*the continuity of statehood in the face of sea-level rise*". The fact that this resolution was supported by 141 Member States is a positive step forward. On the other hand, paragraph 7 does not clarify circumstances under which a State may continue to exist even after losing land territory, and significant number of States put some reservation on the meaning of this paragraph in their explanation of vote.

Therefore, we need to build up State practice and *opinio juris* to further clarify rules relating to the continuity of statehood. Let me reiterate that Japan is keen to engage in active dialogue on this issue.

Based on the foregoing assessments, we have prepared three questions in advance for our distinguished speakers.

1. What are the impacts of sea level rise caused by climate change?

2. *How is international law expected to uphold the existence and rights of island nations such as your country in the face of sea level rise caused by climate change?*
3. *What kind of cooperation is required when a situation arises in which the entire territory or specific features constituting part of the territory are submerged?*

I look forward to hearing your candid views on these issues.