INTERNATIONAL COURT OF JUSTICE

OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

(REQUEST FOR ADVISORY OPINION)

Written statement of Saint Vincent and the Grenadines

March 21, 2024

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I. Introduction

A. Procedural Background

1. Pursuant to the Order of the President of the International Court of Justice (ICJ) of 20 April 2023, Saint Vincent and the Grenadines (SVG) hereby submits its written statement on the request for

an advisory opinion contained in UN General Assembly Resolution 77/276, adopted by consensus on 29 March 2023.

2. Saint Vincent and the Grenadines commends Vanuatu for requesting this advisory opinion which is of critical importance. This permits Saint Vincent and the Grenadines to join their voices with other vulnerable states to seek redress for this polycentric and as some describe it as a "super wicked"[1] transboundary challenge referred to as climate change. For that reason, we concur with Former Secretary General Ban Ki-moon when he iterated that it is the "defining issue of our age".[2]

3. It is highly unusual for diminutive nations such as ours to resort to international judicial forums to address grievances. However, recognising the critical significance of climate change to our current and future welfare, and indeed our very survival, Saint Vincent and the Grenadines found it imperative to participate in these landmark legal proceedings. Whilst some may argue one of the dominant three perspectives proliferated about climate change whether an environmental, ethical or economic problem, Saint Vincent and the Grenadines emphatically argues that is a multidimensional problem encompassing those three factors and more and it is the foundation upon which our survival as a populace rests. Consequently, a global and holistic approach is the solution.

4. As such Saint Vincent and the Grenadines uses this golden opportunity as a plea for survival. The written statement is structured as follows:

    a. Firstly, it addresses matters relating to the jurisdiction of the Court to render the requested advisory opinion and the admissibility of the request in the formulation endorsed by consensus by all States of the General Assembly;

    b. Secondly, it provides contextual situation of Saint Vincent and the Grenadines with respect to climate change;

    c. Thirdly, it presents the views of Saint Vincent and the Grenadines on the questions put to the Court and

[1] Richard Lazarus, "Super Wicked Problems and Climate Change: Restraining the Present to Liberate the Future," *Cornell Law Review, 94/5 (2009).*

[2] Former UN Secretary General Ban Ki-Moon, "Opening Remarks at 2014 Climate Summit" (23 September 2014) https://www.un.org/sg/en/content/sg/speeches/2014-09-23/opening-remarks-2014-climate-summit#:~:text=Sitting%20here%20today%20is%2C%20in,world%20on%20a%20new%20course.

d. Finally, it concludes by stipulating various remedies to be awarded for the breach of its obligations caused by climate change.

5. Overall, Saint Vincent and the Grenadines respectfully submits that the Court's answers to the questions put to it should emphasise the following three essential points:

a. States that have specifically affected or caused injury upon the climate system, leading to loss and damage, have breached international legal obligations .

b. Further, States have breached international law due to their inadequate remedies to the adverse consequences of climate change, particularly concerning individuals and communities affected by displacement.

c. More so, States have breached international law by neglecting to offer efficient redress and compensation for the loss and damage experienced by individuals and communities as a result of the impacts of climate change.

B. Contextual Overview

Figure 1. Map of Saint Vincent and the Grenadines

6. Saint Vincent and the Grenadines also known as “Hairouna” and “Yuremein” is an archipelagic multi-island state in the Eastern Caribbean consisting of 32 islands and cays of which nine (9)

are inhabited. St Vincent is considered 'mainland', the largest island, with eight (8) populated Grenadine islands namely Young Island, Bequia (the largest), Mustique, Canouan, Mayreau, Union Island, Palm Island, and Petit St. Vincent extending from north to south (see Figure 1). The total land mass is 359 km^2. The capital is Kingstown. It is located between the neighbouring islands of St Lucia in the North, Grenada in the South and Barbados to the East. Politically, Saint Vincent and the Grenadines is a member of the Caribbean Community (CARICOM), the Organisation of the Eastern Caribbean States (OECS), the Alliance of Small Island States (AOSIS) and the Organisation of African, Caribbean and Pacific States (OACPS). Saint Vincent and the Grenadines is also a member of SIDS (Small Island Developing States). Further, Saint Vincent and the Grenadines has been instrumental in advocating for the environmental resilience through various means including campaigns[3] and the promulgation of policies and legislation.

7. The CARICOM Heads of Government during their recent session in Guyana in February 2024, observed that despite numerous assurances and pledges from international allies, the opportunity to restrict global warming to 1.5℃ above pre-industrial levels is swiftly diminishing. They emphasised that developed nations have failed to deliver adequate financial, technological, and capacity-building assistance to aid developing countries in addressing their urgent resilience needs, particularly in adapting to the increasingly severe and catastrophic impacts of climate change. Furthermore, the CARICOM Heads of Government underscored the absence of clear timelines for action and measurable commitments to escalate investments, especially in adaptation financing, as a significant concern for our region. They also noted strong opposition to acknowledging the unique circumstances of Small Island Developing States (SIDS), such as CARICOM, concerning climate finance.[4]

8. Saint Vincent and the Grenadines (SVG), akin to other Eastern Caribbean nations, is geographically exposed and highly vulnerable to climate-related threats and hazards. The designation of SVG as a Small Island Developing State signifies that the country is extremely reliant on restricted economic activities and is therefore susceptible to exogenous shocks[5]. SIDS

[3] UNDP (2018) *St. Vincent & the Grenadines Climate Change Campaign Kicks Off in Communities*, *UNDP*. Available at: https://www.undp.org/barbados/news/st-vincent-grenadines-climate-change-campaign-kicks-communities (Accessed: 16 March 2024).

[4] CARICOM's Communiqué from the 46th Regular Meeting of the Conference of Heads of Government of CARICOM. (1 March 2024) Available at: https://hgc.caricom.org/communique-46th-regular-meeting-of-the-conference-of-heads-of-government-of-caricom/

[5] Caribbean Natural Resources Institute (CANARI) (2018) *Climate Change Issues Paper: Towards the Development of a Climate Change Policy, Strategy and Implementation Plan for Saint Vincent and the Grenadines* . tech. Kingstown , Saint Vincent and the Grenadines: Ministry of Finance, Economic Planning, Sustainable Development & Information Technology Government of Saint Vincent and the Grenadines, pp. 1–49.

are acknowledged as being exceptionally vulnerable as compared to other groups based on legal, scientific, and economic measures. They are frequently mentioned as having strong rights to climate justice because of their extremely low historical and present-day greenhouse gas emissions. SIDS have an overwhelming sense of concern as it relates to tackling climate change and adhering to the Paris Agreement's goal of lowering the global temperature to 1.5°C above pre-industrial levels.[6] According to the IPCC, SIDS are more frequently impacted by factors that are currently apparent in ecological as well as human systems, such as rising temperatures, the "frequency and severity storm surges, changing precipitation patterns and sea level rise (SLR)".[7] Since SIDS are currently bearing the effects and facing imminent existential dangers from climate change and variability, these islands are frequently said to be on the "frontline" of this wicked transboundary problem.[8]

9. Around 109,991 people were estimated to live in SVG, according to the 2012 Population and Housing Census, with 24.3% of them residing in Kingstown, the capital, and its environs, and 9.4% on the Grenadines. Less than 5 metres above sea level, the coastal zone is home to almost 85% of the people of SVG. Roughly 90% of all infrastructure, including roads, utilities (phone, electricity, and water lines), airports, and lodging facilities, are situated in the coastal zone.[9]

10. SVG's Exclusive Economic Zone is estimated to be about 36,000 square km, over 90 times its land area. The marine environment contributes significantly to the economy of SVG through direct economic activities, the provision of environmental services and as a vital amenity for Vincentians and tourists alike. The geography, geology and socio-economic circumstances of SVG as a SIDS, makes it very vulnerable to climate related impacts that have exacted a heavy toll on the economy, ecology and livelihoods of the country, with negative implications for human health and wellbeing, economic growth and the sustainability of its natural resources and the environment. The tourism industry in SVG has experienced significant growth since 1995

[6] Mycco, M., Wairiu, M., Campbell, D., Duvat, V., Golbuu, Y., Maharaj, S., Nalau, J., Nunn, P., Pinnegar, J. and Warrick, O. 2022. Small Islands *In*: *Climate Change 2022 – Impacts, Adaptation and Vulnerability: Contribution of Working Groups II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, pp.2043–2121.

[7] Mycco, M., Wairiu, M., Campbell, D., Duvat, V., Golbuu, Y., Maharaj, S., Nalau, J., Nunn, P., Pinnegar, J. and Warrick, O. 2022. Small Islands *In*: *Climate Change 2022 – Impacts, Adaptation and Vulnerability: Contribution of Working Groups II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, pp.2043–2121.

[8] Taupo, T., Cuffe, H. and Noy, I. 2018. Household vulnerability on the frontline of climate change: the Pacific atoll nation of Tuvalu. *Environmental Economics and Policy Studies*. **20**(4), pp.705–739. Thomas, A., Schleussner, C.-F. and Kumar, M. 2018. Small island developing states and 1.5 °C. *Regional Environmental Change*. **18**(8), pp.2197–2200.

[9] John, N. 2015. *Second National Communication on Climate Change*.

and overtook the banana industry as the single most important foreign exchange earner in the economy since 1994. Like other Eastern Caribbean countries, SVG is highly dependent on tourism, which accounted for 28.6 % of GDP and 19.9 % of formal sector employment in 2019.[10]

11. The nation's small open economy is extremely vulnerable to shocks from the outside world and natural disasters. SVG has been exposed to and repeatedly ravaged by a variety of natural disasters, climatic and non-climatic, such as volcanic eruptions, floods, hurricanes, storms, storm surges, and SLR which have been exacerbated by climate change. According to climate change predictions, SVG would suffer from a rise in both the incidence and severity of adverse weather conditions and more gradual processes like SLR.[11] Consequently, government has invested in excess of $50 million in the past five fiscal years to build coastal and river defences[12]. The year 2010 was marked by an estimated 49.2 USD million in loss and damage after the devastation caused by Hurricane Tomas adversely affecting over 5000 residents.[13] In 2013, the tragic Christmas floods and landslides resulted in fatalities, physical infrastructures, and destruction of homes affecting 11,000 residents with loss and damage ranging between 108 and 122 million USD.[14]

12. After 40 years dormant, April 9, 2021, marked the commencement of La Soufrière's 32 eruptions at category 4 on the Volcanic Explosivity Index[15]. The eruptions generated volcanic ash up to 10 km into the sky, which was dispersed in St Vincent and the surrounding islands.[16] Its apocalyptic devastation included evacuation of approximately a fifth of the population, with 700 houses damaged as pyroclastic flows and lahars demolished houses and farms and 500,000 tonnes of ash ejected with emissions recorded as far as India[17]. The United Nations Development Programme

[10] US Department of State- 2021 investment climate statements Saint Vincent and the Grenadines.
[11] Murray, R. (2014). tech. Kingstown, St Vincent and the Grenadines: National Emergency Management Office, pp. 1–96.
Available at: https://dipecholac.net/docs/files/789-cd-svg.pdf.
[12] GOSVG 2022. SVG Budget Speech 2022.
[13] UNECLAC 2011. *Saint Vincent and the Grenadines: Macro socio-economic assessment of the damage and losses caused by Hurricane Tomas*.
[14] GOSVG 2019. National Adaptation Plan for Saint Vincent and the Grenadines. *UNFCCC*.
[15] GDACS 2021. Overall Orange alert Volcanic eruption for Soufriere St. Vincent. Available from: Overall Orange alert Volcanic eruption for Soufriere St. Vincent.
[16] Claire J Horwell and others *Report on geochemical assessment of volcanic ash from La Soufrière, St Vincent* (The International Volcanic Health Hazard Network, Durham University, June 2021) at 2. See also International Federation of Red Cross and Red Crescent Societies *Final Report - Saint Vincent and the Grenadines La Soufrière Volcanic Eruption* (1 February 2024) at 1 <www.reliefweb.int>.
[17] Sangomla, A. 2021. Sulphur dioxide from Caribbean volcano reaches India, WMO confirms. *Down To Earth*. [Online]. Available from: https://www.downtoearth.org.in/news/natural-disasters/sulphur-dioxide-from-caribbean-volcano-reaches-india-wmo-confirms-76547.

(UNDP) initially pegged the loss and damage to be more than $635 million[18]. To compound the already devastating predicament, in July 2021, Hurricane Elsa made landfall in SVG, displacing over 200 persons, wrecking many residences, government structures, and infrastructure resulting in over $40 million Eastern Caribbean dollars (approximately $14 million USD) in loss and damage.[19]

13. According to the Second National Communication on Climate Change of SVG, based on 15 global climate models, it was forecasted that SVG will experience a substantial rise in temperature of 0.15°C per decade over the next 100 years due to global warming.[20] The frequency and intensity of hurricanes will rise in tandem with the increasing ocean temperature, accompanying decrease in rainfall, anticipated at 58% by 2090 and ocean acidification will occur.[21] Due to its mountainous terrain, it is estimated that 85% of population, 80% of critical supporting infrastructure and 90% of the island's economic investment are located on narrow coast merely 5 m above sea level.[22] Consequently, extensive research has shown that severe climate-change activities are projected to cause further forced climate induced mobility, loss of biodiversity and critical infrastructural damage therefore negatively impacting the economic health of the island.[23] Whilst the 'inevitability of committed warming' has been the subject of intense debate within the scientific community, it remains certain that mitigation will be insufficient to lessen the impacts of climate change.[24] As such, it is pertinent that climate adaptation in pursuit of climate resilience be established as the goal to protect SVG and other SIDS.[25]

[18] GOSVG 2022. SVG Budget Speech 2022.
[19] GOSVG 2022. SVG Budget Speech 2022.
[20] John, N. 2015. *Second National Communication on Climate Change*.
[21] John, N. 2015. *Second National Communication on Climate Change*.
[22] GOSVG 2000. *Initial National Communication on Climate Change St. Vincent and the Grenadines*. Kingstown.
[23] Smith, R. 2018. Risk Perception and Adaptive Responses to Climate Change and Climatic variability in Northeastern St. Vincent. *Journal of Environmental Studies and Sciences*. **8**(1), pp.73–85. Thomas, A. and Benjamin, L. 2018a. Policies and Mechanisms to Address Climate-Induced Migration and Displacement in Pacific and Caribbean small island developing states. *International Journal of Climate Change Strategies and Management*. **10**(1), pp.86–104.
[24] Sherwood, S.C., Sen Gupta, A. and Schwartz, S.E. 2022. Probability of committed warming exceeding 1.5∘C and 2.0∘C Paris targets. *Environmental Research Letters*. **17**(6), p.064022. Hausfather, Z. 2021. Explainer: Will global warming 'stop' as soon as net-zero emissions are reached? *Carbon Brief*. [Online]. Available from: https://www.carbonbrief.org/explainer-will-global-warming-stop-as-soon-as-net-zero-emissions-are-reached/.
[25] Väänänen, E., Dale, L. and Dickson, B. 2017. *Anticipate, Absorb, Reshape: Current Progress on Three Key Capacities for Climate Resilience*.

14. In response, the national government created a considerable number of legal and policy frameworks geared towards buttressing the pathway to SVG's climate adaptation and resilience. These include the Second National Communication on Climate Change 2016, National Adaptation Plan 2019, and National Climate Change Policy 2019.

15. Although there has been progress in studies focusing on the impact of climate change in SIDS, most of these studies have predominantly concentrated on the SIDS in the Pacific region, biophysical and chemical impacts of climate change in the Caribbean[26] and international funding for the natural system adaptation. According to Barrowman and Kumar,[27] SIDS, inclusive of SVG, require tailored adaptation strategies that consider the complex interrelationships between partisan, institutional, financial, and societal elements.

II. Jurisdiction of the Court and Admissibility of the Request for an Advisory Opinion

16. SVG submits that the Court has jurisdiction to give the advisory opinion requested by the UN General Assembly in Resolution 77/276 and that there is no compelling reason for the Court to refrain from doing so.

A. The Court has jurisdiction to deliver the requested advisory opinion

17. The relevant provisions for the Court's consideration here are article 96(1) of the UN Charter and Chapter IV of the Statute of the International Court of Justice (ICJ), particularly article 65(1). Article 96(1) of the UN Charter states that: "The General Assembly…may request the International Court of Justice to give an advisory opinion on any legal question." Article 65(1) of the ICJ Statute states that: "The Court may give an advisory opinion on any legal question at the request of whatever body may be authorised by or in accordance with the Charter of the United Nations to make such a request."

18. On this jurisdictional point, there are several critical issues that SVG wishes to underscore. Firstly, the UN General Assembly (UNGA), under article 96(1) of the UN Charter, is expressly

[26] Rhiney, K. 2015. Geographies of Caribbean Vulnerability in a Changing Climate: Issues and Trends. *Geography Compass*. **9**(3), pp.97–114.
[27] Barrowman, H.M. and Kumar, M. 2018. Conceptions of Vulnerability in Adaptation Projects: A Critical Examination of the Role of Development Aid Agencies in Timor-Leste. *Regional Environmental Change*. **18**(8), pp.2355–2367.

authorised to request an ICJ advisory opinion "on any legal question". Secondly, the UNGA regularly addresses different matters relating to climate change, including its annual resolution on the *Protection of the global climate for present and future generations of humankind*, the latest of which is resolution 77/165 adopted by consensus on 14 December 2022. Thirdly, the two main questions posed by the UNGA are clearly "legal questions". The first question focuses on the "obligations of States under international law" to protect the climate system and other parts of the environment and the second question focuses on the "legal consequences under these obligations."

19. Finally, and perhaps most importantly, is that in March 2023, the UNGA adopted Resolution 77/276 titled *Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change* by consensus. Resolution 77/276 was co-sponsored by 132 States representing almost 70% of the UN Membership. This issue is relevant because it demonstrates that all Member States consider – or at least do not oppose – the premise that the UNGA was acting within its full powers when it adopted Resolution 77/276 and that the question is a legal question that the ICJ could address under its advisory jurisdiction.

B. <u>There are no compelling reasons for the Court to decline the requested advisory opinion</u>

20. While the language of article 65(1) of the ICJ Statute is permissive and discretionary (in that the Court "may give" an advisory opinion), the Court still has the power to examine whether the circumstances of the case are of such a character as should lead it to decline to answer the request.[28]

21. The ICJ itself has never declined to render an advisory opinion requested by the General Assembly. The Court therefore must be constantly mindful of its responsibilities as the principal judicial organ of the United Nations.[29] In the ICJ advisory opinion in *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, the Court observed that it should **be mindful of the fact** that its answer to a request for an advisory opinion "represents its participation in the activities of the Organization, and, in principle, should not be refused.[30] The

[28] *Western Sahara, Advisory Opinion, ICJ Reports 1975*, p 12 at [23].

[29] *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, *ICJ Reports 1996*, p 26, at 13.

[30] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ Reports 2019, p 95* at [65] (emphasis added).

Court went on to add that there must be "compelling reasons" for the Court to refuse its opinion in response to a request falling within its jurisdiction.[31]

22. The case law suggests that the Court could exercise its discretion to decline to give the advisory opinion only in two circumstances. Firstly, there could be a compelling reason for the Court to decline to give an advisory opinion when such a reply "would have the effect of circumventing the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent".[32] Secondly, there could also be a compelling reason when the Court does not have before it all the facts sufficient to render the requested opinion. Thus, in the *Western Sahara* advisory opinion, the Court stressed that what was decisive in this respect was whether the Court had "sufficient information and evidence to enable it to arrive at a judicial conclusion upon any disputed questions of fact the determination of which is necessary for it to give an opinion in conditions compatible with its judicial character.[33]

23. SVG submits that there are no compelling reasons for the Court to decline to exercise its jurisdiction with respect to this advisory opinion. Firstly, the request made to the Court did not arise from a context of specific disputes between States. On the contrary, the questions are global in nature and concern the international community as a whole - in particular States, peoples and individuals who are especially vulnerable to climate change. Secondly, the factual and scientific evidence before the Court is not only sufficient but tenable and sound. Regarding the science, SVG will draw upon various reports drafted by the Intergovernmental Panel on Climate Change (IPCC) and the findings of three (3) renowned Caribbean climate scientists in their report titled *The Science of Climate Change and the Caribbean*[34] (see this report at Annex 1).

24. After careful consideration, SVG submits that no such compelling reasons exist (as articulated in *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*)[35] in this case for the Court to exercise its discretion not to render the advisory opinion.

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[31] At [65]. See also *Western Sahara, Advisory Opinion,* above n 28, at [23].

[32] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion,* above n 30, at [85] ; see also, *Western Sahara, Advisory Opinion, ICJ Reports,* above n 28, at [33].

[33] *Western Sahara, Advisory Opinion*, above n 28, at [46].

[34]Adelle Thomas, Michelle Mycoo and Michael Taylor "Science of Climate Change and the Caribbean: Findings from the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Cycle (AR6) (March 2024).

[35] At [67] to [91].

C. The formulation of the questions under Resolution 77/276 are clear

25. SVG submits that there is no need for the Court to reformulate the legal questions under Resolution 77/276. SVG wishes to emphasise that the formulation of the questions, as outlined in Resolution 77/276, is clear and that it was endorsed by consensus by all Member States of the UNGA. There are three core arguments against the Court reformulating the questions: (i) the questions are neither ambiguous or vague, and by their very nature susceptible of a reply that is 'based on law',[36] (ii) the questions do not prejudge the legal issues to be addressed by the Court, and (iii) most importantly, the text of the question was co-sponsored by almost 70 per cent of the UN Member States, and remarkably, it was adopted by consensus. Thus, all States, through their consensus, considered that the questions were clear enough and could be answered within the context of the advisory opinion. For these reasons, the Court should not reformulate the question(s) so carefully drafted by the UNGA, nor should the Court interpret the question(s) restrictively.

26. In this case, the Court is expressly asked by the UNGA to answer a legal question(s), having particular regard to certain treaties and rules of international law which are recalled in the chapeau of the question(s). Question (a) in Resolution 77/276 is about clarifying the relevant legal obligations, whereas Question (b) is about clarifying the legal consequences of a certain conduct under such obligations. There are therefore no "exceptional circumstances" on the basis of which the Court would need to reformulate the question. In any event, a question formulated in general terms would in no way provide the grounds for reformulation. In its Advisory Opinion concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court expressly noted that "lack of clarity in the drafting of a question does not deprive the Court of jurisdiction. Rather, such uncertainty will require clarification in interpretation, and such necessary clarifications of interpretation have frequently been given by the Court."[37] Moreover, in its Advisory Opinion on the *Legality of Nuclear Weapons*, the Court had made clear that it can answer abstract questions when it stated that: "it is the clear position of the Court that to contend that it should not deal with a question couched in abstract terms is 'a

[36] *Western Sahara, Advisory Opinion,* above n 28, at [15]. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, above n 30, at [135].

[37] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136 at [38]. This specific paragraph was quoted with approval by the Court in the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965,* above 30, at [61].

mere affirmation devoid of any justification', and that 'the Court may give an advisory opinion on any legal question, abstract or otherwise." [38]

27. The question(s) is also not formulated in a way that prejudges any disputes between States. Like Question (a), Question (b) asks the Court to clarify this time the "legal consequences" of a certain conduct under the obligations identified in response to Question (a). No specific dispute is referred to in the formulation of the question. Moreover, at the time of its adoption by consensus, several States and groups thereof, including Norway,[39] the European Union,[40] the United Kingdom,[41] Iceland,[42] and the United States of America,[43] confirmed that general understanding that the questions do not prejudge any dispute.

28. More fundamentally, it cannot be argued in good faith that the specific formulation of a resolution which was co-sponsored by no less than 132 States when tabled, and which was then adopted by consensus by the States of the General Assembly does not reflect exactly what the General Assembly needs the Court to clarify.

III. Climate Change and its impact on Saint Vincent and the Grenadines

29. Climate change poses major challenges to the people and communities of SVG. Due to the land's fertility and suitability for farming, its main source of income is generated from agriculture and tourism.[44] As a result, agriculture and tourism are considered the most crucial economic sectors in SVG. These sectors provide a means of income for thousands of farmers and entrepreneurs, thereby contributing to employment, international investments, and foreign exchange[45]. Despite this positive outlook, climate change has crippling effects on both agriculture and tourism, and

[38] *Legality of the Threat or Use of Nuclear Nuclear Weapons, Advisory Opinion*, above n 29, at [15].

[39] Sixty-fourth plenary meeting (29 March 2023) UN Doc A/77/PV.64, p. 26.

[40] Sixty-fourth plenary meeting (29 March 2023) UN Doc A/77/PV.64, p. 8.

[41] Sixty-fourth plenary meeting (29 March 2023) UN Doc A/77/PV.64, p. 20.

[42] Sixty-fourth plenary meeting (29 March 2023) UN Doc A/77/PV.64, p. 24.

[43] Sixty-fourth plenary meeting (29 March 2023) UN Doc A/77/PV.64, p. 28.

[44] Richardeen Williams "Agriculture sector faces the brunt of climate change in Saint Vincent and the Grenadines" (14 December 2022) ClimateTracker.org <www.climatetrackercaribbean.org>.

[45] Williams, above n 44.

the blue economy.[46] The effects of climate change such as hurricanes, prolonged droughts, floods, and even volcanic eruptions have all had a negative impact on these critical sectors of the economy.

30. SVG, like other Caribbean countries, experiences a tropical climate, with hot, humid conditions year-round. Historically, the dry season has been from December to May and the rainy season (or hurricane season) from June to November. However, there has been noticeable changes in this pattern for over the past ten years with the rainy season now lasting from May to October.[47] In terms of agriculture, climate change has affected the growth of plants as it relates to weather patterns. For example, some crops, such as tomatoes and cabbage, cannot be exposed to too much water or rain. With the variations and fluctuations of weather patterns, too much rain would cause the soil to dampen and the fruit/vegetables of these crops to rot.[48] According to Hance John, a local farmer and owner of Westfield Farm, farming is "not profitable" and the most critical constraint of climate change is that farmers are unable to obtain a return on their investment on the produce that they sow.[49] Since local farmers are now producing less, SVG is now importing more food than it produces, thereby spiralling the economic impact of climate change.[50]

31. Climate change also has a negative impact on food security that is experienced by SVG. A recent report from the Central Bank of Barbados states that data released from the World Food Programme and CARICOM indicates that in May 2023, 52%, i.e. some 3.7 million people of the English-speaking Caribbean (which includes SVG), face some degree of food insecurity daily.[51] As a consequence, the Government of SVG is in the process of implementing the "Saint Vincent and the Grenadines Food Insecurity Project 2023", which is a $10 million USD project funded by the World Bank.[52] The Project aims to mitigate the negative impacts on SVG's agricultural and fisheries sectors, which have been caused over the years by the COVID-19 pandemic, the

[46] Dr Andrew Simmons, Kiera Holder and Shannon Weekes *Caribbean Youth Environment Network's (CYEN) Climate Justice Workshop: Indigenous People in Sandy Bay, North Windward, St Vincent and the Grenadines* (CYEN, November 2022) at 5.

[47] "County profile - St Vincent and the Grenadines" (Climate Change Knowledge Portal for Development Practitioners and Policy Makers) <www.climateknowledgeportal.worldbank.org>.

[48] Williams, above n 44, which consists of an interview with Hance John, farmer and owner of Westfield Farm.

[49] Williams, above n 44.

[50] Williams, above n 44.

[51] "The Key Contributors Impacting Food Insecurity in the Caribbean" (7 July 2023) The Central Bank of Barbados <www.centralbank.org.bb>.

[52] "World Bank-funded Food Insecurity Project consultations continues" *St Vincent Times* (online ed, Kingstown, 27 June 2023).

Russia-Ukraine war, climate change, tropical storms, droughts and 2021 La Soufrière volcanic eruptions.[53]

32. As mentioned at Part I of this statement (at paragraph 12), the 2021 eruptions of the La Soufrière (from 9-22 April 2021) led to the evacuation of one-fifth of the population and the damage of homes, especially to those living in the Sandy Bay area, situated at the north of Saint Vincent. During the 2021 volcanic eruptions, the entire Sandy Bay Bay community was evacuated.[54] The Sandy Bay community is the home to the largest of the indigenous communities in SVG, namely the Kalinagos (Caribs) and the Garifuna. Although the La Soufrière volcanic eruptions may not be directly attributed to climate change – or the anthropocentric emission of greenhouse gases – the eruptions pose a threat to persons, including the indigenous people, who reside in the Sandy Bay community. When natural disasters strike, they disproportionately affect marginalised communities – like the Kalinagos and the Garifuna – thereby exacerbating existing inequalities and pushing them deeper into poverty. Natural disasters, like volcano eruptions, lead to vicious cycles of inequality since more people will be living in conditions of extreme poverty which in turn will make them unable to tackle the severe impacts of climate change.[55] Weather conditions such as extreme heat can magnify their negative impacts. The ash plume from the volcanic explosion was blown eastwards and large quantities of ash fell causing respiratory problems among inhabitants and other challenges on this island and Saint Vincent and the Grenadines.

33. There is a perception by some that volcanic sediments provide natural fertilisers (such as magnesium and potassium) which improve soil fertility, thereby boosting the yield and the quality of agricultural produce. However, this perception must be viewed within the context that the series of volcanic activity, caused by La Soufrière, has resulted in substantial injury to many farmers and indigenous people who have been displaced from their homes.[56] According to the Caribbean Youth Environment Network (CYEN): "[t]he 2021 volcanic eruption is the worst we have witnessed in recent times. The large amount of volcanic ash deposited around the community continues to threaten people's lives and livelihoods."[57] The ash plume from the volcanic explosion was blown eastwards and northwards in the neighbouring states of Barbados and Saint Lucia in the Eastern Caribbean and reached as far as India and with unprecedented quantities of ash fall causing respiratory problems among inhabitants and other challenges on this

[53] "World Bank-funded Food Insecurity Project consultations continues", above n 52.
[54] Simmons, Holder and Weekes, above n 46, at 20.
[55] "Tackling Disasters Means Safer and Fairer Future for Caribbean: A UN Resident Coordinator Blog" (13 October 2023) UN News <www.news.un.org>.
[56] Williams, above n 44
[57] Simmons, Holder and Weekes, above n 46, at 21.

island and Saint Vincent and the Grenadines.[58] This resulted in the disruption of lives and livelihoods, causing the displacement of about 20,000 people, and significantly impacting the environment not only in SVG but in other countries which were impacted by volcanic ash fall. The Government approved a supplementary budget of EC $117,985,000 (USD $43,656,915) to finance responses to the volcanic eruption and in particular the pyroclastic flows.

34. While there may not be a causal link between climate change and volcanic eruptions, research in the field of Earth and Atmospheric Science indicates that once an eruption occurs it would have a harmful impact on the atmosphere, the environment, ecosystems and on human and animal health. For instance, Friedlander asserts that: "[v]olcanic ash is no ordinary dust: it gets injected into the atmosphere, climbs to the stratosphere, impacts climate, powders roadways and clogs jet engines."[59] Hornby and other researchers found that volcanic ash emissions impact atmospheric processes, depositional ecosystems, human health and the global climate.[60] Large volcanic eruptions (like the 2021 La Soufrière eruptions) can have measurable impacts on the climate that can last for years or even decades.[61] Some long-term impacts on the climate include: the deterioration of air quality, damage to marine ecosystems, and the pollution of water resources.[62]

35. In terms of human health, the *Report on the geochemical assessment of volcanic ash from La Soufrière* highlights that: "[v]olcanic ash may have a number of hazardous characteristics which may impact respiratory health." [63] Data from this Report indicates that the main cause of concern is the presence of fine-grained particulate matter which can cause respiratory and cardiovascular morbidity and mortality.[64] This Report recommends that efforts be made to reduce the exposures to ash, particularly for vulnerable groups and those who work in outdoor occupations. Personal exposure and airborne concentrations of particulate matter should therefore be monitored to assess the health risk.[65] The Report adds that acute (short-term) exposures to volcanic ash may

[58] Allen CF, West RM, Gordon-Strachan G, Hassan S, McFarlane S, Polson-Edwards K, Thomas A, Hospedales CJ, Dubrow R. Research for Action on Climate Change and Health in the Caribbean: A Public, Private, People's and Planetary Agenda. Research for Action on Climate Change and Health in the Caribbean Project, 2024, p. 84.
[59] Blaine Friedlander "Filling the Data Gap for Volcanic Ash Effects on Earth Systems" (4 October 2023) Phys.org <www.phys.org>.
[60] Adrian Hornby and others "Phases in Fine Volcanic Ash" (2023) 13(1) Scientific Reports 15728.
[61] Friedlander, above n 59
[62] Nick O'Regan "Devastating natural disasters show the need for resilient, sustainable and inclusive infrastructure" (14 May 2021) World Economic Forum <www.weforum.org>.
[63] Horwell and others *Report on geochemical assessment of volcanic ash from La Soufrière, St Vincent*, above n 16
[64] At 1.
[65] At 1.

cause throat or lung irritation, cough and bronchitis symptoms in healthy people whereas those with respiratory diseases (e.g. bronchitis and asthma) may experience exacerbation of pre-existing symptoms.[66]

36. The recent eruptions of La Soufrière are cited here to illustrate that the farmers and indigenous people of Sandy Bay are already disproportionately marginalised, and placed at a disadvantage within the SVG community. These unfortunate circumstances make them more vulnerable to cope with the long-term impacts associated with climate change.

37. In responding to part (a) of the legal question, SVG acknowledges that there are many obligations under international law for States to ensure the protection of the climate system and other parts of the environment from the anthropocentric emissions of greenhouse gases. This submission will however focus on the right to a clean, healthy and sustainable environment, the atmosphere as a global commons, and the obligations to future generations. SVG reserves the right to respond to other State obligations not covered in this statement, at the Reply stage of these ICJ proceedings (if necessary).

IV. Scientific consensus regarding climate change, its cause and impacts

38. The Intergovernmental Panel on Climate Change (the "IPCC"), a United Nations organisation largely regarded as a repository of the highest quality available science on climate change, is the source of SVG's conclusions. To bolster its evidence, SVG submits an expert report produced Adelle Thomas, Michelle Mycoo and Michael Taylor, three eminent Caribbean climate scientists (Annex 1).

39. The evidence is overwhelming. The severity of the harm resulting from greenhouse gas emissions increases significantly as the temperature increases beyond the 1.5ºC threshold above the pre-industrial levels. Human-caused greenhouse gas emissions are the primary cause of climate change. The oceans absorb 90% of the excess heat that greenhouse gases trap in the atmosphere and 25% of the carbon dioxide contained in greenhouse gas emissions since the pre-industrial era. These and other changes brought about by climate change cause significant harm, particularly to SIDS even well below that threshold.

[66] At 2.

40. In accordance with the preambular paragraph 9 of the UN General Assembly Resolution 77/276, it recalls four aspects of the scientific consensus. First, paragraph 9 emphasises the consensus on the cause of climate change, namely anthropogenic GHG emissions:

> *'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 greenhouses gases are unequivocally the dominant cause of the global warming observed since the mid-20th century.'

41. The second, preambular paragraph 9 of Resolution 77/276 also summarises the scientific consensus on the fact that the conduct causing climate change has had devastating impacts:

> '*Noting with utmost concern* the scientific consensus, expressed, inter alia, in the reports of the Intergovernmental Panel on Climate Change, including 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.'

42. The third, preambular paragraph 9 of Resolution 77/276 makes clear that these components of the scientific consensus are not the only ones which the UNGA "not[es] with utmost concern". Indeed, before stating the preceding two components, the term "including" is used, thus opening the reference to other components of the scientific consensus. Fourth, the two components of the scientific consensus singled out in preambular paragraph 9 rely on statements in the Summaries for Policymakers of IPCC reports. These Summaries for Policymakers have been approved by consensus, line-by-line, by all 195 member States of the IPCC.[67] They are the expression not only of scientific consensus but also of State consensus on the science of climate change. Therefore, SVG submits there is no need for the ICJ to engage into a trial of the science. The science is settled in all relevant respects.

43. The contents of preambular paragraph 9 have strong and deep roots in the scientific consensus expressed in the reports of the IPCC, particularly their Summaries for Policymakers. With respect

[67] Principles Governing IPCC Work, Appendix A: Procedures for the preparation, review, acceptance, adoption, approval and publication of IPCC Reports, section 4.4, available at: https://www.ipcc.ch/site/assets/uploads/2018/09/ipcc-principles-appendix-a-final.pdf

to the cause of climate change, in the Summary for Policymakers of the IPCC's 2023 Synthesis Report (6th Assessment Report), the conclusion is formulated as follows: [68]

> "Human activities, principally through emissions of greenhouse gases, have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850–1900 in 2011–2020. Global greenhouse gas emissions have continued to increase, with unequal historical and ongoing contributions arising from unsustainable energy use, land use and land-use change, lifestyles and patterns of consumption and production across regions, between and within countries, and among individuals"

44. Regarding the devastating impacts of climate change, the Summary for Policymakers of the IPCC's 2023 Synthesis Report (6th Assessment Report) concludes that:[69]

> "Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred. Human-caused climate change is already affecting many weather and climate extremes in every region across the globe. This has led to widespread adverse impacts and related losses and damages to nature and people (high confidence). Vulnerable communities who have historically contributed the least to current climate change are disproportionately affected (high confidence)"

45. And there are many other components of the scientific consensus that are of utmost concern, including the following:

[68] IPCC, *Synthesis Report of the IPCC Sixth Assessment Report (AR6)*, Summary for Policymakers, statement A.1, available at: https://www.ipcc.ch/report/sixth-assessment-report-cycle/

[69] IPCC, *Synthesis Report of the IPCC Sixth Assessment Report (AR6)*, Summary for Policymakers, statement A.2, available at: https://www.ipcc.ch/report/sixth-assessment-report-cycle/

a. Global warming has already exceeded 1°C,[70] and the resulting scale of changes in the climate system are unprecedented over many centuries to many thousands of years.[71]

b. Climate and weather extremes and their adverse impacts on people and nature will continue to increase with every additional increment of rising temperatures.[72]

c. lobal sea level has risen faster since 1900 than over any preceding century in at least the last 3000 years,[73] driven by human influence,[74] and it will continue to rise over the 21st century.[75]

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[70] IPCC, 2018: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, Summary for Policymakers, statement A.1.
available at: https://www.ipcc.ch/site/assets/uploads/sites/2/2022/06/SPM_version_report_LR.pdf ; IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement A.1, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

[71] IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement A.2, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

[72] IPCC, *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement 2, available at: https://www.ipcc.ch/site/assets/uploads/2018/02/AR5_SYR_FINAL_SPM.pdf ; IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement B.2, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf; *Glasgow Climate Pact*, Decision 1/CMA.3, FCCC/ PA/CMA/2021/10/Add.1, paragraph 6.
Available at: https://unfccc.int/sites/default/files/resource/cma2021_10a01E.pdf?download

[73] IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement A.2.4, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

[74] IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement A.1.7, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

[75] IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement B.5.3, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

d. The risks associated with such sea level rise are exacerbated for small islands, low-lying coastal areas and deltas,[76] with resulting damage and adaptation costs of several percentage points of gross domestic product.[77]

e. Without urgent and significant increase in mitigation efforts beyond those in place today, warming by the end of the 21st century will lead to severe, wide-spread and irreversible impacts globally,[78] and it will slow down economic growth, make poverty reduction more difficult, further erode food security, and prolong existing and create new poverty traps.[79]

f. Countries must urgently increase the level of ambition and action in relation to climate change mitigation, adaptation and finance in this critical decade to address the gaps in the implementation of the goals of the Paris Agreement.[80]

46. Globally, although SIDS contribute less than 1% of the GHG emissions attributable to the cause of climate change, they experience the brunt of the adverse impact with irreparable damage. The

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[76] IPCC, 2018: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, Summary for Policymakers, statement B.2.3.
Available at: https://www.ipcc.ch/site/assets/uploads/sites/2/2022/06/SPM_version_report_LR.pdf

[77] IPCC, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, at page 17.
Available at: https://www.ipcc.ch/site/assets/uploads/2018/02/ar5_wgII_spm_en.pdf

[78] IPCC: *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, statement 3.2, available at: https://www.ipcc.ch/site/assets/uploads/2018/02/AR5_SYR_FINAL_SPM.pdf

[79] IPCC, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, Summary for Policymakers, at page 20.
available at: https://www.ipcc.ch/site/assets/uploads/2018/02/ar5_wgII_spm_en.pdf

[80] *Glasgow Climate Pact*, Decision 1/CMA.3, FCCC/ PA/CMA/2021/10/Add.1, paragraph 5, available at: https://unfccc.int/sites/default/files/resource/cma2021_10a01E.pdf?download; United Nations Environment Programme (2021), *Emissions Gap Report 2021: The Heat Is On – A World of Climate Promises Not Yet Delivered*, Executive Summary, Conclusions 6 and 7. Available at: https://wedocs.unep.org/handle/20.500.11822/36990;jsessionid=2EE25CE2E8AF3B2BD73700D7A61DDBF5

IPCC also came to the highly confident conclusion that at 2°C rather than 1.5°C, there is a greater danger of floods, infrastructural damage, and saltwater intrusion to SIDS and low-lying coastal areas as a result of sea level rise.[81] The majority of GHGs are not intrinsically dangerous; in fact, they play a significant role in keeping most of Earth habitable for life. Without GHGs, Earth's average temperature would probably be approximately minus 20ºC, rather than the pre-industrial average of about 14ºC.[82] However, when there is "excess GHGs" this is problematic and it refers to the increase in atmospheric GHG concentrations since around 1850 and the corresponding rise in global temperatures.[83]

47. It is critical that the earth's remaining carbon budget be examined.[84] In accordance with the IPCC - *[T]o limit global warming to 1.5°C above pre-industrial levels with either a one-in-two (50%) or two-in-three (67%) chance, the remaining carbon budgets amount to 500 and 400 billion tonnes of CO_2, respectively, from 1 January 2020 onward. Currently, human activities are emitting around 40 billion tonnes of CO_2 into the atmosphere in a single year.*[85]

48. Notably, in 2023, the average global temperature had risen to 1.45ºC higher than pre-industrial levels, with over half of the year's temperatures surpassing 1.5ºC and daily readings above 1ºC.[86] The IPCC projects that States must decrease GHG, as measured against 2019 levels, by a minimum of 43% by 2030, 60% by 2035, 69% by 2040, and 84% by 2050 in order to achieve at least a 50% chance of limiting warming to 1.5ºC.[87] Consequently, there has been a clarion call by the IPCC "*that, despite progress, global greenhouse gas emissions trajectories are not yet in line with the temperature goal of the Paris Agreement, and that there is a rapidly narrowing*

[81] IPCC, *Summary for Policymakers*, Special Report: Global Warming of 1.5ºC (2018), p. 10.

[82] IPCC, Working Group I, *Appendix VII: Glossary*, Sixth Assessment Report: The Physical Science Basis (2021), p. 2232.

[83] IPCC, Working Group I, *Chapter 1: Framing, Context and Methods*, Sixth Assessment Report: The Physical Science Basis (2021), p. 192

[84] IPCC, Working Group I, *Chapter 5: Global Carbon and Other Biogeochemical Cycles and Feedbacks*, Sixth Assessment Report: The Physical Science Basis (2021), p. 777- "The term remaining carbon budget is used to describe the total net amount of CO2 that human activities can still release into the atmosphere while keeping global warming to a specified level, like 1.5°C or 2°C relative to pre-industrial temperatures. Emissions of CO2 from human activities are the main cause of global warming. "

[85] IPCC, Working Group I, *Chapter 5: Global Carbon and Other Biogeochemical Cycles and Feedbacks*, Sixth Assessment Report: The Physical Science Basis (2021), p. 777

[86] European Union, The 2023 Annual Climate Summary: Global Climate Highlights 2023, (9 January 2024); World Meteorological Organization, WMO Confirms that 2023 Smashes Global Temperature Record (12 January 2024)

[87] IPCC, *Summary for Policymakers*, Sixth Assessment Synthesis Report (2023), p. 21

window for raising ambition and implement existing commitments in order to achieve it"[88] Unfortunately, even if all of the States' nationally determined contributions ("NDCs"), which reflect lower GHG levels, were fully implemented, the Earth would still not be able to stay within the remaining carbon budget required to keep global warming below 1.5ºC. The IPCC estimates that announced NDCs will only reduce emissions by 4% by 2030, compared to the required 43%, as the figure below illustrates.[89] The trajectory from implemented NDCs indicates that emissions are expected to rise by 5%.[90] Based on current NDCs, the gap to emissions consistent with limiting warming to 1.5 °C in 2030 is estimated to be 20.3–23.9 Gt CO2 eq.[91]

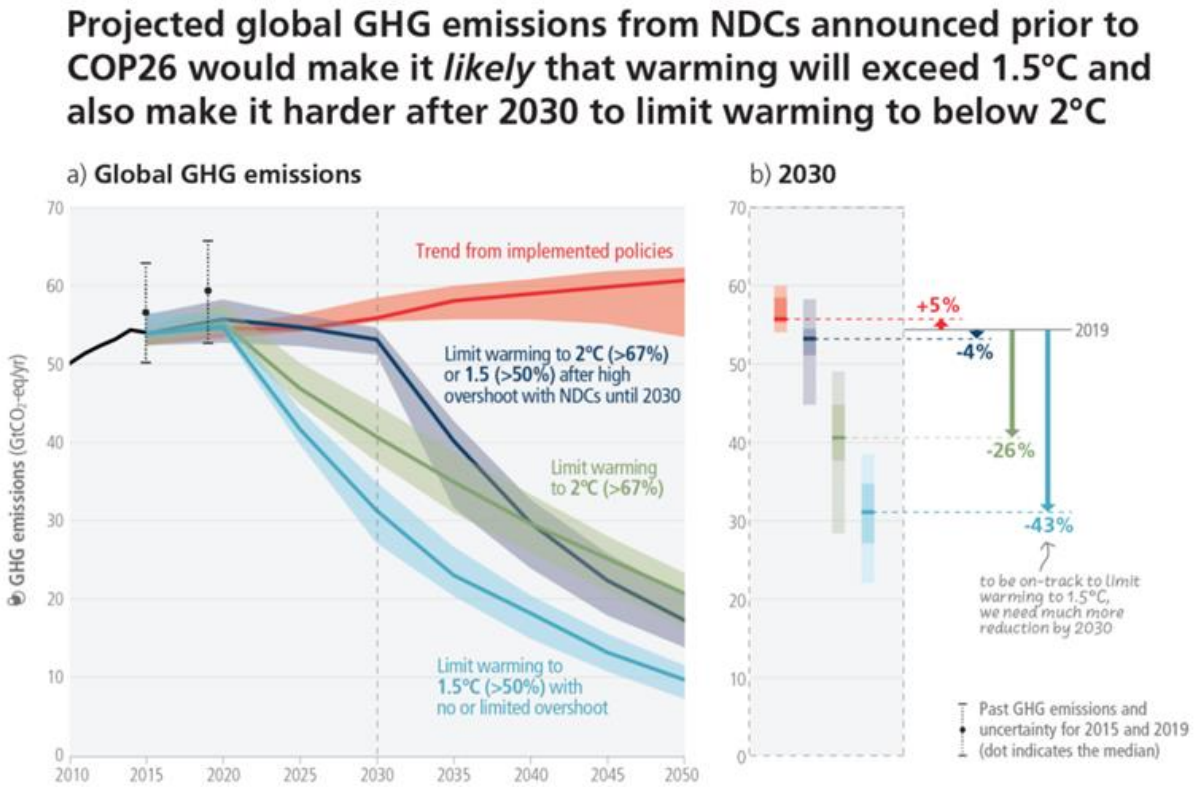

Figure 2. Global GHG emissions of modelled pathways (funnels in Panel a), and projected emission outcomes from near-term policy assessments for 2030 (Panel b).[92]

[88] UNFCCC. Decision -/CMA.5, *Outcome of the first global stocktake*, p. 4, para 24
[89] IPCC, *Longer Report*, Sixth Assessment Synthesis Report (2023), p. 25, Fig. 2.5
[90] *CAT Emissions Gap*, Climate Action Tracker https://climateactiontracker.org/global/cat-emissions-gaps
[91] UNFCCC, *Technical Dialogue of the First Global Stocktake*, UN Doc. FCCC/SB/2023/9 (8 September 2023), para 10.
[92] Panel a shows global GHG emissions over 2015–2050 for four types of assessed modelled global pathways: – Trend from implemented policies: Pathways with projected near-term GHG emissions in line with policies implemented until the end of 2020 and extended with comparable ambition levels beyond 2030 (29 scenarios across categories; – Limit to 2°C (>67%) or return warming to 1.5°C (>50%) after a high overshoot, NDCs until

49. Given the acute peril small islands confront due to climate change, adapting to the altered climate conditions is imperative for sustaining life in these regions. However, according to the IPCC, there is a strong likelihood that the vulnerability of small communities in small islands, particularly those dependent on coral reef ecosystems for their livelihoods, may surpass their capacity for adaptation well before 2100, even under a scenario of low GHG emissions.[93] Moreover, these countries frequently lack thorough, long-term monitoring of changes in climate risk, including saline infiltration or biodiversity loss.[94] Additionally, insufficient attention has been given to studying the impact of climate change on youth and other vulnerable demographics within these societies.[95] The limited availability of technical and financial assistance to small island nations exacerbates these obstacles.[96] Consequently, the absence of quantifiable assessments results in decision-making based on climate variability, historical trends, or projected climate change impacts derived from the geographical and topographical characteristics of the island rather than solid scientific evidence.[97] Given their limited economic capacity relative to larger countries, small islands require global assistance to afford the costly mitigation and adaptation measures essential for combating climate change.[98]

2030: Pathways with GHG emissions until 2030 associated with the implementation of NDCs announced prior to COP26, followed by accelerated. emissions reductions likely to limit warming to 2°C or to return warming to 1.5°C with a probability of 50% or greater after high overshoot (subset of 42 scenarios from C2, WGIII Table SPM.2). – Limit to 2°C (>67%) with immediate action: Pathways that limit warming to 2°C (>67%) with immediate action after 2020 . – Limit to 1.5°C (>50%) with no or limited overshoot: Pathways limiting warming to 1.5°C with no or limited overshoot (C1, WGIII Table SPM.2 C1). All these pathways assume immediate action after 2020

[93] IPCC, Working Group II, *Chapter 15: Small Islands*, Climate Change 2022: Impacts, Adaptation and Vulnerability (2022) p. 2046.

[94] Simmons, A. (2021) *Impacts of climate change on young people in small island communities*. Cham, Switzerland: Springer Nature Switzerland AG, p. 11.

[95] Simmons, A. (2021) *Impacts of climate change on young people in small island communities*. Cham, Switzerland: Springer Nature Switzerland AG, p. 11.

[96] IPCC, Working Group II, *Chapter 15: Small Islands*, Climate Change 2022: Impacts, Adaptation and Vulnerability (2022) p. 2047.

[97] Simmons, A. (2021) *Impacts of climate change on young people in small island communities*. Cham, Switzerland: Springer Nature Switzerland AG, p. 11.

[98] IPCC, Working Group II, *Chapter 15: Small Islands*, Climate Change 2022: Impacts, Adaptation and Vulnerability (2022) p. 2088-2089.

50. With high confidence, the IPCC has determined that keeping global warming below the 1.5°C threshold will lessen the likelihood of negative effects from rising average global temperatures on the ocean and marine cryosphere. It posits that this will - *reduce increases in ocean temperature as well as associated increases . . . in ocean oxygen levels. . . . Consequently, limiting global warming to 1.5°C is projected to reduce risks to marine biodiversity, fisheries, and ecosystems, and their functions and services to humans, as illustrated by recent changes to Arctic sea ice and warm-water coral reef ecosystems (high confidence)*[99].

51. The Global Stocktake warned that: "*Every fraction of a degree of temperature increase closer to and beyond 1.5 ºC will cause increases in multiple climate hazards and present greater risks to human systems and ecosystems."*[100]Additionally, grave concern was noted as "*2023 [was] set to be the warmest year on record and that impacts from climate change are rapidly accelerating, and emphasises the need for urgent action and support to keep the 1.5 °C goal within reach and to address the climate crisis in this critical decade"*[101] Therefore, it is prudent as enunciated by IPCC that State Parties, *"[t]ransition[] away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science"*[102]

52. As per the IPCC's projections, there exist specific trajectories that could lead to a maximum temperature rise of 1.5ºC by the century's end. These trajectories, referred to as "overshoots," entail short-lived surges beyond 1.5ºC, posing severe risks to ecosystems, notably coral reefs.[103] Hence, even in the scenario of significant advancements in carbon capture and storage technology, currently unavailable, the consequences of temporarily exceeding the 1.5°C threshold could prove challenging to mitigate.

[99] IPCC, *Summary for Policymakers*, Special Report: Global Warming of 1.5ºC (2018), p. 10.

[100] UNFCCC, *Technical Dialogue of the First Global Stocktake*, UN Doc. FCCC/SB/2023/9 (8 September 2023), para. 139

[101] UNFCCC, Decision -/CMA.5, *Outcome of the First Global Stocktake*. FCCC/PA/CMA/2023/L.17 (13 December 2023) para 5.

[102] UNFCCC, Decision -/CMA.5, *Outcome of the First Global Stocktake*. FCCC/PA/CMA/2023/L.17 (13 December 2023) para 28 (d).

[103] IPCC, Working Group II, *Annex I: Glossary, Sixth Assessment Report: Mitigation of Climate Change* (2022), p. 1810.

53. Further, SVG relies on and adopts the arguments proffered by the jurisdictions of Saint Lucia and Grenada, along with COSIS in relation to the science surrounding climate change to the extent that they are in support of SVG's submissions.

V. Impacts of climate change on various sectors

54. The United Nations has pointed out that *"[w]e have entered an age of polycrisis. Conflict, climate change, the lingering effects of the COVID-19 pandemic and other global challenges are threatening to derail hard earned progress towards the [Sustainable Development Goals]*."[104] It goes on to warn that "*[i]t is time to sound the alarm. At the midpoint on our way to 2030, the Sustainable Development Goals are in deep trouble.*"[105] Therefore, even though we are recuperating satisfactorily from the recent shocks, the goals of overall development are still in peril.

55. At the recently concluded Community of Latin America and the Caribbean (CELAC) summit held in Saint Vincent and the Grenadines March 1, 2024, the only CARICOM country to have held the Pro Tempore Presidency, climate change was a topical agenda point. Prior to the CELAC summit, UN Secretary General Antonio Guterres stated in a speech in SVG that SIDS are leading the way in global solidarity and are therefore at the forefront of the battle against climate change. "*Even not having contributed to climate change, they are also on the frontlines of adopting the measures of mitigation to reduce emissions that are, of course, very limited from the beginning." …"It is absolutely essential that there be a much bigger ambition in relation to the reduction of emissions, and it is essentially the responsibility of the G20 countries that represent 80% of the emissions.*"[106]

[104] The Sustainable Development Goals Report 2023: Towards a Rescue Plan for People and Planet, United Nations (2023) p. 3 (hHps://unstats.un.org/sdgs/report/2023/The-Sustainable-Development-Goals-Report-2023.pdf)

[105] The Sustainable Development Goals Report 2023: Towards a Rescue Plan for People and Planet, p. 4

[106] Editorial Staff (ed.) (2024) 'UN Chief: SIDS hit hard by climate change, need more Support', *St Vincent Times*, 1 March. Available at: https://www.stvincenttimes.com/un-chief-small-island-states-hit-hard-by-climate-change-need-more-support/. Sealey, J. (2024) *St. Vincent's recovery impresses UN chief who calls for 'Climate justice' funding on official visit in the Caribbean*, *United Nations*. Available at: https://caribbean.un.org/en/262230-st-vincents-recovery-impresses-un-chief-who-calls-climate-justice-funding-official-visit (Accessed: 17 March 2024).

56. The Secretary General emphasised the need for significantly greater climate justice, which entails making a lot more funding available for developing countries, especially SIDS, at affordable rates for adaptation and mitigation. *"So this is the moment to recognise that the countries of Latin America and the Caribbean that have been victims of an unfair, international financial system, and that many of them in particular, are victims of runaway climate change." "If the right to claim for the reforms that are necessary in order to create the conditions for their governments to be able to act, providing their peoples with the response to the needs that need to be addressed, because it is absolutely unacceptable, that is, for lack of investment in education or in health, or an infrastructure that is paid the price of an unfair international financial system."*[107]

57. Global temperature rise and the recent record heat are the essential prerequisites of more intense storms and hurricanes. The realities of climate change and our inbuilt vulnerabilities assure us that we will experience more climate disasters in the near future.

58. Saint Vincent and the Grenadines, being a minute island nation in the Caribbean, is particularly susceptible to natural disasters, and to the ramifications of climate change. Unfortunately, SVG's economic structure and natural surroundings do not have the required protections in place to withstand these frequent and powerful climatic disasters. As there is an absence of climate finance, financing to execute climate change actions is normally sourced from regional or international sources, grants, loans or projects.

59. Despite SVG's rank on the World Risk Index determined by exposure and vulnerability for 2020 and 2021 are 179th and 138th respectively[108] , as depicted in Table 1 below, which is comparatively low risk, the data reveals that during 1718 to 2014 SVG was affected by 279 disasters (UNDRR - DesInventar, 2020). This is equivalent to losses amounting to USD$623, 485, 050.00, directly affecting over half of the current population size – 59, 006(UNDRR - DesInventar, 2020).

[107] Editorial Staff (ed.) (2024) 'UN Chief: SIDS hit hard by climate change, need more Support', *St Vincent Times*, 1 March. Available at: https://www.stvincenttimes.com/un-chief-small-island-states-hit-hard-by-climate-change-need-more-support/.

[108] Aleksandrova, M., Balasko, S., Kaltenborn, M., Malerba, M., Mucke, P., Neuschäfer, O., Radtke, K., Prütz, R., Strupat, C., Weller, D. and Wiebe, N. 2021. *World Risk Report 2021*. See also: Atwii, F., Sandvik, K.B., Kirch, L., Paragi, B., Radtke, K., Schneider, S. and Weller, D. 2022. *World Risk Report 2022*.

SVG Risk Index							
	Rank Worldwide	World Risk Index	Exposure	Vulnerability	Susceptibility	Lack of coping capacities	Lack of adaptive capacities
2020	179	0.70 (very low)	1.62 (very low)	43.00 (medium)	28.16 (medium)	69.86 (low)	30.97 (low)
2021	138	2.30 (low)	0.43 (low)	12.27 (low)	11.42 (low)	10.82 (medium)	15.74 (very low)

Table 1. Saint Vincent and the Grenadines Risk Index 2020 and 2022

Observed and Projected Climate Change Impacts in SVG

60. Projections indicate that Saint Vincent and the Grenadines (SVG) will undergo hotter conditions and experience prolonged dry spells throughout the year, including during the typically wet season. This decreased rainfall will have a significant impact on mainland Saint Vincent, where the primary source of potable water is surface streams, and will particularly concern the Grenadine islands, reliant on rainwater harvesting for freshwater supply. In 2013, Antigua and Barbuda, Barbados, Dominica, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago were among the top 36 water-stressed (based on demand for water relative to supply) countries in the world.[109] Furthermore, an intensification of rainfall on fewer days is anticipated, suggesting an increased susceptibility to frequent and severe droughts as well as heightened risks of flooding and landslides.

61. As a Small Island Developing State (SIDS) in the Caribbean, SVG faces a heightened vulnerability to the combined effects of hydro-meteorological hazards and climate change. The country is exposed to various hazards, including floods on flat terrain, landslides in hilly areas, potential volcanic eruptions in the north, and coastal erosion along the shoreline. Additionally, SVG lies south of the main hurricane storm track in the Caribbean and is frequently affected by tropical storms, hurricanes, and heavy rainfall. Compounded by anthropogenic pressures such as deforestation and shoreline development, climate change-associated risks such as coastal erosion,

[109] Allen CF, West RM, Gordon-Strachan G, Hassan S, McFarlane S, Polson-Edwards K, Thomas A, Hospedales CJ, Dubrow R. Research for Action on Climate Change and Health in the Caribbean: A Public, Private, People's and Planetary Agenda. Research for Action on Climate Change and Health in the Caribbean Project, 2024.
Available at: https://earthmedic.com/wp-content/uploads/2024/02/Research-for-Action-on-Climate-Change-and-Health-in-the-Caribbean_2024.pdf

biodiversity loss, ocean acidification, and coral bleaching further diminish natural defences against increasingly intense storm systems.[110]

62. Studies examining the economic ramifications of extreme climate events, such as hurricanes, heavy rainfall, and droughts, highlight substantial damage and loss costs for SIDS like SVG. Unlike larger states with higher populations where such events typically impact smaller areas, disruptions caused by extreme events in SIDS often extend across most of the territory, resulting in disproportionately high negative impacts on GDP. Economic losses from extreme events between 2010 and 2014 alone were estimated at over US$600 million (EC$1,600), accounting for approximately 35% of GDP. Analysis of tropical storms and hurricanes passing near SVG between 1851 and 2010 suggests a significant potential economic vulnerability, even for low-probability events, with a 10% probability of occurrence resulting in a national portfolio loss exceeding $45 million (EC$120), equivalent to approximately 6% of GDP.

63. Table 2 provides an overview of damage and loss assessments from previous severe climate incidents in SVG. Notable events include Hurricane Tomas in 2010, resulting in total damage and losses of approximately EC$133 million (US$50 million), equivalent to 7.3% of GDP. Additionally, the flood in December 2013 incurred estimated costs of EC$291.4 million (US$109 million), equivalent to 15% of GDP.

Year	Event	Impacts	Damage and Loss Estimates (EC$)
2008	Hurricane Omar – Storm Surge	30 boats destroyed. Damage along coastline	5m
2009 - 2010	Drought	Water shortages, losses from reduced crop production. As a consequence, food prices rose and produce had to be imported to supplement supply. Agricultural production reduced by 20%.	n/a
2010	Hurricane Tomas	28% of population affected, including 5% severely. Forestry and agriculture significantly impacted – both crops and infrastructure. Infrastructure also affected with flooding and landslides.	*Total:* 133 m (US$50 m) (7.3% GDP) *Agricultural Sector:* 69.64 million ((US$25.8 m) *Tourism Sector:* 1.12 million (US$0.41m)
2011	Torrential rainfall in NE of SVG	Severe flooding, landslides, damage to roads and bridges, disruption of water supply and displaced 56 families	100 m
2011	Torrential rainfall in NE of SVG	Severe flooding, landslides, damage to roads and bridges, disruption of water supply and displaced 56 families	100 m
2013	Severe torrential rains and Floods	750 persons displaced, 12 deaths extensive damage to infrastructure.	*Total:* 291.4 million (US$108.4million)[15], (15% GDP) *Agricultural Sector:* 3.7m (US$1.4m) *Tourism Sector:* 0.46m (US$0.17m)
2016	Significant rainfall and floods. (Hurricane Mathew and two trough systems)	Consistent rainfall caused saturated ground conditions, intense flash flooding and landslides. Significant damage to infrastructure, particularly focused in NE and NW of the island of Saint Vincent.	*Total:* $97.9 million (US$36.3 million) *Agriculture Sector:* 2.2m (US$0.8m) *Tourism Sector:* none

[110] Caribbean Community Climate Change Centre (2023) *Saint Vincent and the Grenadines: Pursuing Climate Resilient Development by Enhancing the National Adaptation Planning Process [SVG-NAP]*. tech., pp. 1–98. Available at: https://dipecholac.net/docs/files/789-cd-svg.pdf, p.12.

Table 2. Summary of Loss and Damage estimates from Past Extreme Climate Events in SVG[111]

64. Predicting future damages and losses resulting from extreme climate events poses considerable challenges due to uncertainties surrounding the frequency, intensity, and potential impacts of such events. Typically, these estimates rely on extrapolations from average annual damages incurred in past events. One significant study assessing future losses for the entire Caribbean region, including Saint Vincent and the Grenadines (SVG), utilised projections based on historical average annual damages caused by hurricanes to the tourism sector and infrastructure damages resulting from sea-level rise, represented as a constant cost per affected household. The findings indicate progressively substantial impacts on SVG's GDP from now until 2100, in the absence of adaptation measures, with GDP impacts projected at 11.8% in 2025, 23.6% in 2050, 35.4% in 2075, and 47.2% in 2100. However, the Caribbean Marine Climate Change Report Card suggests that the cost of inaction could potentially surpass the estimates from Bueno et al. (2008), considering the frequency and intensity of extreme weather events observed in the Caribbean since the publication of those estimates. Taken together, these assessments underscore the significant potential impact of climate-related events on SVG's GDP.

65. It is evident that Saint Vincent and the Grenadines will continue to face threats from climate-related factors, posing existential risks to the country and various sectors of the economy for the foreseeable future. According to the Second National Communication (SNC) report from 2015 and the SVG National Adaptation Plan (NAP) from 2019, sectors identified as highly vulnerable to climate change impacts include agriculture, water resources, forestry, coastal zones, health, public infrastructure, and tourism. SVG has already devised sectoral adaptation plans for agriculture and water, with the next focus being on developing adaptation plans for tourism and the coastal and marine environment. Given the close interconnection between the tourism sector and the country's natural resources, particularly the coastal and marine environment where tourism assets are primarily located, addressing adaptation in these sectors is crucial.

A. Coastal Zone

66. The coastal region of the country, hosting over 90% of its socio-economic infrastructure within a narrow coastal strip less than five metres above sea level, faces significant threats from current and anticipated impacts of climate change. Findings from sea level rise (SLR) modelling

[111] Caribbean Community Climate Change Centre (2023) *Saint Vincent and the Grenadines: Pursuing Climate Resilient Development by Enhancing the National Adaptation Planning Process [SVG-NAP]*. tech., pp. 1–98. Available at: https://dipecholac.net/docs/files/789-cd-svg.pdf, p.13.

conducted in 2011 indicate that a one-metre rise in sea level would endanger 10% of the country's major tourism establishments, along with 1% of road networks, 50% of airports, and 67% of seaports.

67. Any adverse effects on this limited coastal area from events like storm damage or coastal flooding could have devastating consequences for the economy and the nation. Furthermore, many marine ecosystems, including mangroves and reefs, have recently suffered severe damage from elevated sea surface temperatures, substantial storm surges, and droughts, leading to saltwater intrusion and ecosystem disruptions such as extensive sargassum seaweed growth and coral bleaching. Mangroves and reefs, which offer vital ecosystem services such as storm surge protection, are under threat.

68. Coastal regions already experiencing natural pressures like wind, waves, tides, and currents are increasingly vulnerable to unsustainable exploitation, including beach sand mining, improper shoreline construction, pollution, overfishing, and degradation of coastal ecosystems. The ongoing and future effects of climate change, particularly SLR, will exacerbate these challenges and hasten erosion and deterioration of coastal and marine environments.

69. Notable areas at high risk in Saint Vincent and the Grenadines include Belmont Walkway, Canash Beach, Indian Bay, Johnson Point, and Villa Beach, which house significant resorts, seaports, and an airport situated at less than six metres above sea level. These areas, along with others, will be the focus of a climate change risk and vulnerability assessment study outlined in the National Adaptation Plan (NAP).

70. Engineered structures and natural ecosystems, such as mangroves, can offer a degree of defence against certain impacts; however, the evolving erosion dynamics necessitate adaptation of coastal infrastructure and settlements. Within the narrow coastal zone lie critical communication and emergency response facilities, including roads, airports, telecommunications networks, financial institutions, and technical support centres. Furthermore, the degradation or removal of natural coastal protection ecosystems like dunes, mangroves, and reefs exacerbates the vulnerability of coastal infrastructure to storm and hurricane events, particularly wind and storm surges. Additionally, there has been an uptick in vector-borne diseases, notably dengue fever.

71. Specific modelling analyses have also been conducted to assess coastal impacts and associated costs in the Caribbean. Simpson et al. (2010) conducted a study evaluating risks from projected sea level rise (SLR) scenarios (1 m and 2 m), storm surge, and erosion, highlighting the necessity for coastal protection measures. This study encompassed all 15 CARICOM Member States,

including Saint Vincent and the Grenadines (SVG). It was observed that while larger states are anticipated to bear the greatest absolute economic losses and damages, the proportional economic impacts, in terms of losses relative to the size of the national economy, are generally higher in smaller economies like SVG.

B. Tourism

72. The tourism sector serves as a significant catalyst for economic growth, foreign currency acquisition, and employment generation within Saint Vincent and the Grenadines (SVG). It constituted 22.3% of the nation's GDP in 2016 and represented 48% of total exports in 2017. Relying primarily on the country's coastal and marine resources, tourism-related endeavours are pivotal for job creation and foreign currency earnings. Marine-based tourism, particularly, plays a vital role in both employment and revenue generation, crucial for the country's economic rebound from the COVID-19 pandemic. Notably, nearly 7,000 individuals were directly employed in the tourism industry in 2019, with an estimated total of 20,000 jobs, including indirect employment, comprising 10–15% of the country's workforce. Marine-based tourism is underscored as essential for employment and economic recovery, including yacht and cruise ship tourism, post-pandemic.

73. Tourism serves as a significant source of employment and revenue for Saint Vincent and the Grenadines, particularly following the decline of the banana industry. In 2016, the sector contributed 22.3% to the GDP, with expectations of further growth.[112] The tourism industry is susceptible to extreme climate events such as heat waves, droughts, floods, and tropical storms, stemming from climate change. These events have already impacted and will continue to affect the sector by causing infrastructure damage, deterioration of coastal resources like coral reefs, reef fish, and white sand, imposing additional emergency preparedness measures, escalating operating expenses (e.g., insurance, backup water and power systems, evacuations), and causing business disruptions. Furthermore, sea level rise poses significant threats to coastal development. Climate models from 2011 indicate that a one-metre rise in sea level places 10% of major tourism properties at risk, along with 1% of road networks, 50% of airports, and 67% of sea ports.[113]

[112] World Travel & Tourism Council 2017. Travel and Tourism Economic Impact 2017, Saint Vincent and the Grenadines. World Travel & Tourism Council – London, UK. Accessed at: https://www.wttc.org/-/media/files/reports/economic-impactresearch/countries-2017/stvincentandthegrenadines2017.pdf

[113] Government of St. Vincent and the Grenadines, 2015. Intended Nationally Determined Contribution. See :http://www4.unfccc.int/ndcregistry/PublishedDocuments/Saint%20Vincent%20and%20Grenadines%20First/Saint%20Vincent%20and%20the%20Grenadines_NDC.pdf

Additionally, climate change impacts are likely to severely affect water quality and supply, which are critical for tourism and associated livelihoods.

74. Beyond employment benefits, SVG's coastal and marine resources are essential for providing environmental services and nature-based solutions for climate mitigation and adaptation. For instance, coral reefs in the country serve as habitats for various marine species, supporting spawning, nursery, refuge, and feeding grounds. Additionally, reefs provide regulatory benefits such as acting as natural breakwaters, minimising wave impacts during storms, and safeguarding the coastline from erosion, thus enhancing the country's resilience to climate change impacts. Moreover, tourism's positive spillover effects to sectors like transportation and retailing, as well as construction activities, further underscore its economic significance.[114]

75. The heavy reliance of SVG's tourism sector on its natural resources, including beaches and marine-based activities like diving and fishing, exposes it to potential impacts from climate change, which could adversely affect visitor interest and demand. Given that tourism is a primary pillar of SVG's economy, threats to the industry's natural resource foundation pose significant risks to the economy and the country as a whole. Moreover, the concentration of critical infrastructure, such as transportation, telecommunications, financial institutions, and accommodation facilities, along the coastline exacerbates the sector's vulnerability to sea-level rise and extreme weather events, negatively impacting both built and natural environments.[115] Additionally, human activities exploiting coastal resources contribute to heightened exposure of the tourism sector and national infrastructure to climate change risks.

C. Human Health

76. The implications of climate change on public health, both for residents and visitors to SVG, could be substantial, impacting economic productivity, livelihoods, and overall well-being. There have been some observations on the impacts of climate change on mental health in the Caribbean. In

[114] Government of St. Vincent and the Grenadines, 2019. National Adaptation Plan for St. Vincent and the Grenadines.
Retrieved from https://www4.unfccc.int/sites/NAPC/Documents/Parties/FINAL%20NAP_SVG_Approved.pdf.

[115] 90% according to the draft Coastal Master and Marine Spatial Plan (CMSP) prepared under the Caribbean Regional Oceanscape Project (CROP) funded by the Global Environment Facility through the World Bank. March 2021

Saint Vincent and Dominica, psychologists have reported instances of rain showers triggering posttraumatic stress responses following experiences of floods and hurricanes. [116]

77. Shifts in rainfall patterns, coupled with rising temperatures and humidity levels, may create conducive environments for vector-borne diseases like dengue, malaria, and leptospirosis. The emergence of new mosquito-borne viruses, such as chikungunya and zika, poses significant concerns as well. Forecasts indicating lower rainfall levels in the Caribbean and subsequent reductions in potable water availability are likely to exacerbate sanitation challenges, potentially leading to the spread of diseases like gastroenteritis and cholera.

78. Dry spells could also compromise air quality, heightening the risk of acute respiratory infections, influenza-like illnesses, and asthma, which are prevalent among SVG residents. Moreover, projections suggest an increase in heat-related stress and associated illnesses, particularly among the elderly and infirm, as temperatures rise. Extreme weather events further pose threats to sanitation systems and freshwater availability, potentially triggering outbreaks of communicable diseases. Besides the direct risks of injury or fatality from climate-related natural hazards like floods, damage to health facilities and displacement of individuals could occur, leading to loss of shelter and both mental and physical health impacts. Furthermore, the agricultural sector's vulnerability to climate change may indirectly affect human health by influencing nutritional requirements and food supply.

D. Agriculture

79. In the agricultural sector, susceptibility to climate change is evident, particularly concerning prolonged droughts, erratic rainfall patterns, and natural calamities. This vulnerability is exacerbated by prevailing agricultural practices such as mono-cropping, inadequate soil and water management, and issues with pests and diseases. Farmers have observed trends such as extended dry spells, intensified and shorter bursts of rainfall leading to flooding, and alterations in fruiting cycles. Notably, the occurrence of three extreme climatic events within a three-year period from 2009 to 2011, comprising droughts and tropical storms, underscored the sector's vulnerability. Drought conditions have induced water and heat stress in livestock, while severe

[116] Allen CF, West RM, Gordon-Strachan G, Hassan S, McFarlane S, Polson-Edwards K, Thomas A, Hospedales CJ, Dubrow R. Research for Action on Climate Change and Health in the Caribbean: A Public, Private, People's and Planetary Agenda. Research for Action on Climate Change and Health in the Caribbean Project, 2024, p. 111.

weather events like floods, landslides, and accelerated soil erosion have resulted in substantial losses of crops, livestock, and agricultural infrastructure. Furthermore, diminished crop yields and heightened pest and disease incidences are anticipated. The agricultural sector also contributes to greenhouse gas emissions, primarily from ruminant animals' digestive processes, manure waste management, and nitrogen fertiliser application.

80. Regarding forestry, St. Vincent and the Grenadines (SVG) boast approximately 31,500 acres of tropical forests, constituting about 29% of the land area. Natural forests account for approximately 70% of this expanse, with planted forests and agroforestry comprising around 25% and 5%, respectively. However, in the Grenadines, natural forest cover is sparse due to encroachment for coastal development, bushfires, and land clearance for various livelihood activities.[117] The projected temperature rise and precipitation decline could profoundly impact SVG's forests and overall biodiversity. Climate variability and change may precipitate alterations in forest dynamics and the provision of ecosystem services such as watershed protection, coastal defence, and soil stabilisation. Saltwater intrusion could imperil coastal vegetation like mangroves, while storm damage might compromise forest integrity and canopy structure, reducing ecosystem functions and escalating the risk of forest fires.[118] Projected warming could lead to the displacement and eventual loss of cloud forests, with reduced moisture rendering forests drier, potentially resulting in the withering and demise of epiphytes, crucial habitats for birds, insects, and reptiles.

81. As for fisheries, this sector represents a vital component of SVG's social, cultural, and economic fabric, particularly in the Grenadines. Approximately 7% of the total labour force is directly or indirectly involved in the fishing industry, providing employment for an estimated 2,500 fishers and over 500 individuals in supporting services.[119] Climate variability and change have diverse

[117] GoSVG, Sustainable Development Unit 2017. Saint Vincent & the Grenadines Revised National Biodiversity Strategy and Action Plan 2015-2020.

[118] Caribbean Natural Resources Institute (CANARI) (2018) *Climate Change Issues Paper: Towards the Development of a Climate Change Policy, Strategy and Implementation Plan for Saint Vincent and the Grenadines* . tech. Kingstown , Saint Vincent and the Grenadines: Ministry of Finance, Economic Planning, Sustainable Development & Information Technology Government of Saint Vincent and the Grenadines, pp. 1–49.

[119] Caribbean Natural Resources Institute (CANARI) (2018) *Climate Change Issues Paper: Towards the Development of a Climate Change Policy, Strategy and Implementation Plan for Saint Vincent and the Grenadines* . tech. Kingstown , Saint Vincent and the Grenadines: Ministry of Finance, Economic Planning,

impacts on fisheries, including coral bleaching affecting fish habitats, alterations in catch compositions and fishing seasons due to shifts in sea temperatures and ocean currents, heightened fishing efforts, damage to fishing gear and coastal infrastructure, and reduced fishing days owing to adverse weather conditions, rough seas, and influxes of sargassum seaweed obstructing fish landing sites and damaging boat engines and gear.

E. Current responses of the GOSVG

82. As anticipated, Climate Change poses a persistent threat to the agricultural domain. Following an unprecedented drought in 2020 – the most severe in over seven decades – Saint Vincent and the Grenadines are once again confronted with drought conditions. Statistical records from the Meteorological Office reveal that Vincentian farmers encountered a 20 percent reduction in rainfall in 2023 compared to the thirty-year average, indicating a significant deficit. This year, the Meteorological Office forecasts a recurrence of drought conditions in the region.[120] Consequently, the Government has allocated resources toward the enlightenment of farmers and provided them with water tanks and drip line irrigation equipment in our collective endeavour to combat drought. The enduring repercussions of extensive ash deposits resulting from the 2021 eruptions, coupled with swiftly warming seas, continue to affect our fisheries sector.[121] Traditional lobster fishing grounds near the windward coast were impacted by the eruptions, prompting ongoing monitoring of the recovery of our lobster population post-volcanic activity. Moreover, under the auspices of the FAO-funded initiative "Support for Climate Change Adaptation," Saint Vincent and the Grenadines will collaborate with proponents of lobster aquaculture in the British Virgin Islands to glean insights from their exemplary practices.

83. The lingering effects of the massive ash deposits from the 2021 eruptions, as well as rapidly-warming seas, continue to impact our fisheries sub-sector. Traditional near-shore lobster fishing grounds along the windward coast were affected by the eruptions, and SVG continues to monitor the post-volcano recovery of our lobster stock. Additionally, through the FAO-funded “Support

Sustainable Development & Information Technology Government of Saint Vincent and the Grenadines, pp. 1–49.

[120] Gonsalves, H.C. (2024) *2024 BUDGET SPEECH “Accelerating Sustainable Development, Propelling Inclusive Growth and Advancing People-Centred Reforms to Build a More Resilient Saint Vincent and the Grenadines*. publication. Government of Saint Vincent and the Grenadines.

[121] Gonsalves, H.C. (2024) *2024 BUDGET SPEECH “Accelerating Sustainable Development, Propelling Inclusive Growth and Advancing People-Centred Reforms to Build a More Resilient Saint Vincent and the Grenadines*. publication. Government of Saint Vincent and the Grenadines.

for Climate Change Adaptation," we will collaborate with exponents of lobster aquaculture in the British Virgin Islands, with a view to learning from their best practices.

84. Almost $21 million are spent on works under the Caribbean Development Bank-funded National Disaster Management Rehabilitation and Reconstruction Programme (NDM). This suite of projects had been underperforming due to a set of specific implementation bottlenecks and challenges with the CDB. Currently, there are 10 NDM projects that are underway, and an additional seven will begin in 2024. The total NDM portfolio of projects is valued at over $107 million. All 17 projects are slated to be completed by late 2024 or mid-2025. The largest project in the NDM portfolio is the existentially-important Sandy Bay Sea Defence project. This massive $39.2 million undertaking will partially protect the historic village of Sandy Bay from sea level rise and storm surges. This project builds on lessons learned from recent sea defence projects in Georgetown and Sans Souci along our highly vulnerable Windward coastline due to the erosion of our coastline with the increased storm surges. This phase of the effort to help Sandy Bay adapt to the grave threats of climate change has been divided into three sub projects, two of which are already underway.[122] The third component, Lot 1: From Kayo River Extending North ($12,866,269); and Lot 3: From Karo River Extending South ($11,766,918) will erect sea defence along the coast between the estuaries of the Kayo and Karo rivers, is slated to begin in August. Currently, the NDM is funding repair and construction on the Chapmans, Dickson, God Save the Queen and Union River bridges; as well as river defence and training works along the Yambou and Teviot rivers in Mesopotamia. These works, when completed, will cost over $22 million. The NDM is funding repair and construction on the Chapmans, Dickson, God Save the Queen and Union River bridges; as well as river defence and training works along the Yambou and Teviot rivers in Mesopotamia. These works, when completed, will cost over $22 million.

85. Whilst the cost of the NDM projects is $107 million, their value is immeasurable. In some of the most vulnerable corners of our most vulnerable island we are building bridges, repairing critical access roads, and protecting villages from flooding rivers and rising seas. Adapting to climate change means protecting people with climate resilient infrastructure. The Government is deeply committed to this mission[123].

[122] Lot 1: From Kayo River Extending North ($12,866,269); and Lot 3: From Karo River Extending South ($11,766,918).

[123] Gonsalves, H.C. (2024) *2024 BUDGET SPEECH "Accelerating Sustainable Development, Propelling Inclusive Growth and Advancing People-Centred Reforms to Build a More Resilient Saint Vincent and the Grenadines*. publication. Government of Saint Vincent and the Grenadines.

86. At the recently concluded 28th Conference of the Parties held in Dubai, which one may argue is an annual affair of penmanship and pontification complemented with little measurable progress "*as the political processes, pollution promises and pledges of assistance are increasingly out of touch with the devastating realities of climate change today. The progress achieved at the summits is glacial, while glaciers melt. The amounts of money pledged to support affected countries rise far slower than the rising seas."*[124]Nevertheless, two decisions that SVG believes to be measurable, though not in any way adequate, were made.

87. SVG notes that firstly to donate US$700 million to a Loss and Damage Fund that, shamefully, had no money at all before. Furthermore, 2050—58 years after the first Earth Summit—should be the target year to reach the vague state of "net zero," where emissions and cuts neutralise one another. This is an unrealistic feat if the current trends persist.

88. The Loss and Damage Fund aims to assist countries severely affected by climate-related disasters worldwide. Presently, it holds a total of US$700 million for global assistance. For instance, when Hurricane Maria struck Dominica in 2017, it incurred losses and damages amounting to US$1.4 billion—twice the current assets of the entire fund.

89. A recent study conducted in preparation for the Georgetown Sea Defence project in SVG revealed that over the past four decades, coastal erosion and rising sea levels have led to a 180-foot encroachment of the seas along numerous locations on the Windward coast of Saint Vincent. In Sandy Bay, erosion occurs at a rate of 8-10 feet per year. Considering the current trend, by the year 2050, with the newly set "net zero" deadline, the seas are projected to advance another 200 feet in some areas. Setting aside concerns about hurricane damage and floods momentarily, it's crucial to reflect on our Windward coast's situation. Many infrastructure elements, including roads, residences, educational institutions, religious centres, recreational facilities, and accommodations, are already perilously close to the encroaching seas. Considering this, it prompts us to question whether we have sufficient time to address this imminent threat. SVG echoes a resounding no.

90. In SVG's 2024 Budget, $92.8 million has been allocated towards the category of "Environmental Protection," marking it as the second-highest capital expenditure allocation. However, in reality,

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[124] Gonsalves, H.C. (2024) *2024 BUDGET SPEECH "Accelerating Sustainable Development, Propelling Inclusive Growth and Advancing People-Centred Reforms to Build a More Resilient Saint Vincent and the Grenadines*. publication. Government of Saint Vincent and the Grenadines.

a significant portion of our expenditure on climate adaptation surpasses this figure. Many of SVG's ongoing infrastructure projects are directly geared towards addressing climate-related challenges or incorporate vital climate adaptation elements. For instance, a decision was made in 2023 to relocate a 750-foot section of the Windward Highway at Shipping Bay due to coastal erosion threats. Under the National Road Rehabilitation Project, a contract worth $1.9 million has been awarded to complete this road and associated drainage works.

91. Furthermore, the "South Windward Coastal Works" project, situated in the same area, aims to fortify 210 feet of coastal defences to mitigate further losses.[125] This particular road segment, spanning less than a quarter-mile, will require $3.4 million in expenditure to shield it from coastal erosion, symbolising our continuous battle against natural elements and our commitment to safeguarding against the severe impacts of climate change. Similar efforts are underway in Bequia, where coastal works are in progress at Paget Farm.[126] In 2023, global temperatures soared to unprecedented levels, marking it as the hottest year ever recorded on Earth. This trend was mirrored in Saint Vincent and the Grenadines, where September saw a record-breaking streak of 25 consecutive days with above-average temperatures. Factoring in the heat index, September 2023 felt like temperatures ranged between 38° and 48°C (100°-109°F). Over the 92-day period from August 1st to October 31st, a staggering 73 days experienced temperatures above the average. Consequently, as depicted in Table 3 below, 2023 marked the sixth consecutive year of below-average rainfall. This has grave implications for food security, the vulnerable Vincentians, and the overall developmental plans of the country.

[125] Estimates of Revenue and Expenditure 2024, pp. 820-821

[126] "Rehabiliton of Paget Farm Road – Bluff Realignment," Estimates of Revenue and Expenditure 2024, pp. 820-821

Month	Ave. Rainfall (91-20) mm	2016	2017	2018	2019	2020	2021	2022	2023
JAN	127.9	90.3	105.6	N/A	70.2	108.2	87.8	97.9	56.1
FEB	93.8	31.5	63.6	120.1	28.6	44.2	65.8	66.2	65.4
MAR	94.6	86.7	136.3	164.7	180.8	57.6	73.5	64.9	17.0
APR	105.8	31.4	174.2	59.3	144.2	74.8	320.3	30.7	50.3
MAY	114.2	118.8	84.7	91.0	108.6	43.2	43.9	64.3	46.3
JUN	196.5	172.3	236.7	114.3	200.9	159.7	213.1	136.7	150.1
JUL	220.2	274.9	171.7	216.0	212.6	153.5	136.6	109.3	197.9
AUG	231.9	90.8	333.5	189.1	173.7	303.1	401.5	184.1	273.0
SEP	230.6	327.3	244.7	144.2	163.1	116.1	165.9	191.5	172.7
OCT	285.5	233.0	343.9	413.8	209.1	311.2	191.5	192.2	212.1
NOV	293.1	691.2	136.9	184.3	161.7	340.2	207.4	295.3	
DEC	160.6	220.1	126.4	101.7	106.3	80.6	88.5	58.0	
Yearly Total (mm)	2154.7	2368.3	2158.2	1798.5	1759.8	1792.4	1995.8	1491.1	1240.9
Yearly Total (in)	84.83	93.24	84.97	70.81	69.28	70.57	78.57	58.70	48.85
Yearly Loss or Gain (%)	+ -0	+9.89	+0.16	-16.5	-18.3	-16.8	-7.4	-30.8	

Table 3: Rainfall in Saint Vincent and the Grenadines 2016-2023[127]

VI. Submissions on the Question

A. The overall position of Saint Vincent and the Grenadines on the questions put to the Court

92. In view of this unambiguous identification of applicable legal principles, Saint Vincent and the Grenadines argues that this Court's job is to apply them to the reality of climate change. The responses to Vanuatu's request are clear-cut in that regard. States that have caused anthropogenic climate change by consent or their own actions are now required to offer a full and adequate redress for the damages they have caused. Furthermore, the fact that it would be costly or inconvenient to fulfil this commitment cannot absolve those States. A State's duty to remedy under state law is not erased and can only be somewhat diminished by a risk of the most disastrous results for its citizens, not due to inconvenience or it being an expense.

B. Applicable law

93. The UN General Assembly has sought an advisory opinion from the International Court of Justice, as per Article 96 of the UN Charter and Article 65 of the Court's Statute, outlined in

[127] SVG Meteorological Office.

Resolution 77/276. This resolution underscores the significance of climate change and its impacts, referencing previous UN resolutions, international legal instruments, and scientific reports like those from the IPCC. It emphasises the vulnerability of nations, particularly SIDS, to climate change effects and calls for urgent support in finance, technology transfer, and capacity-building to address adaptation and loss and damage.

94. Further, it reinforces the point that the International Court of Justice is not limited to treaty law but should identify the relevant obligations from the entire corpus of international law and assess the legal consequences of the conduct causing climate change under international law. This involves taking into consideration treaty law and general international law including customary international , soft law and *jus cogens* especially given the dynamic nature of climate change. This approach promotes a unified development and implementation of international law, guaranteeing consistency among the various legal duties imposed on States. Several judicial entities, such as this Court, the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), the UN Human Rights Committee (UN HRC), and the European Court of Human Rights, regularly embrace this method. The resolution also stresses the importance of meeting the annual target of USD 100 billion for mitigation efforts. These contextual elements are crucial for understanding the questions presented to the Court.

95. This is clear from the first paragraph of the question put to the Court:

> "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?

96. It is further confirmed by four preambular paragraphs of Resolution 77/276:

"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,

Recalling also its resolution 70/1 of 25 September 2015 entitled "Transforming our world: the 2030 Agenda for Sustainable Development",

Recalling further Human Rights Council resolution 50/9 of 7 July 20221 and all previous resolutions of the Council on human rights and climate change, and Council resolution 48/13 of 8 October 2021, as well as the need to ensure gender equality and empowerment of women,

Emphasizing the importance of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant 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 in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, among other instruments, and of the relevant principles and relevant obligations of customary international law, including those reflected in the Declaration of the United Nations 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"]

C. The Obligation of States under Customary International Law

97. Under international law, states bear substantial responsibilities to safeguard the climate system and various environmental components from the considerable detriments inflicted by greenhouse

gas emissions. Considering the scope of the Request and the anticipated involvement of States and other international organisations, it is evident that stringent obligations are incumbent upon them. SVG submits that it relies and supports those submissions of other States and international organisations, only to the extent that the external align with SVG's submission. SVG seeks to address the principles of state sovereignty including protecting our indigenous people, the protection of the environment particularly the protection of the atmosphere and climate for the future generations built on the principle of common but differentiated responsibilities.

98. The Court has described State sovereignty as a "fundamental principle" underlying the foundation upon which the " whole of international law rests."[128] The principle that each sovereign State has the authority to manage its internal affairs without external intervention "is ingrained in customary international law." The actions of a State must be balanced and limited to the extent that it should not cause significant transboundary harm. Consequently, below the threshold of "significant", the harm ought to be tolerated by the other States. The case of *Trail Smelter Arbitration*[129] enunciated this principle. It was held that no state had the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another" and it had to be of "serious consequence" and "established by clear and convincing evidence."[130] The tribunal confirmed that Canada was not only required to compensate for the transboundary harm that was caused but also required to introduce control measures that would prevent future damage.[131]

99. This notion of States being responsible for transboundary harm has since been affirmed in MEAs and fleshed out in decisions of this Court. According to the Principle 21 of the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment - ***"States have the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."***[132]

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[128] *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States)*, Judgment, 1986 ICJ REP. 14 ("*Nicaragua v. United States* Judgment"), para 263.

[129] *Trail Smelter Arbitration* (United States v Canada) (1938 and 1941) 3 RIAA 1905.

[130] Ibid, p. 1965.

[131] Ibid, 1974-8; 1980-1.

[132] UN Conference on the Human Environment, "Declaration of the United Nations Conference on the Human Environment (16 June 1972) UN Doc UN Doc. A/CONF.48/14/Rev.1 at 3 (Stockholm Declaration).

100. This wording allows for the interpretation that includes the global commons such as the Earth's atmosphere and high seas. The ICJ first confirmed this principle of "no harm" in the 1996 Advisory Opinion of the *Legality of the Threat Use of Nuclear Weapons* that *"the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment"*[133] This was then reiterated in the 1997 decision of *Gabčíkovo-Nagymaros Case.*[134] It was further clarified as a customary international law when the Court found in *Pulp Mills*, States must "*use all the means at [their] disposa*l" to prevent transboundary harm including within and beyond its jurisdiction and **more so to both public and private conduct** within its State.[135]

101. The "no harm" rule establishes a strict duty that is widely applicable in order to align with the vital significance of the environment as the essential foundation for all human existence. Further, given the existential threat of climate change, SVG submits it is directly applicable. This rule establishes two prongs. First, that there is an obligation to *prevent* harm to the environment of other states or global commons and secondly, "the principle of prevention, as a customary rule, has its origin in the due diligence that is required of a State in its territory."[136] It follows that the obligation to act with due diligence entails "not only the adoption of appropriate rules and measures, but also a certain level of vigilance in their enforcement and the exercise of administrative control applicable to public and private operators."[137] Consequently, States are required to take all reasonable and necessary steps to avert the underlying harm when the obligation occurs.

102. The no-harm rule requires the adoption of appropriate measures to prevent harm, but it is also buttressed by procedural requirements.[138] These include the obligations to undertake environmental impact assessments,[139] and to notify and warn potentially affected States;[140] an

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[133] *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, above n 29, at para 29.

[134] *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, 1997 ICJ REP. 7 ("*Gabčíkovo-Nagymaros* Judgment"), para 53

[135] *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, 2010 ICJ REP. 14 ("*Pulp Mills* Judgment"), para 101.

[136] *Pulp Mills Judgment, para* 101.

[137] *Pulp Mills Judgment, para* 197.

[138] ILC Articles on Transboundary Harm, General Commentary, para 1.

[139] ILC Articles on Transboundary Harm, Article 7.

[140] *Corfu Channel (United Kingdom v. Albania)*, Judgment, 1949 ICJ REP. 4 ("*Corfu Channel* Judgment"), p. 22

obligation to exchange information,[141] cooperate with one another, in good faith, and directly or through relevant international organisations, in order to protect and preserve the marine environment.[142]

103. The Precautionary Principle, delineated in Principle 15 of the Rio Declaration on Environment and Development, imposes significant responsibilities on States to safeguard the climate system. It mandates that the absence of complete scientific certainty should not be a justification for postponing essential measures aimed at preventing environmental degradation.

104. States are required to apply the precautionary approach broadly, considering their capacities. When faced with threats of serious or irreversible harm, States must take proactive action, even if scientific certainty is lacking. In the context of climate change, this means that States should not hesitate to implement measures to mitigate greenhouse gas emissions.

105. Furthermore, the Precautionary Principle emphasises the importance of cost-effective measures to prevent environmental harm. If there is a risk of damage to the climate system, states are obligated to act promptly, regardless of scientific uncertainties. This obligation applies to both current and future generations, highlighting the responsibility across generations to protect the environment.

106. Additionally, the Principle acknowledges that delayed action may result in serious or irreversible harm. Therefore, States must find a balance between evidence-based decision-making and the urgency of preventing harm. By adhering to the precautionary approach, States can effectively address climate change, even amidst evolving scientific understanding.

107. This court has applied this Principle in its decision in *Corfu Channel*, affirming that "every State's obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States."[143]

108. While these obligations have a separate existence as customary norms, through the due diligence standard, SVG supports the view that they are also implied in the substantive obligation to prevent environmental harm.[144]

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[141] *Lake Lanoux Arbitration (Spain v France)* *(1957) 12 RIAA 281.

[142] *Pulp Mills Judgment, para 145.*

[143] *Corfu Channel (United Kingdom v. Albania)*, Judgment, 1949 ICJ REP. 4 ("*Corfu Channel* Judgment"), p. 22

[144] Patricia Birnie, Alan Boyle and Catherine Redgwell, *International Law and the Environment* (Oxford University Press, 3rd ed, 2009) 149.

109. SVG notes that since the right to self-determination of a people is a peremptory norm of international law, states are required to uphold it as well as prevent, restrict, and address.[145] This is pivotal where the "fundamental right of every State to survival"[146], as a result of climate change, is in peril. These obligations are of pertinent importance especially with populations with indigenous people and are also applicable to future generations.[147]

110. The close relationship that exists between Indigenous peoples and their land was recognised by the General Assembly in its 2007 Declaration on the Rights of the Indigenous Peoples. The Declaration's Preamble recognizes the "*urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources"*[148] As elucidated in *Indigenous Community Yakye Axa v. Paraguay* in favour of the rights of indigenous people -"*One cannot live in constant exile and displacement. Human beings share a spiritual need for roots*"[149] SVG emphatically concurs as the climatic conditions particularly exacerbates the vulnerabilities in the communities, such as Sandy Bay and Fancy, where our indigenous persons reside.

111. SVG submits that under treaty law, The Paris Agreement is a thorough accord encompassing various facets of the climate change issue, including mitigation, adaptation, finance, technology, and more. It represents the most detailed formulation of both collective and individual responsibilities of States in combating climate change. The Paris Agreement sets forth procedural duties dictating how States should act in tackling climate change through either individual or

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[145] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, above n 32, at para 180 ("Since respect for the right to self-determination is an obligation erga omnes, all States have a legal interest in protecting that right . . . . The Court considers that . . . all Member States must co-operate with the United Nations to put those modalities into effect.");

[146] *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 ICJ REP. 226 ("*Nuclear Weapons* Advisory Opinion"), para. 96.

[147]Nuclear Weapons Advisory Opinion, paragraph 29, Annex 264. The ICJ also referred to these statements and underscored their importance in a subsequent case (see Gabčíkovo-Nagymaros, paragraph 53, Annex 266) - *"the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn"*

[148] General Assembly, Resolution 61/295, United Nations Declaration on the Rights of Indigenous Peoples, UN Doc. A/RES/61/295 (13 September 2007) ("UNDRIP"), Preamble.

[149] Inter-American Court of Human Rights, *Indigenous Community Yakye Axa v. Paraguay*, Judgment (6 February 2006), Concurring Opinion of Judge Cançado Trindade, para 13.

collective actions determined at the national level. The effectiveness of these duties can be enhanced by applying overarching principles of international law concerning States' obligations to safeguard the global climate system and remedy any harm caused by their actions or inactions.

D. The Legal Obligation to Protect the Atmosphere

112. This section will discuss the obligations of States under international law to ensure the protection of the climate system and other parts of the environment (with a specific focus on the atmosphere) for the present and future generations. By doing so, SVG reserves the right to respond to any other issue which arises under Resolution 77/276 in its Reply.

113. In response to question (a) of Resolution 77/276, the United Nations Framework Convention on Climate Change (UNFCCC) describes the "climate system" as "the totality of the atmosphere, hydrosphere, biosphere, geosphere and their interactions."[150] Leading international scholars also recognise the Earth's "climate system" as composing the interactions between the atmosphere, the hydrosphere (the combined mass of water on Earth, including the oceans), the cryosphere (ice and snow), the land surface and the biosphere (the geographic region containing all life on Earth).[151]

114. The very first preambular paragraph of the UNFCCC states that: "change in the Earth's climate and its adverse effects are a concern of humankind". This notion of "climate change" being a common concern of humankind (CCH) has also been endorsed by States Parties to the Paris Agreement.[152] Schäli, a Swiss jurist, argues that common concerns of humankind are inherently

[150] United Nations Framework Convention on Climate Change (opened for signature 4 June 1992, entered into force 21 March 1994), art 1(3).

[151] Katherine Richardson, Will Steffen and Diana Liverman *Climate Change – Global Risks, Challenges and Decisions* (Cambridge University Press, New York, 2011) at 3. See also Louis J Kotzé "Earth System Law for the Anthropocene: Rethinking Environmental Law Alongside the Earth System Metaphor" (2020) 11(1-2) Transnational Legal Theory 75.

[152] Paris Agreement (opened for signature 12 December 2015, entered into force 4 November 2016), preamble.

transboundary and potentially affect all of humanity.[153] Invoking "humankind" to common concern therefore depicts the commonality and collective responsibility of States.[154]

115. One of the main components of the climate system is the atmosphere. The International Law Commission (ILC), albeit in an intense debate, offers a detailed account of the evolution of the CCH in the context of the legal protection of the atmosphere. In the ILC's first report issued in 2014, rapporteur Murase referred to the protection of the atmosphere as "a CCH" (in Draft guideline 3).[155] When the second report was issued the following year, rapporteur Murase attempted to arrive at a compromise with other members of the ILC (such as Murphy who doubted the use of CCH in State practice). Rapporteur Murase suggested a more passive recognition of the atmosphere in Draft guideline 3 which read: "the degradation of atmospheric conditions" (and not the protection of the atmosphere itself) "is a common concern of humankind."[156] By the time the sixth ILC report was issued in 2020, the rapporteur Murase recommended the "common concern of humankind" be inserted in the preamble of the text.[157] This was largely because the Paris Agreement, which was then in force, had adopted the CCH language in its preamble.[158] The ILC's recommendation in the preamble that "atmospheric pollution and atmospheric degradation are a common concern of humankind" was eventually adopted by the UNGA in 2021.[159]

116. The International Union for the Conservation of Nature (IUCN) Draft International Covenant on Environment and Development went a bit further than the ILC's work on the atmosphere. Article 3 of that IUCN Covenant provides: "[t]he global environment is a common concern of humanity

[153] Judith Schäli "Marine Plastic Pollution as a Common Concern of Humankind" in Zaker Ahmad and Thomas Cottier (eds) *The Prospects of Common Concern of Humankind in International Law* (Cambridge University Press, Cambridge, 2021) 153 at 187.

[154] Thomas Cottier "The Principle of Common Concern of Humankind" in Zaker Ahmad and Thomas Cottier (eds) *The Prospects of Common Concern of Humankind in International Law* (Cambridge University Press, Cambridge, 2021) 3 at 12.

[155] Shinya Murase *First Report on the Protection of the Atmosphere* UN Doc A/CN.4/667 (14 February 2014) at 57.

[156] Shinya Murase *Second Report on the Protection of the Atmosphere* UN Doc A/CN.4/681 (2 March 2015) at 24 and 49.

[157] Shinya Murase *Sixth Report on the Protection of the Atmosphere* UN Doc A/CN.4/736 (11 February 2020) at [31].

[158] At [31].

[159] *Protection of the Atmosphere* GA Res 76/112 (2021), annex.

and under the protection of the principles of international law, the dictates of the public conscience, and the fundamental values."[160] The conclusion that the global environment is a CCH implies that the environment (which includes the atmosphere) can no longer be considered as solely within the domestic jurisdiction of States due to its global importance and consequences for all.[161] The commentary of art 3 adds: "[t]he *interdependence of the world's ecosystems*…calls for global solutions to most environmental problems, thereby justifying designation of the global environment as a matter of "common concern".[162] This explanation suggests that not only the global environment but also Earth's ecosystems could possibly be conferred with CCH status.

117. Although the CCH has received some attention from scholars, the challenge is that the concept does not possess a full authoritative legal definition.[163] In fact, some commentators share the view that the CCH does not give rise to specific legal principles or consequences.[164] As Cottier explains:[165]

> given the undefined and elusive shape of the common concern of humankind, it can be objected that the notion is devoid of a normative concept and thus part of hortatory treaty language of no legal consequence.

118. In his extra-judicial writing the late ICJ Judge, Cançado Trindade, held a different opinion. He argued that even if the common concern of mankind (i.e., CCH) might appear abstract, there is nothing that epistemologically would impede it from being endowed with concrete legal obligations, and institutions to instrumentalize compliance with such obligations.[166] Judge Trindade opined that the CCH embodies "universal solidarity and social responsibility" which "emanate from human conscience" to "face the new global challenges to the international community as a whole".[167] Whilst the "common concern" is a general concept which does not

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[160] *Draft International Covenant on Environment and Development – Implementing Sustainability* (5th ed, IUCN, Environmental Policy and Law Paper No. 31 Rev 4, 2015) at 3.

[161] At 45.

[162] At 45 (emphasis added).

[163] Prue Taylor "Common Heritage of Mankind and Common Concern of Humankind" in Michael Faure (ed) *Elgar Encyclopedia of Environmental Law* (Edward Elgar Publishing, Cheltenham, 2023) 303 at 315.

[164] At 315.

[165] Cottier, above n 154, at 27.

[166] Antônio Augusto Cançado Trindade *International Law for Humankind – Towards a New Jus Gentium* (3rd ed, Brill Nijhoff, Leiden, 2020) at 348.

[167] At 349.

connote specific rules and obligations, it does lay the foundation for the concerned community to act.[168] From this perspective, the CCH could be treated as establishing a normative and legal basis for a new form of global cooperation, especially as it relates to the environment and the atmosphere.[169]

119. It is important to note that legal scholars draw a distinction between a common concern and a common heritage. Magalhães explains that a common concern relates to a specific problem, which implies a certain level of urgency (e.g., climate change).[170] A common concern therefore is more centred on a problem without properly defining its belonging, and the possibility of establishing a legal regime governing its common use.[171] In this sense a concern enjoys normative superiority since it confronts notions of fundamental value.[172] The term "heritage" on the other hand, is not related to an issue or problem, but rather a resource. A heritage is focussed on the exploitation, or management of one type of resource which represents a shared inheritance, or a common patrimony (e.g., the seabed area, under article 136 of UN Convention of the Law of the Sea).[173] Emeritus Professor, Edith Brown Weiss, also perceived the Earth as a heritage when she described the planet as a "common patrimony" and a "global commons shared by all generations".[174]

120. According to Professor Bosselmann from the University of Auckland, the atmosphere forms part of what is known as the global commons (which also consist of the oceans, outer space and Antarctica) in that the atmosphere belongs to no one and it cannot be owned in a legal sense.[175] The atmosphere is thus treated as *res nullius*, a legal no-man's land, and should be safeguarded

[168] Dinah Shelton "Common Concern of Humanity" (2009) 39(2) Environmental Policy and Law 83 at 85.

[169] Taylor, above n 163at 315.

[170] Paulo Magalhães "Common Interest, Concern or Heritage?" in Timothy Cadman, Margot Ann Hurlbert, and Andrea C Simonelli (eds) *Earth System Law: Standing on the Precipice of the Anthropocene* (Routledge, Oxon, 2022) 248 at 249.

[171] At 249.

[172] At 249.

[173] At 249.

[174] Edith Brown Weiss *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (The United Nations University, Tokyo and Transnational Publishers Inc, New York, 1989) at 289.

[175] Klaus Bosselmann "The Atmosphere as a Global Commons" in Jordi Jaria-Manzano and Susana Borrás (eds) *Research Handbook on Global Climate Constitutionalism* (Edward Elgar Publishing Ltd, Gloucestershire, 2019) 75 at 75.

by humanity as a whole for the benefit of future generations.[176] As a global commons, and also as part of the climate system, States have a duty to jointly act as trustees for the atmosphere.[177] Professor Wood and others also added to this debate when they categorised all nations as "co-tenant trustees" of the atmosphere since it is one of the planet's global assets.[178] All of this must be read in the context that the UN General Assembly adopted a resolution recognising the right to a clean, healthy and sustainable environment as a human right.[179]

121. Based on these authorities, SVG submits that the atmosphere: (1) should be considered a common concern of humankind (CCH), (2) is a global commons and (3) that States have a joint duty as trustees to protect the atmosphere (as well as the other parts of the climate system and the environment), from the anthropocentric emissions of greenhouse gases.

E. The Obligation to Protect the Climate System for Future Generations

122. The concern for future generations is a familiar feature in international and environmental law.[180] From the earliest days of the environmentalist movement, it has been clear that concerns about pollution, the depletion of non-renewable resources, human population growth, and the loss of habitats and species are essentially concerns that will affect not just the current generation, but future persons as well.[181] Our responsibility to conserve and protect the climate system and the other parts of the environment (including biological diversity and ecosystems) for the benefit of future generations is highlighted in a number of treaties and international law instruments

[176] At 76.

[177] At 81.

[178] Mary Christina Wood and others "Securing Planetary Life Sources for Future Generations – Legal Actions Deriving from the Ancient Sovereign Trust Obligation" in Michael B Gerrard and Gregory E Wannier (eds) *Threatened Island Nations: Legal Implications of Rising Seas and a Changing Climate* (Cambridge University Press, 2013) 531 at 541–543.

[179] *The Human Right to a Clean, Healthy and Sustainable Environment* GA Res 76/300 (2022).

[180] Klaus Bosselmann "The Concept of Sustainable Development" in Klaus Bosselmann, David P Grinlinton, Prue Taylor (eds) *Environmental Law for a Sustainable Society* (2nd ed, New Zealand Centre for Environmental Law, Auckland, 2013) 95 at 107.

[181] Kevin Gary Behrens "Moral Obligations Towards Future Generations in African Thought" (2012) 8 (2-3) Journal of Global Ethics 179 at 179.

including: the Stockholm Declaration,[182] the Rio Declaration,[183] the World Charter For Nature,[184] the Convention on Biological Diversity[185] and the UNFCCC.[186] The Earth Charter, an instrument that was launched in the year 2000 by global civil society, goes even further by extending our obligations to future generations beyond the climate system and the environment, to the Earth itself. The Earth Charter declares that: [t]he protection of Earth's vitality, diversity, and beauty is a *sacred trust*" and that the Earth's bounty and beauty must be secured "for present and *future generations*".[187]

123. In international law, future generations are interpreted as being the generation unborn (as opposed to the present generation who are currently living). *General Comment No. 26* (of the UN Committee on the Rights of the Child) specifies that while the rights of children who are present on Earth require immediate urgent attention, the children constantly arriving are also entitled to the realisation of their human rights to the maximum extent.[188] According to the theory of intergenerational equity, each generation is entitled to inherit a planet at least as good as that of previous generations and all generations are entitled to at least the minimum level that the first generation in time had.[189] This theory therefore postulates that all countries have an obligation to future generations as a class, regardless of their nationality.[190] Since a clean, healthy, and sustainable environment is a human right for all to enjoy, States must bear the responsibility for foreseeable environment-related threats that would have an impact on future generations.[191]

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[182] *Report of the UN Conference on the Human Environment* UN Doc A/CONF.48/14/Rev 1 (5-16 June 1972) at 4 (principle 1).

[183] *Report of the UN Conference on Environment and Development* UN Doc A/CONF.151/26 (Vol I) (12 August 1992), Annex I at principle 3.

[184] *World Charter For Nature* A/RES/37/7 (1982), preamble.

[185] Convention on Biological Diversity (opened for signature 5 June 1992, entered into force 29 December 1993), preamble.

[186] United Nations Framework Convention on Climate Change (opened for signature 4 June 1992, entered into force 21 March 1994), preamble and art 3(1).

[187] The Earth Charter (2000), preamble and principle I.4 (emphasis added).

[188] *General Comment No. 26 (2023) on Children's Rights and the Environment, With a Special Focus on Climate Change* UN Doc CRC/C/G/26 (22 August 2023) at [8] and [12].

[189] Edith Brown Weiss *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity*, above n 174, at 24–25.

[190] At 26.

[191] *General Comment No. 26 (2023),* above n 188, at [8] and [11].

124. The recently adopted *Maastricht Principles on The Human Rights of Future Generations* provide that future generations must be free from intergenerational discrimination. This discrimination includes, inter alia: (a) the waste, destruction, our unsustainable use of resources essential to human life and (b) shifting the burden of responding to present crises to future generations.[192] The unborn generation is therefore experiencing a "democratic deficit" since they cannot speak on their own behalf regarding the obligations of States to protect the climate system. In these circumstances, Taylor argues that the closest generation that has the greatest legitimacy to speak on behalf of future generations is the children and the youth.[193] It is the youth who can speak to their aspirations for a future worth living.[194] As a consequence, the Youth Climate Justice Handbook, jointly produced by the World's Youth for Climate Justice (WYCJ) and the Pacific Islands Student's Fighting Climate Change, provides a useful resource that advances progressive arguments pertaining to the obligations of States under international law to future generations.[195]

125. Rawls, a political and legal philosopher schooled in the modern liberal tradition, opined that from a moral point of view, there are no grounds for discounting the well-being of future generations.[196] This sense of moral obligation to future generations has been applied in domestic courts. In the South African Constitutional Court decision of *Fuel Retailers Association of Southern Africa v Director-General Environmental Management,* Ngcobo J held that: "[t]he present generation holds the earth in trust for the next generation. This trusteeship position carries with it the responsibility to look after the environment."[197] Similarly, the Indian High Court in *Miglani v State of Uttarakhand* acknowledged that because the past generation handed over the Earth to the present generation in its pristine glory, the present generation are morally bound to reciprocate this to the future generation.[198]

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[192] *Maastricht Principles on The Human Rights of Future Generations* (adopted on 3 February 2023) at 6.

[193] Prue Taylor, Senior Lecturer, University of Auckland "Future Generations" (Caribbean Regional ICJ Workshop, St George's, Grenada, 16 February 2024).

[194] Karanina Sumeo and Prue Taylor "How New Zealand can help shape global action on climate change" Waikato Times (online ed, Hamilton, 14 March 2024).

[195] World's Youth for Climate Justice and the Pacific Islands Students Fighting Climate Change *Youth Climate Justice Handbook - Summary for Policymakers* (4 May 2023).

[196] John Rawls *A Theory of Justice* (Rev ed, Belknap Press of Harvard University Press, Cambridge, 1999) at 253.

[197] *Fuel Retailers Association of Southern Africa v Director-General Environmental Management* [2007] ZACC 13 at [102].

[198] *Miglani v State of Uttarakhand* [2017] (PIL) No 140 of 2015 (HC) at 66.

126. The notion of obligations to future generations and intergenerational equity has also been addressed within the context of the ICJ. The ICJ explicitly referred to the interests of future generations for the first time in its 1996 Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons.*[199] There the ICJ in its wisdom pronounced that the use of nuclear weapons would pose a danger to future generations since ionising radiation has the potential to damage the future environment and food and marine ecosystems.[200] Judge Cançado Trindade in his Separate Opinion in the *Whaling in the Antarctic* case, also confirmed the importance of intergenerational equity in international law. The distinguished Judge wrote: "[i]n effect, inter-generational equity marks presence nowadays in a wide range of instruments of international environmental law, and indeed of contemporary public international law."[201] In an earlier 2010 opinion in *Pulp Mills on the River Uruguay*, Judge Cançado Trindade already settled this issue when he wrote that: "it can hardly be doubted" that "inter-generational equity forms part of conventional wisdom in International Environmental Law."[202]

127. In summing up, planetary obligations (which include obligations to the climate system) derive from the principles of equity between generations. This requires each generation to conserve the diversity and quality of natural and cultural spaces for present and future generations and to ensure equitable access to and use of these spaces.[203] These obligations are enforceable because they are specifically mentioned in domestic/international Court decisions, codified into international agreements, transformed into customary international law, or adopted as general principles of law.[204]

F. Legal Consequences of the Breach of Climate Obligations

128. Considering the obligations discussed in the previous sections, the overarching framework governing the "legal consequences" is given by the relevant rules of general international law codified in the ILC Articles on Responsibility of States for Internationally Wrongful Acts[205], including Articles 30 (Cessation and non-repetition), 31 (Reparation), 33 (Scope of the

[199] Edith Brown Weiss "The Future of the Planetary Trust in a Kaleidoscopic World" (2020) 50 Environmental Policy and Law 449 at 451.

[200] *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)*, above n 29, at [35].

[201] *Whaling in the Antarctic (Australia v Japan: New Zealand Intervening)* [2014] ICJ Rep 226 at [47].

[202] *Pulp Mills Judgment*, above n 135, at [122].

[203] Weiss *In Fairness to Future Generations*, above n 174, at 47.

[204] At 47.

[205] ILC, Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries 2001(II) Y.B. INT'L L. COMM'N 31 (2001) ("ARSIWA").

international obligations set out in this part), 34 (Forms of reparation), 35 (Restitution) and 36 (Compensation). This general regime is residual, as recalled by Article 55 of the Articles on State Responsibility. Therefore, the provisions of certain treaties may define certain specific consequences resulting from a given treaty.

129. Respectfully, this Court has clearly recognised that the general rules of reparation must be read in the light of the specific circumstances arising from the nature of environmental harm.[206] Moreover, specific aspects relating to the application of those general rules on reparation, including the assessment of the required causal nexus, "*may vary depending on the primary rule violated and the nature and extent of the injury*".[207]

130. As decided in *Pulp Mills*,[208] States bear accountability for any breaches of international law for which they are responsible, encompassing, notably in environmental matters, transgressions arising from the actions of either public or private entities.

131. Saint Vincent and the Grenadines, as a SIDS is undeniably among the "specially affected" or "injured" States concerning violations of the obligations outlined in the prior section. They are experiencing some of the most direct and detrimental consequences of climate change, including rising sea levels, floods, coastal erosion, freshwater source and agricultural land salinisation, threatening the rights of its people as well as biodiversity loss. Moreover, small island States are considered "specially affected" due to their heightened vulnerability to the adverse impacts of climate change, as recognized in various pertinent international environmental agreements such as the UNFCCC and the Paris Agreement.[209]

132. Therefore, Saint Vincent and the Grenadines invokes state responsibility in this matter in the following instances:

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[206] *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua), Compensation*, Judgment, I.C.J. Reports 2018, p. 15, paragraphs 34, 41-43, available at: https://www.icj-cij.org/sites/default/files/case-related/150/150-20180202-JUD-01-00-EN.pdf

[207] *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Reparations*, Judgment of 9 February 2022, paragraph 94, available at: https://www.icj-cij.org/sites/default/files/case-related/116/116-20220209-JUD-01-00-EN.pdf. See also *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua), Compensation*, Judgment, I.C.J. Reports 2018, p. 15, paragraph 34, available at: https://www.icj-cij.org/sites/default/files/case-related/150/150-20180202-JUD-01-00-EN.pdf

[208] *Pulp Mills Judgment*, para 197

[209] UNFCCC, Preamble, Articles 3(2), 4(4); Paris Agreement, Preamble, Articles 6(6), 7(2), 7(6), 9(4), 11(1).

a. As there has been a breach of the obligations "owed to that State individually."[210] This fits within the traditional "bilateral" structure of international law as Saint Vincent and the Grenadines including its nationals and peoples and right to survival, has been "injured";

b. Where the breaches of obligations are owed collectively on an *erga omnes* basis, that is being "owed to the international community as a whole".[211]

133. SVG submits that it is entitled to invoke the responsibility of States that breach these obligations, regardless of whether they show a direct "injury" in our pleadings or not as these *erga omnes* have been codified in treaty law. Further, while environmental obligations have not been specifically identified by this honourable Court as having *erga omnes* level, this Court has at multiple times confirmed that no -harm rule and related rules apply to adverse environmental impacts in areas nationally and to the global commons.

134. Consequently, SVG posits that States ought to be held accountable for their breaches. Further, These States must remedy their breaches. SVG submits that under the ARSIWA supplemented by customary international law, these States must perform their breached obligations and prohibit current and prevent future breaches, promote non-repetition, and make complete reparation[212] (including but not limited to compensation, restitution, satisfaction) for loss and damage incurred and will incur as a consequence of the breach.

135. As such, SVG requests the Court to clarify the legal implication of the no-harm rule for the protection of the environment both within States' boundaries and beyond their national jurisdiction.

[210] ARSIWA, Article 42 (a).

[211] ARSIWA, Article 48 (1) (b).

[212] ARSIWA, Article 31; *DRC v. Uganda* Reparations Judgment, ("[ARSIWA] Article 31 . . . reflects customary international law").

VII. Conclusions

131. In the words of Honourable Prime Minister of Saint Vincent and The Grenadines, Dr Ralph E Gonsalves[213] as it reverberates the sentiments of SVG:

> *"if a small resource-challenged nation like St.Vincent and the Grenadines can revolutionise its energy mix and radically reduce our reliance on fossil fuels in a few short years, we find it impossible to accept the dilatory foot- dragging of rich powerful nations that have a real possibility to radically reduce their emissions footprint…as big emitters continue to dither, more frequent and intense hurricanes wash away large swaths of our GDP in a matter of hours"*.

132. In the climate change forum, the principle tenet of shared but differentiated responsibilities ought to be a guiding path of States. Therefore, Saint Vincent and the Grenadines submits that States must comply with their international law obligations jointly and severally by:

(a) Adhering to established norms of international environmental law;

(b) Ensuring that their domestic activities do not adversely affect the environment of other nations;

(c) Safeguard their domestic environment and populations from activities under their authority;

(d) Safeguard and uphold the climate system and other environmental components in areas outside their national jurisdiction;

(e) Take measures to mitigate and address the harm already inflicted or anticipated due to human-made GHG emissions, regardless of their role in causing such harm initially;

(f) Collaborate with other nations to protect and preserve the climate system and the environment; and

[213] In his address at the 2016 United Nations Climate Conference in Marrakesh, Morocco. The Vincentian Newspaper (2016) *ULP Views:Climate Change and the Implications for St. Vincent and the Grenadines*, *The Vincentian Newspaper*. Available at: https://thevincentian.com/ulp-viewsclimate-change-and-the-implications-for-st-vincent-and-the-grena-p12074-107.htm (Accessed: 17 March 2024).

(g) Be accountable for compensating for loss and damage resulting from their anthropogenic GHG emissions.

133. In instances where a State, through its actions or inactions, has breached its obligations resulting in significant harm to the climate system and other environmental components, SVG submits that:

(a) The responsible State bears responsibility for such violations as per international law;

(b) Injured States, particularly SIDS, may hold the breaching State accountable for any breaches of obligations owed either directly to the injured State or to the international community at large;

(c) The responsible State must undertake measures to rectify the breach, including fulfilling the breached obligation, discontinuing the violation, if ongoing, and providing assurances and guarantees to prevent future occurrences;

(d) Moreover, the responsible State must provide full reparation, encompassing restitution, compensation, and satisfaction, must be made for the harm caused by the wrongful act, covering both tangible and intangible damages; and

(e) Reparation and redress are not limited to climate financing simpliciter but *inter alia* directly contributing to the specially affected/injured by assisting with infrastructure developments, technology transfers, training and educational opportunities (scholarships) to build human capacity, reduced bureaucracy involved in acquiring grants and funding geared at or touching and concern climate resilience. Further, it may involve changes to the responsible State's domestic legislation and policies while these States offer guidance and assistance to vulnerable States in fulfilling their mitigation and adaptation measures.

134. On foregoing considerations, Saint Vincent and the Grenadines respectfully submits that the aforementioned arguments should be part of the answers of the Court to the questions raised by the General Assembly in its request for an advisory opinion contained in Resolution 77/276. Saint Vincent and the Grenadines reserves the right to respond to any other issue not covered in this statement, in its Reply.

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Mr Desmond Simon

Authorised Signatory for Saint Vincent and the Grenadines, Chargé d' Affaires a.i. Embassies of the Eastern Caribbean States & Missions to the European Union
March 21, 2024[214]

[214] Prepared by: Justin Sobion, Faculty of Law, University of Auckland, New Zealand, External Counsel for Saint Vincent and the Grenadines and Shernell S.S Hadaway – Parliamentary Counsel III, Attorney General's Chambers, Ministry of Legal Affairs, Saint Vincent and the Grenadines.

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Annex 1: Expert Report "The Science of Climate Change and the Caribbean: Findings from the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Cycle (AR6)" by Dr Adelle Thomas, Professor Michelle Mycoo and Professor Michael Taylor (5 March 2024).

Annex 2: Pictorial representation of adverse impacts of climate change in Saint Vincent and the Grenadines

Annex 1: Article - The Science of Climate Change and the Caribbean: Findings from the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Cycle (AR6) by Dr Adelle Thomas, Professor Michelle Mycoo and Professor Michael Taylor (5 March 2024).

Annex 2: Pictorial representation of adverse impact of climate change in SVG

Picture of landslide due to flooding and Recording of Residents who lost Family Members in the 2013 Christmas Floods[215]

Video pertaining to the above can be viewed at:

https://www.facebook.com/BarbadosToday/videos/10151979180608191

[215] Most people who read and heard the stories of the heavy rains that battered St Vincent and the Grenadines on Christmas Eve in 2013 may remember the tragedy that struck one particular family – the Nanton family in Rose Bank. Five members of that family perished when their homes collapsed under the weight of a landslide.


VITAMAST

Lahars (Due to heavy rain after volcanic eruption) in SVG

Coastal Erosion at Sandy Bay in SVG

Flooding as a result of heavy rains in SVG

Residential home destroyed in SVG due to flooding [216]

[216] iWitness News Network and C. (2016) *Houses destroyed as rains trigger floods across St. Vincent*, *iWitness News*. Available at: https://www.iwnsvg.com/2016/11/29/houses-destroyed-as-rains-trigger-floods-across-st-vincent/ (Accessed: 19 March 2024).

Landslide aftermath in SVG

Effects of La Soufrière Volcano on Sandy Bay (one of the worst areas affected)[217]

[217] Samuel, O. (2021) *La Soufrière volcano: Building from the ashes: The government of Saint Vincent and the grenadines, the UN and humanitarian partners rally to bring relief to thousands affected by the erupting volcano – global funding appeal launched - Saint Vincent and the grenadines*, *ReliefWeb*. Available at: https://reliefweb.int/report/saint-vincent-and-grenadines/la-soufriere-volcano-building-ashes-government-saint-vincent-and (Accessed: 19 March 2024).