

DRAFT RESOLUTION
Streamlined text

FINAL DRAFT FOR ADOPTION

Seventy-seventh session

Agenda item 70: Report of the International Court of Justice

XX/XXX Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change

The General Assembly,

[PP1] Recognizing that climate change is an unprecedented challenge of civilizational proportions, and that the well-being of present and future generations of humankind depends on our immediate and urgent response to it,

[PP2] Recalling its resolution 77/165 of 14 December 2022 and all its other resolutions and decisions relating to the protection of the global climate for present and future generations of humankind, and its resolution 76/300 of 28 July 2022 on the human right to a clean, healthy and sustainable environment,

[PP2bis] Recalling also its resolution 70/1 of 21 October 2015 entitled “Transforming our world: the 2030 Agenda for Sustainable Development.”

[PP3] Recalling further Human Rights Council resolution 50/9 of 7 July 2022 and all previous resolutions of the Human Rights Council on human rights and climate change, and Human Rights Council resolution 48/13 of 8 October 2021, as well as the need to ensure gender equality and empowerment of women,

[PP4] Emphasizing the importance of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the United Nations Convention on the Law of the Sea, the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Convention on Biological Diversity and the United Nations Convention to Combat Desertification among other instruments, and of the relevant principles and relevant obligations of customary international law, including those reflected in the Declaration of the Stockholm Conference on the Human Environment and the Rio Declaration on Environment and Development, to the conduct of States over time in relation to activities that contribute to climate change and its adverse effects,

[PP5] Recalling the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement, as expressions of the determination to address decisively the threat posed by climate change, urging all Parties to fully implement them, and noting with concern the significant gap both between the aggregate effect of States’ current nationally determined contributions and the emission reductions required to hold the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, and between current levels of adaptation and levels needed to respond to the adverse effects of climate change,

[PP6] Recalling further that the United Nations Framework Convention on Climate Change and the Paris Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances,

[PP7] Noting with profound alarm that emissions of greenhouse gases continue to rise despite the fact that all countries, in particular developing countries, are vulnerable to the adverse effects of climate

change and that those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints, such as the least developed countries and small island developing States, are already experiencing an increase in such effects, including persistent drought and extreme weather events, land loss and degradation, sea level rise, coastal erosion, ocean acidification, and the retreat of mountain glaciers, leading to displacement of affected persons and further threatening food security, water availability and livelihoods, as well as efforts to eradicate poverty in all its forms and dimensions and achieve sustainable development,

[PP8] Noting with utmost concern the scientific consensus, expressed inter alia in the reports of the Intergovernmental Panel on Climate Change, including that anthropogenic emissions of greenhouse gases are unequivocally the dominant cause of the global warming observed since the mid-20th century, that human-induced climate change, including more frequent and intense extreme events, has caused widespread adverse impacts and related losses and damages to nature and people, beyond natural climate variability, and that across sectors and regions the most vulnerable people and systems are observed to be disproportionately affected,

[PP9] Acknowledging that as temperatures rise, impacts from climate and weather extremes, as well as slow onset events, will pose an ever-greater social, cultural, economic and environmental threat,

[PP10] Emphasizing the urgency of scaling up action and support, including finance, capacity building and technology transfer, to enhance adaptive capacity and to implement collaborative approaches for effectively responding to the adverse effects of climate change, as well as for averting, minimizing and addressing loss and damage associated with those effects in developing countries that are particularly vulnerable to these effects,

[PP11] Expressing serious concern that the goal of developed countries to mobilize jointly USD 100 billion per year by 2020 in the context of meaningful mitigation actions and transparency on implementation has not yet been met, and urging developed countries to meet the goal,

Decides, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following question:

“Having particular regard to the Charter of the United Nations, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the United Nations Framework Convention on Climate Change, the Paris Agreement, the United Nations Convention on the Law of the Sea, the duty of due diligence, the rights recognized in the Universal Declaration of Human Rights, the principle of prevention of significant harm to the environment, and the duty to protect and preserve the marine environment,

- (1) What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for States and for present and future generations;
- (2) What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:
 - (a) States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change?
 - (b) Peoples and individuals of the present and future generations affected by the adverse effects of climate change?”