

**MATERIALS COMPILED PURSUANT TO ARTICLE 65, PARAGRAPH 2 OF  
THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE**

**(Request for an advisory opinion by the International Court of Justice pursuant to  
General Assembly Resolution 77/276)**

**Introductory Note**

**30 June 2023**

**The Request**

1. Under agenda item 70 of the seventy-seventh session of the General Assembly entitled “Report of the International Court of Justice”, the representative of Vanuatu, on behalf of Algeria, Andorra, Angola, Antigua and Barbuda, Australia, Austria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belgium, Belize, Bulgaria, Cabo Verde, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czechia, Denmark, Djibouti, Dominican Republic, Eritrea, Estonia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guinea-Bissau, Guyana, Hungary, Iceland, Ireland, Italy, Jamaica, Kiribati, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, North Macedonia, Norway, Palau, Panama, Papua New Guinea, Portugal, Republic of Moldova, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Vanuatu, Viet Nam and State of Palestine, submitted a draft resolution entitled “Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change”, issued on 1 March 2023 as document A/77/L.58. Subsequently, the following countries joined in sponsoring the draft resolution: Afghanistan, Armenia, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Burundi, Dominica, Ecuador, El Salvador, Equatorial Guinea, Ghana, Haiti, Indonesia, Israel, Japan, Kyrgyzstan, Malaysia, Mali, Mongolia, Niger, Peru, the Philippines, Poland, the Republic of Korea, San Marino, Tajikistan, Thailand, Timor-Leste and Uruguay.
2. On 29 March 2023, at the sixty-fourth plenary meeting, the General Assembly adopted resolution 77/276 by consensus. The question contained in the resolution, upon which the International Court of Justice (“the Court”) is requested to render an advisory opinion, reads as follows:

*The General Assembly,*

...

*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 Covenant on Civil and Political Rights, the International Covenant 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,

(a) 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;

(b) 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:

(i) 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?

(ii) Peoples and individuals of the present and future generations affected by the adverse effects of climate change?”

3. The certified true copies of the resolution, in English and French, were transmitted to the Court under cover of a letter dated 12 April 2023 from the Secretary-General of the United Nations to the President of the Court. In his letter, the Secretary-General informed the President of the Court that, pursuant to Article 65, paragraph 2, of the Statute of the Court, the United Nations Secretariat would prepare a dossier containing a collection of all documents that are likely to throw light upon these questions, to be transmitted to the Court in due course.

## **Framework of the Dossier**

4. Given the broad nature of the subject of climate change and the large amount of documentation available from the relevant intergovernmental processes of the United Nations that refer to or touch upon climate-related matters, the selection of documents included in this dossier was based on the documents, instruments and principles referenced in General Assembly resolution 77/276, including its preamble and the question put to the Court.
5. The Dossier is divided into eight parts, as follows: **(I)** request by the General Assembly for an advisory opinion of the Court, **(II)** multilateral treaties, **(III)** scientific reports, **(IV)** development of international law, **(V)** protection of the climate system and other parts of the environment, **(VI)** outcomes of United Nations conferences and follow-up processes and related documents, **(VII)** law of the sea and **(VIII)** human rights and climate change. The approach taken in each part is set out in more detail below.
6. As a general matter, the approach taken in selecting the documents is as follows. In instances where the information is reproduced in more than one document, only the most recent or comprehensive document has been included in the Dossier. Where the relevant information is contained in a longer document, only the extract of the relevant section has been included in the Dossier. Documents that set out individual Member or Observer State positions have not been included. In general, documents relating to procedural matters have also not been included.

### **Part I: Request by the General Assembly for an Advisory Opinion of the Court**

7. This section contains documents on the procedural steps taken with respect to the adoption of General Assembly resolution 77/276, including the verbatim record of the meeting of the General Assembly at which resolution 77/276 was adopted.

### **Part II: Multilateral treaties**

8. This part contains multilateral treaties referred to in General Assembly resolution 77/276. In addition, it also includes multilateral treaties referenced in the resolutions of the General Assembly and Human Rights Council that are referred to in General Assembly resolution 77/276. The multilateral treaties, including any amendments, annexes or protocols thereto, are set out according to the following subject matters:

- (A)** Climate change
- (B)** Desertification
- (C)** Biological diversity
- (D)** Protection of the ozone layer
- (E)** Law of the sea
- (F)** Human rights

9. Relevant information relating to the date of adoption and entry into force of the treaties and corrections or rectifications of the texts of the treaties, where applicable, is also indicated.

### **Part III: Scientific reports**

10. **Section A** contains reports of the Intergovernmental Panel on Climate Change (“IPCC”), as referenced in General Assembly resolution 77/276, comprising summaries of select reports of Working Groups I, II and III, IPCC special reports and the Synthesis Report of the IPCC Sixth Assessment Report. This section includes reports referred to in the Sharm el-Sheikh Implementation Plan adopted at the most recent United Nations Climate Change Conference held in November 2022.
11. **Section B** contains the adaptation gap and emissions gap reports of the United Nations Environment Programme (“UNEP”), and the global report of the World Meteorological Organization (“WMO”) on the state of the climate referred to in the Sharm el-Sheikh Implementation Plan adopted at the most recent United Nations Climate Change Conference held in November 2022.

### **Part IV: Development of international law**

12. This part contains relevant materials from the completed and ongoing programme of work of the International Law Commission (“ILC”), on the following topics:
- (A) Responsibility of States for internationally wrongful acts
  - (B) Protection of the atmosphere
  - (C) Protection of persons in the event of disasters
  - (D) Protection of the environment in relation to armed conflict
  - (E) Transboundary harm from hazardous activities
  - (F) Sea-level rise in relation to international law
13. The material in this part includes reports of Special Rapporteurs, papers and reports of the ILC, General Assembly resolutions regarding reports of the ILC and one volume of the United Nations Legislative Series, where available and relevant to the question. Some of the documents in this part are extracts from longer documents.

### **Part V: Protection of the climate system and other parts of the environment**

14. **Section A** contains General Assembly resolution 77/165 of 14 December 2022 and all other resolutions of the General Assembly relating to the protection of the global climate for present and future generations of humankind, as referenced in General Assembly resolution 77/276.
15. **Section B** contains documents related to the United Nations Framework Convention on Climate Change (“Framework Convention”), the Convention on Biological Diversity (“CBD”) and the

United Nations Convention to Combat Desertification (“UNCCD”), (collectively, the “Rio conventions”) and referenced in General Assembly resolution 77/276.

16. **Subsection B (1)** contains selected outcome documents from United Nations conferences on questions of the environment prior to the entry into force of the Rio conventions. The subsequent sub-sections contain documents relating to the respective Rio conventions.
17. **Sub-section B (2)** contains documents relating to the Framework Convention and the Paris Agreement. This sub-section includes **(i)** select documents from the negotiation processes leading up to the adoption of the Framework Convention and the Paris Agreement, **(ii)** select decisions of the Conference of the Parties to the Framework Convention on Climate Change (“COP”), **(iii)** select decisions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (“CMA”) and **(iv)** reports submitted to the COP and CMA by the UNFCCC secretariat.
18. Not every decision of the COP and CMA has been included in the Dossier. The Dossier includes those decisions of the COP or CMA that set out policies and substantive recommendations pursuant to the Framework Convention or the Paris Agreement, with a focus on the most relevant or most recent decisions.
19. The first global stocktake of the implementation of the Paris Agreement which began at the CMA3 in November 2022 is scheduled to conclude at CMA6 at the end of 2023. As the global stocktake process is still ongoing, documents submitted or prepared for this process so far have not been included in the Dossier.
20. **Sub-section B (3)** contains decisions adopted by the Conference of the Parties to the CBD related to climate change.
21. **Sub-section B (4)** contains documents relating to the UNCCD and interlinkages with climate change, as well as the relationship between UNCCD and other relevant conventions.
22. **Sub-section B (5)** contains documents relating to the implementation of the Rio conventions. It includes the most recent Note of the Secretary-General to the General Assembly, as well as select General Assembly resolutions on the implementation of the Framework Convention, the Paris Agreement, CBD and UNCCD and other related subject matters.
23. **Section C** contains documents relating to climate change and the environment from other bodies. This section includes documents from **(1)** the General Assembly, **(2)** the United Nations Environment Assembly, **(3)** the Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services and **(4)** outcomes related to the United Nations Forum on Forests.

## Part VI: Outcomes of United Nations conferences and follow-up processes and related documents

24. **Section A** contains documents relating to the Millennium Summit and sustainable development conferences. **Sub-section A (1)** contains documents related to the Millennium Summit and the Millennium Development Goals. **Sub-section A (2)** contains documents related to the UN conferences and processes on sustainable development, including the high-level political forum. It comprises documents related to the post-2015 development agenda, including General Assembly resolution 70/1 on “Transforming our world: the 2030 Agenda for Sustainable Development”, which is referred to in resolution 77/276. **Sub-section A (3)** contains documents from UN conferences and follow-up processes relating to Small Island Developing States; **sub-section A (4)** contains the outcome document of the Fifth UN Conference on the Least Developed Countries and the follow-up to the Conference; **sub-section A (5)** contains the outcome document of the second UN Conference on Landlocked Developing Countries and the follow-up to the Conference; and **sub-section A (6)** contains documents related to disaster risk reduction.
25. **Section B** contains documents relating to the outcomes and follow-up of other relevant United Nations conferences and processes. This section includes selected outcome documents from the conferences referenced in the General Assembly and Human Rights Council resolutions referred to in General Assembly resolution 77/276.
26. In each case, the final outcome document or the General Assembly resolution endorsing and annexing the outcome has been included. Documents issued in the lead-up to the adoption of the final outcome document have not been included.

## Part VII: Law of the sea

27. **Section A** contains relevant General Assembly resolutions on oceans and the law of the sea. The General Assembly adopts an annual resolution on oceans and the law of the sea. Since the adoption of resolution 61/222 on 20 December 2006, these have included language on the adverse effects of climate change. The General Assembly also adopts an annual resolution on sustainable fisheries. In this Section, only the most recent General Assembly resolutions on these two subjects have been included.
28. **Section B** contains reports submitted to the General Assembly that provide information on the impact of climate change on the oceans. It includes reports of the Secretary-General submitted to facilitate the discussion during the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea on ocean acidification, effects of climate change on oceans and sea-level rise. It also includes summaries of the first and second World Ocean Assessment prepared by the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, submitted to the General Assembly.

## Part VIII: Human rights and climate change

29. This part contains United Nations documents on human rights and climate change more broadly. It does not include documents relating to country-specific situations.
30. **Section A** contains relevant General Assembly resolutions, including the Universal Declaration of Human Rights, which was adopted by the General Assembly in 1948. It also includes General Assembly resolution 76/300 on the human right to a clean, healthy and sustainable environment, which is referred to in General Assembly resolution 77/276, as well as other relevant General Assembly resolutions that relate to climate change and the right to development, the right to food, the situation of women and girls and policies and programmes involving youth.
31. **Section B** contains relevant Human Rights Council resolutions. **Sub-section B (1)** contains all resolutions of the Human Rights Council on human rights and climate change, as referred to in General Assembly 77/276. **Sub-section B (2)** contains other relevant Human Rights Council resolutions, including those that link human rights with climate change, the environment and sustainable development, including in disaster settings.
32. **Section C** contains reports submitted to the Human Rights Council by the Secretary-General and the United Nations High Commissioner for Human Rights. The reports relate to the relationship between climate change and human rights and to human rights protection gaps in the context of adverse effects of climate change.
33. **Section D** contains documents of the United Nations human rights treaty bodies. This section includes general comments, recommendations and statements that relate to climate change and its impacts adopted by the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child, the Human Rights Committee, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Committee on the Rights of Persons with Disabilities. It does not include decisions and opinions of these Committees concerning individual complaints, petitions or communications addressed to them through the complaint mechanisms.
34. **Section E** contains reports and statements prepared by the special procedures and mandate holders of the Human Rights Council. In this section, the reports and statements relating to the enjoyment of human rights in relation to climate change have been included. Select reports prepared by the following mandate holders have been included:
- (1) Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment;
  - (2) Special Rapporteur on the promotion and protection of human rights in the context of climate change;

- (3) Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- (4) Special Rapporteur on the right to food;
- (5) Special Rapporteur on extreme poverty and human rights;
- (6) Special Rapporteur in the field of cultural rights;
- (7) Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context;
- (8) Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- (9) Special Rapporteur on the human rights of internally displaced persons;
- (10) Special Rapporteur on the human rights of migrants;
- (11) Special Rapporteur on the right to development;
- (12) Special Rapporteur on trafficking in persons, especially women and children;
- (13) Special Rapporteur on violence against women and girls, its causes, and consequences;
- (14) Special Rapporteur on the rights of Indigenous Peoples; and
- (15) Independent Expert on human rights and international solidarity.