



**Key Messages Briefing Note for the UN Ocean Conference 2025**  
***Legal Obligations of States to Ensure A Fossil-Free Ocean & the Relevance of the Climate Advisory Opinions***

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The climate crisis, driven by greenhouse gas emissions and evidenced by sea level rise and ocean acidification, is inflicting profound harm on ocean biodiversity and coastal communities, disproportionately affecting those who have contributed the least to climate change. For low-lying States, sea level rise is not a future threat but a present crisis, undermining their territorial integrity, sovereignty, and right to exist as independent nations.

Fossil fuels are the overwhelming source of greenhouse gas (GHG) emissions that cause climate change and its resultant harms. To safeguard our ocean, and in line with international legal obligations, at the UN Ocean Conference (UNOC) 2025, States must commit to immediately halting fossil fuel expansion, rapidly and equitably phasing out fossil fuel production and use, and redressing harm already caused by fossil-fueled GHG emissions.

With regard to States' legal obligations in relation to climate change and maritime protections, the climate advisory opinion from the International Tribunal for the Law of the Sea, the forthcoming advisory opinions from the International Court of Justice and the Inter-American Court of Human Rights, as well as the arguments made before all three tribunals, may reinforce the rights of States and peoples whose survival is at stake as the seas rise and coastlines erode, bolstering their demands for climate justice and accountability. A fossil fuel-free future is not optional; it is a precondition for the continued health of our ocean and the stability of life on earth.

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**The Urgency of the Moment: the Impact of Sea Level Rise on Island States**

“...Vanuatu is a nation of islands and island peoples. Our peoples have built vibrant cultures and traditions over millennia that are intimately intertwined with our ancestral lands and seas. Yet today, we find ourselves on the frontlines of a crisis we did not create \_ a crisis that threatens our very existence... Yet now, across our sea of islands, anthropogenic climate change has imperilled our peoples' physical survival and ripped apart the integral relationships between people and place that grounds our very existence. Simply put, climate change has unravelled the fabric of our lives... Worse is yet to come. Rising sea levels are projected to submerge the entire territory of certain small island States \_ possibly within decades. This would inhibit the sovereignty of these States and, thus, the right of affected peoples to fully enjoy their self-determined political status. It would also force the dispersal of peoples from their ancestral homelands, undermining their right to exist as integral peoples within their own territory... For the peoples of Melanesia, whose very existence as peoples is fused with their ancestral territories, this would be tantamount to collective death.”

*-excerpt from the joint oral intervention of Vanuatu and the Melanesian Spearhead Group, the International Court of Justice Climate Advisory Opinion Oral Hearings, December 2024*

**\*\*\*States must halt fossil fuel expansion, phase out fossil fuels, and repair fossil-fueled harm to protect our blue planet and our ocean.** This is an urgent moral and *legal* imperative. Discretionary pledges are not enough- States must act in line with their legal duties.

The following legal developments are critical to ensure a fossil-free ocean:

1. The [UNOC Political Declaration \(zero draft\)](#) recalls the 2024 Advisory Opinion of the **International Tribunal for the Law of the Sea (ITLOS)** on the Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (COSIS). Advisory opinions are authoritative clarifications of binding law by a court. The pronouncements of ITLOS in its climate advisory opinion are vital for grounding ocean health in legal duties. Critical aspects include:

✓ Anthropogenic **GHG emissions constitute “pollution of the marine environment”** leading to “deleterious effects” such as ocean warming, sea level rise, and ocean acidification. States have a **duty to take all measures necessary to “prevent, reduce, and control” such pollution**, regardless of its source.

✓ To satisfy their legal duty, States must undertake measures that meet a **stringent, objective standard of due diligence**. Such measures should be determined objectively, taking into account the **best available science**.

✓ **Interpreting the opinion in line with the best available science** makes clear that ambitious and equitable reduction of **GHG emissions unequivocally requires the phaseout of fossil fuels**, including phasing out offshore oil and gas. Without addressing fossil fuels, reducing GHG emissions and halting marine habitat degradation will remain out of reach.

✓ Reaffirming the importance of **corporate accountability**: the obligation of due diligence is particularly relevant where the activities in question are mostly carried out by **private persons or entities**.

✓ **The Paris Agreement does not exclusively or exhaustively define State obligations in relation to climate change**. Other international law, such as the UN Convention on the Law of the Sea, applies.

✓ **While equity is central, all States are duty-bound to take action** to reduce GHG emissions. Legal obligations require developed States not only to drastically cut emissions but also to provide greater technical and financial support to vulnerable nations.

✓ States must take a **precautionary approach** in addressing GHG pollution; conduct environmental impact assessments that take into account cumulative effects; and avoid reliance on risky, speculative technologies that would “transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another” and must also prevent, reduce and control marine pollution “resulting from the use of technologies under their jurisdiction or control.”

2. **The International Court of Justice** is expected to deliver an advisory opinion on State obligations on climate change during the summer of 2025, clarifying: i. the interpretation of existing legal standards, concerning States’ duties to protect the climate system and other parts of the environment, including the ocean, from GHG emissions, and ii. the legal consequences when those duties are breached. The ICJ case is one to watch as several States uplifted the impacts of climate change on the ocean and coastal communities in their arguments, emphasizing four ocean-relevant arguments in particular:

✓ The applicable law defining State climate obligations extends beyond the climate treaties - i.e. the UN Framework Convention on Climate Change (UNFCCC), the Paris Agreement, and the Kyoto Protocol - and includes, but is not limited to, the UN Convention on the Law of the Sea, human rights treaties, and customary international law.

- ✓ The interlocking principles of territorial integrity, self-determination, and permanent sovereignty over natural resources continue to apply in the face of sea level rise.
  - ✓ The preventive principle, including a stringent standard of due diligence, and the precautionary principle, apply in the context of climate change, requiring States to protect and conserve the environment, including the marine environment, from GHG emissions, and to phase out fossil fuels.
  - ✓ Specific forms of remedy requested for climate change-related loss and damage and coastal erosion include, for example, providing compensation or significant technological assistance, preserving sovereignty in light of eroding territory, remedial measures with respect to climate-related forced displacement, and restoring damaged ecosystems such as coral reefs and mangroves.
3. Under **human rights law**, it is clear that States have extensive obligations to protect coastal and island communities, the ocean, and the marine environment from pollution, including the anthropogenic emission of GHGs, and from the adverse effects of climate change. These obligations derive from the right to a clean, healthy, and sustainable environment (R2HE) as well as other human rights, such as the rights to life, culture, home, food, water and sanitation, and health. The Inter-American Court of Human Rights has already clarified in its 2017 **Advisory Opinion on the Environment and Human Rights (OC 23/17)** as well as its 2024 **Case of La Oroya Population v. Peru** that the R2HE protects the environment, including the ocean and the marine environment, in and of itself, as well as for the benefit of the international community as a whole, for both present and future generations, and even in the absence of certainty or evidence of risk to individuals. In **OC 23/17**, the Court explicitly recognised coastal and small island developing States as groups particularly vulnerable to environmental degradation, thus deserving of heightened protections. In **La Oroya**, the Court also emphasised a clear duty of States to prevent and punish human rights violations committed by **private enterprises**, including the duty to regulate, supervise, and oversee hazardous activities by private companies. It may be inferred from these pronouncements that measures to comply with these obligations would entail a just, rapid, and equitable phaseout of fossil fuels and that States can be held accountable for the pollution of the ocean and the marine environment by private actors.

The **upcoming advisory opinion from the Inter-American Court of Human Rights**, which is expected also in the summer of 2025, will likely expand upon these principles and further address rights-based obligations in relation to the ocean, as ocean-relevant arguments were also raised across the proceedings.

4. We urge States to closely consider the aforementioned legal obligations and forthcoming climate advisory opinions, relevant to ensuring a fossil-free ocean, and protecting public and planetary wellbeing. The findings from international courts regarding State obligations at the intersection of climate change and ocean protections are deeply significant for ongoing and future legal cases, negotiations, and regional cooperation.
5. UNOC 2025 presents an opportunity for the ocean governance community to reaffirm its commitment to ocean protection and climate justice. By embracing a fossil-free future, States can comply with their legal obligations, stand with climate- vulnerable communities, and preserve the health of our ocean for generations to come.

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