

ICJ AO Litigation Notes Digest

February, 2026

Selected ICJ AO Excerpts of Overarching Importance



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About this publication

Background

On 23 July 2025, the International Court of Justice (ICJ) delivered its historic unanimous advisory opinion (AO) on States' obligations in relation to climate change. Following the landmark climate advisory opinions from the International Tribunal for the Law of the Sea and the Inter-American Court of Human Rights, the ICJ provided exceptional clarity regarding the scope and content of States' duties under international law in the context of the climate crisis. This clarity has the potential to substantially enhance and inform ongoing climate cases as well as future claims before domestic, regional, and international courts. Indeed, since its issuance, the opinion has already been quietly and pervasively taken up across the litigation landscape.

To translate the ICJ AO's normative clarity into practical litigation tools, a coalition of climate litigation practitioners have developed this compendium of structured "Litigation Notes". These notes are designed to assist lawyers in integrating relevant conclusions of the ICJ AO into ongoing and future cases before domestic, regional, and international courts and quasi-judicial bodies towards advancing climate justice.

The litigation notes break down the opinion by topic, prioritizing topics particularly charged in courts at present and/or critical for evolving strategies and the next "generation" or phase of climate litigation. The notes do not aim to be comprehensive in scope. Each contains sections on:

- Key excerpts (including paragraph numbers and specific references) of the most relevant text from the opinion
- Situating the core findings in examples from the broader jurisprudential landscape to highlight what types of cases and claims could use such excerpts

The compendium also includes a list of selected excerpts of overarching importance.

This thematic brief is part of a broader litigation notes compendium organized by topic; the full compilation is available here: www.ciel.org/reports/icj-litigation-notes-digest

Selected ICJ AO Excerpts of Overarching Importance

The Best Available Science

- **Para. 137:** "...The best available science, as presented by the IPCC, confirms that cumulative GHG emissions are the primary source of risks arising from anthropogenic climate change (see paragraphs 72–87 above)."
- **Para. 278:** "The determination of 'significant harm to the climate system and other parts of the environment' must take into account the best available science, which is currently to be found in the reports of the IPCC. ... Informed by the best available science and based on the above considerations, the Court considers that the adverse effects of climate change, including rising temperature levels, sea level rise, negative effects on ecosystems and biological diversity, and extreme weather events, indicate that **the accumulation of GHG emissions in the atmosphere is causing significant harm to the climate system and other parts of the environment.**" (*emphasis added*)
- **Para. 284:** "... The Court is aware that scientific research on climate change is well developed. In this regard, reports by the IPCC constitute comprehensive and authoritative restatements of the best available science about climate change at the time of their publication (see paragraphs 74, 77–83 and 277–279 above)."
- **Para. 81:** "The IPCC adds that the largest source of CO₂ is combustion of fossil fuels in energy conversion systems such as boilers in electric power plants, engines in aircraft and automobiles, and in cooking and heating within homes and businesses (approximately 64 per cent of emissions). It further observes that fossil fuels are a major source of CH₄, the second biggest contributor to global warming."
- **Para. 82:** "Furthermore, according to the IPCC, '... Deep, rapid, and sustained reductions in greenhouse gas emissions would lead to a discernible slowdown in global warming within around two decades, and also to discernible changes in atmospheric composition within a few years' (IPCC, 2023 Summary for Policymakers, p. 12, Statement B.1)."

Temperature Limit

- **Para. 224:** "[T]he Court considers the **1.5°C threshold** to be the parties' agreed primary temperature goal for limiting the global average temperature increase under the Paris Agreement." (*emphasis added*)
- **Para. 242:** "...the object and purpose of the Agreement set out in Article 2, i.e. to hold the increase in the global average temperature to below 1.5°C, which the Court has interpreted to be the primary temperature goal under the Agreement (see paragraph 224 above)."

Applicable Law

- **Para. 172:** "...the Court is of the view that the most directly relevant applicable law consists of the Charter of the United Nations, the UNFCCC, the Kyoto Protocol, the Paris Agreement, UNCLOS, the ozone layer treaties, the Biodiversity Convention, the Desertification Convention, the customary duty to prevent significant harm to the environment and the duty to co-operate for the protection of the environment, and international human rights law, as well as certain guiding principles for the interpretation of various applicable rules and principles (sustainable development, common but differentiated responsibilities and respective capabilities, equity, intergenerational equity, and the precautionary approach or principle)."
- **Para. 168:** "The Court cannot find any actual inconsistency between the provisions of the climate change treaties and other rules and principles of international law ... On the contrary, the preambles of the UNFCCC and the Paris Agreement ... contain references to other rules and principles."
- **Para. 169:** "Nor can the Court identify a discernible intention of the parties to the climate change treaties generally to displace other possibly applicable rules or principles."
- **Para. 171:** "For these reasons, the Court considers that the argument according to which the climate change treaties constitute the only relevant applicable law cannot be upheld and **finds that the principle of *lex specialis* does not lead to a general exclusion by the climate change treaties of other rules of international law.**" (*emphasis added*)
- **Para. 420:** "responsibility for breaches of obligations under the climate change treaties, and in relation to the loss and damage associated with the adverse effects of climate change, is to be determined by applying the well-established rules on State responsibility under customary international law."
- **Para 419:** "....the climate change treaties do not derogate from or displace general international law of State responsibility."

Intergenerational equity

- **Para. 157:** "In the Court's view, intergenerational equity is a manifestation of equity in the general sense and thus shares its legal significance as a guide for the interpretation of applicable rules. Accordingly, considerations of intergenerational equity must play a role *infra legem*, without displacing or exceeding the limits of the applicable law. **Due regard for the interests of future generations and the long-term implications of conduct are equitable considerations that need to be taken into account where States contemplate, decide on and implement policies and measures in fulfilment of their obligations under the relevant treaties and customary international law.**" (*emphasis added*)

Relevant Conduct

- **Para. 94:** “In this regard, the Court is further of the view that **the relevant conduct for the purposes of these advisory proceedings is not limited to conduct that, itself, directly results in GHG emissions, but rather comprises all actions or omissions of States which result in the climate system and other parts of the environment being adversely affected by anthropogenic GHG emissions. The Court considers that the material scope of its inquiry encompasses the full range of human activities that contribute to climate change as a result of the emission of GHGs, including both consumption and production activities...**” (*emphasis added*)
- **Para. 95:** “The Court’s inquiry must therefore have a broad material scope encompassing States’ obligations concerning **all actions or omissions of States, and of non-State actors within their jurisdiction or effective control, that result in the climate system and other parts of the environment being adversely affected by anthropogenic GHG emissions.**” (*emphasis added*)
- **Para. 427:** “In the Court’s view, the “well-established rule of international law” that “the conduct of any organ of a State must be regarded as an act of that State.” ... **Failure of a State to take appropriate action to protect the climate system from GHG emissions – including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies – may constitute an internationally wrongful act which is attributable to that State.** The Court also emphasizes that the internationally wrongful act in question is not the emission of GHGs per se, but the breach of conventional and customary obligations identified under question (a) pertaining to the protection of the climate system from significant harm resulting from anthropogenic emissions of such gases.” (*emphasis added*)

Customary International Law Obligations

- **Para. 314:** “[C]ompliance in full and in good faith by a State with the climate change treaties, as interpreted by the Court [...], suggests that this State substantially complies with the general customary duties to prevent significant environmental harm and to co-operate. **This does not mean, however, that the customary obligations would be fulfilled simply by States complying with their obligations under the climate change treaties [...].** While the treaties and customary international law inform each other, they establish independent obligations that do not necessarily overlap.” (*emphasis added*)
- **Para. 315:** “Customary obligations are the same for all States and exist independently regardless of whether a State is a party to the climate change treaties.”

Erga Omnes Obligations

- **Para. 440:** “...the Court considers that all States have a common interest in the protection of global environmental commons like the atmosphere and the high seas. Consequently, States’ obligations pertaining to the protection of the climate system and other parts of the

environment from anthropogenic GHG emissions, in particular the obligation to prevent significant transboundary harm under customary international law, are obligations erga omnes. In the treaty context, the Court recalls that the UNFCCC and Paris Agreement acknowledge that climate change is “a common concern of humankind” (UNFCCC, first preambular paragraph; Paris Agreement, eleventh preambular paragraph), requiring “a global response” (Paris Agreement, Article 2). They seek to protect the essential interest of all States in the safeguarding of the climate system, which benefits the international community as a whole. As such, the Court considers that the obligations of States under these treaties are obligations erga omnes partes.”

- **Para. 441:** “As the Court has observed in the past, obligations erga omnes are “[b]y their very nature . . . the concern of all States” (*Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain), Second Phase, Judgment, I.C.J. Reports 1970*, p. 32, para. 33). ... As a result, all States parties have a legal interest in the protection of the main mitigation obligations set forth in the climate change treaties and may invoke the responsibility of other States for failing to fulfil them.”
- **Para. 443:** “There is however a difference between the position of injured States or specially affected States on the one hand, and that of non-injured States on the other, as concerns the availability of remedies. While a non-injured State may pursue a claim against a State in breach of a collective obligation, it may not claim reparation for itself. Rather, it may only make a claim for cessation of the wrongful act and assurances and guarantees of non-repetition, as well as for the performance of the obligation of reparation in the interest of the injured State or of the beneficiaries of the obligation breached.” Relatedly, “[offending] States have a continuing duty to perform their obligations despite their breaches thereof ...”(para. 446).
- **Para. 271:** Under customary international law, the opinion largely considered “how (1) the customary duty of States to prevent significant harm to the environment and (2) the customary duty of States to co-operate for the protection of the environment are to be interpreted and applied in respect of climate change...”

Duty to Prevent Harm, Due Diligence and the Precautionary Approach

- **Para. 132:** “[a] State is . . . obliged to use all the means at its disposal in order to avoid activities which take place in its territory, or in any area under its jurisdiction, causing significant damage to the environment of another State”
- **Para. 134:** “.....This jurisprudence affirms that the duty to prevent significant harm to the environment is not confined to instances of direct cross-border harm and that it applies to global environmental concerns. Therefore, the customary duty to prevent significant harm to the environment also applies with respect to the climate system and other parts of the environment.”

- **Para. 409:** “With regard to obligations under customary international law, the Court observes that the most significant primary obligation for States in relation to climate change is **the obligation to prevent significant harm to the climate system and other parts of the environment** (see paragraphs 132–139 above), which applies to all States, including those that are not parties to one or more of the climate change treaties. Under this obligation, as well as under other obligations of conduct identified under question (a), a State does not incur responsibility simply because the desired result is not achieved; rather, **responsibility is incurred if the State fails to take all measures which were within its power to prevent the significant harm**. In this connection, the notion of due diligence, which calls for an assessment *in concreto*, is the relevant standard for determining compliance (see paragraph 137 above). Thus, a State that does not exercise due diligence in the performance of its primary obligation to prevent significant harm to the environment, including to the climate system, commits an internationally wrongful act entailing its responsibility.” (*emphasis added*)

- **Para. 273:** “ The duty to prevent significant harm to the environment also applies to the climate system, which is an integral and vitally important part of the environment and which must be protected for present and future generations (see paragraphs 73–74 above)...”

- **Para. 274:** “States are subject to the duty to prevent significant harm either where no harm has yet been caused but the risk of future significant harm exists, or where some harm has already been caused, and there exists a risk of further significant harm”

- **Para. 276:** “The Court is of the view that a risk of significant harm may also be present in situations where significant harm to the environment is caused by the cumulative effect of different acts undertaken by various States and by private actors subject to their respective jurisdiction or control, even if it is difficult in such situations to identify a specific share of responsibility of any particular State. States must assess the possible cumulative effects of their acts and the planned activities under their jurisdiction or control. Although such “activities may not be environmentally significant if taken in isolation, . . . they may produce significant effects if evaluated in interaction with other activities” (*Climate Change, Advisory Opinion, ITLOS Reports 2024*, p. 128, para. 365).”

- **Para. 280:** “The Court reaffirms that States must fulfil their duty to prevent significant harm to the environment by acting with due diligence...”

- **Para. 281:** “The Court recalls that **due diligence requires a State to ‘use all the means at its disposal in order to avoid activities which take place in its territory, or in any area under its jurisdiction, causing significant damage to the environment of another State’** (*Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, *I.C.J. Reports 2010 (I)*, p. 56, para. 101)” (*emphasis added*)

- **Para. 136:** “The conduct required by due diligence has several elements. These elements include States taking, to the best of their ability, appropriate and, if necessary, precautionary measures, which take account of scientific and technological information, as well as relevant rules and international standards, and which vary depending on each State’s respective

capabilities. Other elements of the required conduct include undertaking risk assessments and notifying and consulting other States, as appropriate.”

- **Para. 138:** “Under these circumstances, **the Court recognizes that the standard of due diligence for preventing significant harm to the climate system is stringent** [...].” (*emphasis added*)
- **Para. 275:** “[...] the degree of a given risk of harm is always an important element for the application of the due diligence standard: the higher the probability and the seriousness of possible harm, the more demanding the required standard of conduct.”
- **Para. 283:** “... Due diligence also requires States to actively pursue the scientific information necessary for them to assess the probability and seriousness of harm, in conformity with the common but differentiated responsibilities and respective capabilities principle.”
- **Para. 284:** “The standard of due diligence may also become more demanding in the light of new scientific or technological knowledge.”
- **Para. 282:** “As far as climate change is concerned, such appropriate rules and measures include, but are not limited to, regulatory mitigation mechanisms that are designed to achieve the deep, rapid, and sustained reductions of GHG emissions that are necessary for the prevention of significant harm to the climate system. Adaptation measures reduce the risk of significant harm occurring and are therefore also relevant for assessing whether a State is fulfilling its customary obligations with due diligence. **These rules and measures must regulate the conduct of public and private operators within the States’ jurisdiction or control and be accompanied by effective enforcement and monitoring mechanisms to ensure their implementation.**” (*emphasis added*)
- **Para 285:** “Adaptation and mitigation measures available to States _ and their ability to contribute to the prevention of significant harm _ depend on the sharing of information. This also serves to minimize the possibility that a particular adaptation or mitigation measure itself poses a risk of significant transboundary harm.”
- **Para 286:** “Where a risk can be addressed with readily available technologies, States are expected to use them. However, when technologies pose further risks, States are expected to use them with prudence and caution”
- **Para 293:** “Scientific information regarding the probability and the seriousness of possible harm informs the required standard of due diligence.... States are required to take appropriate measures to prevent significant harm where reliable scientific evidence of a risk of significant harm exists. However, States should also not refrain from or delay taking actions of prevention in the face of scientific uncertainty. According to Principle 15 of the Rio Declaration, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation (see also Article 3, paragraph 3, of the UNFCCC).”

- **Para. 294:** “The Court agrees with the conclusion reached by ITLOS that “where there are plausible indications of potential risks”, a State “would not meet its obligation of due diligence if it disregarded those risks” and, in that sense, the “precautionary approach is also an integral part of the general obligation of due diligence” under the duty to prevent significant harm to the environment (*Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011*, p. 46, para. 131). Based on the above, the Court considers that the precautionary approach or principle, where applicable, guides States in the determination of the required standard of conduct in fulfilling their customary duty to prevent significant harm.”
- **Para. 292:** “While developed States, in the context of climate change, must take more demanding measures to prevent environmental harm and must satisfy a more demanding standard of conduct, the standard required in each case ultimately depends on the specific situation of each State, namely ‘all the means at its disposal’.”
- **Para. 457 (3)(B)(a):** “States have a duty to prevent significant harm to the environment by acting with due diligence and to use all means at their disposal to prevent activities carried out within their jurisdiction or control from causing significant harm to the climate system and other parts of the environment, in accordance with their common but differentiated responsibilities and respective capabilities”
- **Para. 296:** “... The Court has recognized with respect to such situations that “it may now be considered a requirement under general international law to undertake an environmental impact assessment” (*ibid.*) and that the “[principle] underlying” this obligation applies not only to industrial activities but “generally to proposed activities which may have a significant adverse impact in a transboundary context” (*Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, *I.C.J. Reports 2015 (II)*, p. 706, para. 104).”

Duty to Cooperate

- **Para. 308:** “Climate change is a common concern. **Cooperation is not a matter of choice for States but a pressing need and a legal obligation.**” (*emphasis added*)
- **Para. 141:** “This duty to co-operate is intrinsically linked to the duty to prevent significant harm to the environment, because unco-ordinated individual efforts by States may not lead to a meaningful result. It also derives from the principle that the conservation and management of shared resources and the environment are based on shared interests and governed by the principle of good faith (see *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I. C.J. Reports 1996 (I)*, p. 264, para. 102; *Nuclear Tests (Australia v. France)*, Judgment, *I.C.J. Reports 1974*, p. 268, para. 46).”

- **Para. 305:** “... The duty to co-operate is applicable to all States, although its level may vary depending on additional criteria, first and foremost the common but differentiated responsibilities and respective capabilities principle.”
- **Para. 306:** “The Court recognizes that the duty to co-operate leaves States some discretion in determining the means for regulating their GHG emissions. **However, this discretion cannot serve as an excuse for States to refrain from co-operating with the required level of due diligence or to present their effort as an entirely voluntary contribution which cannot be subjected to scrutiny...**” (*emphasis added*)

Mitigation Obligations

Obligations under the UNFCCC:

- **Para. 208:** “[I]t cannot be said that an obligation of result, such as an obligation [under Article 4.2(a)] to ‘adopt national policies and take corresponding measures on the mitigation of climate change’, will be met merely by the adoption of any policies and the taking of corresponding measures. To comply with this obligation of result, the policies so adopted and the measures so taken must be such that they are able to achieve the required goal. In other words, the adoption of a policy, and the taking of related measures, as a mere formality is not sufficient to discharge the obligation of result.”

Obligations under the Paris Agreement:

Nationally Determined Contributions (NDCs)

- **Para. 236:** “[T]he mere formal preparation, communication and maintenance of successive NDCs is not sufficient to comply with the obligations under Article 4 [...]. The content of the NDCs is equally relevant to determine compliance.”
- **Para. 226:** The principle of CBDR-RC plays a “key role” in the Paris Agreement.
- **Para. 241:** “[E]ach Party’s successive nationally determined contribution will represent a progression’ beyond that party’s current NDC means that a party’s NDCs must become more demanding over time.”
- **Para. 242:** “[A] party’s NDCs must reflect ‘its highest possible ambition’.”
- **Para. 242:** “[T]he content of a party’s NDC must [...] be capable of making an adequate contribution to the achievement of the temperature goal.”
- **Para. 245:** “... the Court Court considers that the discretion of parties in the preparation of their NDCs is limited. As such, in the exercise of their discretion, parties are obliged to exercise due diligence and ensure that their NDCs fulfil their obligations under the Paris Agreement and thus, when taken together, are capable of achieving the temperature goal of limiting global warming to 1.5°C above pre-industrial levels, as well as the overall objective of

the “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”

- **Para. 246:** “In the current context, because of the seriousness of the threat posed by climate change, the standard of due diligence to be applied in preparing the NDCs is stringent (see paragraph 138 above). This means that **each party has to do its utmost to ensure that the NDCs it puts forward represent its highest possible ambition in order to realize the objectives of the Agreement.**” (*emphasis added*)
- **Para. 247:** “[T]he standard to be applied when assessing the NDCs of different parties will vary depending, *inter alia*, on historical contributions to cumulative GHG emissions, and the level of development and national circumstances of the party in question.”
- **Para. 252:** “[P]arties are required to act with due diligence in taking necessary measures to achieve the objectives set out in their successive NDCs.....”

Implementing NDCs

- **Para. 253:** “What is required of parties under Article 4, paragraph 2, is not a guarantee that communicated NDCs will be achieved, but rather that they will make best efforts to obtain such a result. The Court considers that the obligation to ‘pursue domestic mitigation measures’ that aim to achieve the objectives of their NDCs requires States to be proactive and pursue measures that are reasonably capable of achieving the NDCs set by them. These measures may include putting in place a national system, including legislation, administrative procedures and an enforcement mechanism, and exercising adequate vigilance to make such a system function effectively, with a view to achieving the objectives in their NDCs.”

Adaptation Obligations

Obligations under the UNFCCC:

- **Para. 209:** ...“adapting to the adverse effects of climate change is, along with mitigation, a major area of action for parties under the Framework Convention. Adaptation is defined by the IPCC as ‘the process of adjustment to actual or expected climate and its effects, in order to moderate harm or exploit beneficial opportunities’ (IPCC 2023 Glossary, p. 120; see paragraph 86 above).”

On relevant adaptation plans

- **Para. 210:** “For instance, Article 4, paragraph 1(b) of the Framework Convention provides that all parties are to ‘[f]ormulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to...facilitate adequate adaptation to climate change’.”

On obligations to cooperate

- **Para. 210:** “Article 4, paragraph 1 (e), establishes an obligation for parties to ‘[c]ooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods’.”

On a just transition and adaptation

- **Para. 210:** “Article 4, paragraph 1 (f), requires parties to ‘[t]ake climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions’. It also calls on parties to ‘employ appropriate methods, for example impact assessments’ ... with a view to minimizing adverse effects that adaptation projects or measures could have”

On climate finance and technological transfer obligations

- **Para. 211:** “Article 4, paragraph 4, of the UNFCCC provides that Annex II parties “shall” assist the developing country parties that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation. **This is a legally binding obligation on all parties that are listed in Annex II.**” (*emphasis added*)

On relevant plans:

- **Para. 256:** “[S]pecific obligations pertaining to adaptation are contained in Article 7, paragraph 9, of the Paris Agreement, which provides that ‘[e]ach Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions.’ This provision, introduced with the terms ‘[e]ach Party shall’, imposes a **legally binding obligation** upon the parties to undertake adaptation planning actions.” (*emphasis added*)

Forms of adaptation actions:

- **Para. 257:** “While Article 7, paragraph 9, does not provide for any specific actions that parties must take, the provision does specify the types of actions and processes that parties may take to meet their obligations under this provision. These include: the “implementation of adaptation actions, undertakings and/or efforts” (Article 7, paragraph 9 (a)); the formulation and implementation of national adaptation plans (Article 7, paragraph 9 (b)); the assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems (Article 7, paragraph 9 (c)); monitoring, evaluating and learning from adaptation plans, policies, programmes and actions (Article 7, paragraph 9 (d)); and building the resilience of socio-economic and ecological systems, including through economic diversification and the sustainable management of natural resources (Article 7, paragraph 9 (e)).”
- **Para. 258: On forms of adaptation,** “the Court observes that the IPCC noted in 2023 that adaptation is a particularly pressing challenge in responding to climate change and that adaptation options exist that are effective in reducing climate risks in certain contexts, such

as restoration of ecosystems, the creation of early warning systems, and resilience-enhancing infrastructure (see IPCC, Climate Change 2023: Synthesis Report, pp. 55–56, section 2.2.3). These options, as well as others such as regenerative farming, crop diversification, weatherproofing of buildings, and managing land to reduce wildfire risk, implemented by parties through the deployment of appropriate measures and the exercise of best possible efforts, could, in the Court’s view, meet the adaptation obligations of parties under Article 7, paragraph 9, of the Paris Agreement.”

Standard of compliance:

- **Para. 258:** “The fulfilment of adaptation obligations of parties is to be assessed against a standard of due diligence. It is therefore incumbent upon parties to enact appropriate measures (examples of which are provided in Article 7, paragraph 9) that are capable of “enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change” (Article 7, paragraph 1). In this connection, parties must use their best efforts, in line with the best available science, with a view to achieving the aforementioned objectives.”

Nexus with mitigation:

- **Para. 259:** “[T]he adaptation obligations under the Paris Agreement complement the mitigation obligations in preventing and reducing the harmful consequences of climate change. This interlinkage is explicitly recognized in Article 7, paragraph 4, of the Paris Agreement, which states that ‘greater levels of mitigation can reduce the need for additional adaptation efforts’.”

On finance and technology transfer:

- **Para. 264:** “The Court observes that the Paris Agreement establishes **obligations for developed States to provide financial resources to developing States** ... Article 9 of the Paris Agreement provides that ‘[d]eveloped country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation’. The use of the term “shall” to introduce the obligation indicates the legally binding character of that provision. Moreover, the phrase “in continuation of their existing obligations under the Convention” is to be interpreted as a restatement of the obligation of developed country parties to provide financial resources to developing country parties, as stipulated in Article 4, paragraph 3, of the Framework Convention.” (*emphasis added*)
- **Para. 265:** “While the Paris Agreement does not specify the amount or level of financial support that must be provided, the Court considers that, in line with the customary rules of treaty interpretation, this obligation must be interpreted in light of other provisions in the Agreement, including the collective temperature goal provided for in Article 2 (see paragraph 224 above). Accordingly, **parties are to implement their obligations under Article 9 in a manner and at a level that allows for the achievement of the objectives listed in Article 2**. This level can be evaluated on the basis of several factors, including the capacity of developed States and the needs of developing States.” (*emphasis added*)

Human Rights Obligations, including Right to a Healthy Environment

- **Para. 145:** “[T]he Court considers that the core human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (hereinafter “ICESCR”) of 16 December 1966 and the International Covenant on Civil and Political Rights (hereinafter “ICCPR”) of 16 December 1966, and the human rights recognized under customary international law form part of the most directly relevant applicable law.”
- **Para. 373:** “The environment is the foundation for human life, upon which the health and well-being of both present and future generations depend (see *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 241, para. 29). The Court thus considers that the protection of the environment is a precondition for the enjoyment of human rights, whose promotion is one of the purposes of the United Nations as set out in Article 1, paragraph 3, of the Charter.”
- **Para. 375:** “Anthropogenic GHG emissions have an adverse impact on the climate system and other parts of the environment. The IPCC has underscored the interdependence between the vulnerability of human populations and that of ecosystems (see IPCC, *Climate Change 2023: Synthesis Report*, pp. 97–99, section 4.3; IPCC, 2022, *Climate Change 2022: Impacts, Adaptation, and Vulnerability, Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (hereinafter “IPCC, 2022 contribution of Working Group II”), pp. 9–13; see also paragraph 73 above). The degradation of the climate system and of other parts of the environment impairs the enjoyment of a range of rights protected by human rights law.”
- **Para. 393:** “... **the Court is of the view that a clean, healthy and sustainable environment is a precondition for the enjoyment of many human rights**, such as the right to life, the right to health and the right to an adequate standard of living, including access to water, food and housing. The right to a clean, healthy and sustainable environment results from the interdependence between human rights and the protection of the environment. Consequently, in so far as States parties to human rights treaties are required to guarantee the effective enjoyment of such rights, it is difficult to see how these obligations can be fulfilled without at the same time ensuring the protection of the right to a clean, healthy and sustainable environment as a human right. The human right to a clean, healthy and sustainable environment is therefore inherent in the enjoyment of other rights. The Court thus concludes that, under international law, the human right to a clean, healthy and sustainable environment is essential for the enjoyment of other human rights.”
- **Para. 403:** “Taking into account the adverse effects of climate change on the enjoyment of human rights, the Court considers that the full enjoyment of human rights cannot be ensured without the protection of the climate system and other parts of the environment. In order to guarantee the effective enjoyment of human rights, States must take measures to protect the climate system and other parts of the environment. These measures may include, inter alia, taking mitigation and adaptation measures, with due account given to the protection of human rights, the adoption of standards and legislation, and the regulation of the activities

of private actors. Under international human rights law, States are required to take necessary measures in this regard.”

- **Para. 404:** “[I]nternational human rights law, the climate change treaties and other relevant environmental treaties, as well as the relevant obligations under customary international law, inform each other [...]. States must therefore take their obligations under international human rights law into account when implementing their obligations under the climate change treaties and other relevant environmental treaties and under customary international law, just as they must take their obligations under the climate change treaties and other relevant environmental treaties and under customary international law into account when implementing their human rights obligations.”

Legal Consequences

- **Para. 428:** “[A] State may be responsible where, for example, it has failed to exercise due diligence by not taking the necessary regulatory and legislative measures to limit the quantity of emissions caused by private actors under its jurisdiction.”
- **Para. 429:** “[I]t is scientifically possible to determine each State’s total contribution to global emissions, taking into account both historical and current emissions.”
- **Para. 430:** “[T]he rules on State responsibility under customary international law are capable of addressing a situation in which there exists a plurality of injured or responsible States.”
- **Para. 431:** “Therefore, in the climate change context, the Court considers that each injured State may separately invoke the responsibility of every State which has committed an internationally wrongful act resulting in damage to the climate system and other parts of the environment. And where several States are responsible for the same internationally wrongful act, the responsibility of each State may be invoked in relation to that act.”
- **Para. 445:** “[B]reaches of States’ obligations under question (a) may give rise to the entire panoply of legal consequences provided for under the law of State responsibility. These include obligations of cessation and non-repetition, which are consequences that apply irrespective of the existence of harm, as well as the consequences requiring full reparation, including restitution, compensation and/or satisfaction.”
- **Para. 447:** “Under customary international law, a State responsible for an internationally wrongful act is under an obligation to cease that act if it is continuing and if the breached obligation is still in force (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 201–202, para. 163 (3) (A)–(C)). In this context, the Court is of the view that the obligation to put an end to the wrongful act may require a State to revoke all administrative, legislative and other measures that constitute an internationally wrongful act of that State.”
- **Para. 448:** “The duty of cessation may also require States to employ all means at their disposal to reduce their GHG emissions and take other measures in a manner, and to the

extent, that ensures compliance with their obligations. Additionally, in appropriate circumstances, a responsible State could be required to offer appropriate assurances and guarantees of non-repetition (see ILC Articles on State Responsibility, Article 30 (b)).”

Restitution

- **Para. 451:** ...“the Court considers that, in the circumstances of climate change caused by emissions of GHGs, restitution may take the form of reconstructing damaged or destroyed infrastructure, and restoring ecosystems and biodiversity. Whether or not these special forms of restitution are appropriate as reparation for damage suffered by States in relation to climate change is to be determined on a case-by-case basis.”

Compensation

- **Para. 452:** “In the event that restitution should prove to be materially impossible, responsible States have an obligation to compensate. The Court observes that compensation, as a form of reparation, has the function of addressing the losses incurred as a result of the internationally wrongful act. Compensation corresponds to the financially assessable damage suffered by the injured State or its nationals.”
- **Para. 453:** “[C]ompensation will be due for both damage caused to the environment, ‘in and of itself’ — which may include ‘indemnification for the impairment or loss of environmental goods and services in the period prior to recovery’ — and expenses incurred by injured States as a consequence of such damage (*Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, *Compensation, Judgment*, *I.C.J. Reports 2018 (I)*, pp. 28–29, paras. 41–43).”
- **Para. 454:** “[W]here there is uncertainty with respect to the exact extent of the damage caused, compensation in the form of a global sum, within the range of possibilities indicated by the evidence and taking into account equitable considerations, may be awarded on an exceptional basis (see *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Reparations, Judgment*, *I.C.J. Reports 2022 (I)*, p. 52, para. 106).”

Satisfaction

- **Para. 455:** “Whether satisfaction is warranted for a violation by a State or States of obligations regarding the emission of GHGs, and what form that satisfaction could take, will depend on the nature and circumstances of the breach. It is possible for satisfaction to take the form of expressions of regret, formal apologies, public acknowledgments or statements, or education of the society about climate change. In the past, the Court has also recognized that a formal declaration by an international court or tribunal of the wrongfulness of State conduct is a potential form of satisfaction (*Corfu Channel (United Kingdom v. Albania)*, *Merits, Judgment*, *I.C.J. Reports 1949*, p. 35).”

Conclusion

→ **Para 456:** Before concluding, the Court recalls that it has been suggested that these advisory proceedings are unlike any that have previously come before the Court. At the same time, as the Court concluded earlier, the questions put to it by the General Assembly are legal ones (see paragraph 40), and the Court, as a court of law, can do no more than address the questions put to it through and within the limits of its judicial function; this is the Court's assigned role in the international legal order. However, the questions posed by the General Assembly represent more than a legal problem: they concern an existential problem of planetary proportions that imperils all forms of life and the very health of our planet. International law, whose authority has been invoked by the General Assembly, has an important but ultimately limited role in resolving this problem. A complete solution to this daunting, and self-inflicted, problem requires the contribution of all fields of human knowledge, whether law, science, economics or any other. Above all, a lasting and satisfactory solution requires human will and wisdom — at the individual, social and political levels — to change our habits, comforts and current way of life in order to secure a future for ourselves and those who are yet to come. Through this Opinion, the Court participates in the activities of the United Nations and the international community represented in that body, with the hope that its conclusions will allow the law to inform and guide social and political action to address the ongoing climate crisis.