

INTERNATIONAL COURT OF JUSTICE

**OBLIGATIONS OF STATES IN RESPECT OF
CLIMATE CHANGE**

(REQUEST BY THE UNITED NATIONS GENERAL ASSEMBLY
FOR AN ADVISORY OPINION)

WRITTEN STATEMENT

PEOPLE'S REPUBLIC OF CHINA

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Introduction

1. On 29 March 2023, the United Nations General Assembly adopted Resolution 77/276 by consensus, in which it decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the International Court of Justice, to render an advisory opinion on the following questions:

“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:

(1) 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?

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

2. By an order dated 20 April 2023, the International Court of Justice decided that the United Nations and its Member States, may submit written statements to the Court on 20 October 2023. By an order dated 4 August 2023, the International Court of Justice decided to extend the deadline for the submission of written statements to 22 January 2024. By an order dated 15 December 2023, the International Court of Justice decided to further extend the deadline for the submission of written statements to 22 March 2024.

3. Climate change is an urgent global challenge and a common concern of mankind. Many countries, including China, have suffered or are suffering from major disasters caused by climate change. We live in a global village. As a member of developing countries, China understands very well the practical difficulties in addressing climate change faced by many developing countries, including small island developing States. Addressing climate change and its adverse effects is crucial to human well-being and sustainable development, involves the fair and reasonable utilization of the climate system by all countries, and requires the international community to jointly strengthen cooperation on seeking for common grounds and working out differences through multilateral processes.

4. The request of the United Nations General Assembly concerns the question of whether the International Court of Justice has advisory jurisdiction and what the international obligations of States regarding climate change and relevant legal consequences are. First, this written statement sets out the views on the exercise of advisory jurisdiction by the International Court of Justice. Then, it elaborates on the international

obligations of States regarding the protection of climate system and other parts of the environment from anthropogenic emissions of greenhouse gases (GHGs) and relevant legal consequences. Finally, it presents China's actions and achievements in comprehensive performance of its international obligations and responsibilities regarding climate change. The written statement is for the reference by the Court in rendering an advisory opinion.

I. Advisory Jurisdiction and Discretion

A. International Court of Justice Has Advisory Jurisdiction over the Present Case

5. The advisory jurisdiction of the International Court of Justice is derived from Article 96 of the Charter of the United Nations and Article 65(1) of the Statute of the International Court of Justice. According to these provisions and judicial practices of the Court, two basic conditions must be met for the Court to establish advisory jurisdiction over relevant questions: first, the questions are posed by an organ having competence and acting thereunder; second, the questions are legal questions.

6. The basic conditions for the Court to establish advisory jurisdiction are satisfied in the present case. The United Nations General Assembly is competent to request an advisory opinion from the Court, as provided for in the Charter of the United Nations. The General Assembly has not acted *ultra vires* in making such a request. The questions of the obligations of States and relevant legal consequences, which are requested in General Assembly Resolution 77/276 for the Court to clarify, involves the interpretation and application of the principles and rules of international law, and therefore are legal questions. In practice, that the legal questions requested by competent organs have political factors or potential political implications cannot

deprive of their character as legal questions.

B. There Is No “Compelling Reasons” for the Court to Decline to Exercise Jurisdiction in This Case

7. **Even if the Court has jurisdiction over the legal questions requested, it still has discretionary power in deciding whether or not to give an advisory opinion.** Given that giving an advisory opinion is an important way for the Court, as the principal judicial organ of the United Nations, to participate in the activities of the Organization, the Court has emphasized in its previous advisory opinions that it “should in principle not decline to give an advisory opinion”,¹ and only “compelling reasons”² should lead the Court to refuse to give its opinion.

8. **One of the most important considerations on the “compelling reasons” is whether giving an advisory opinion would circumvent the fundamental “principle of consent of States”.**³ The Court, in its 1975 Western Sahara advisory opinion, pointed out that “lack of consent might constitute a ground for declining to give the opinion requested if, in the circumstances of a given case, considerations of judicial propriety should oblige the Court to refuse an opinion.”⁴

9. **Another relevant issue is whether “impediment to political, negotiated solutions” is a “compelling reason” for the Court to refuse to give an advisory opinion.** In the previous advisory opinion procedures of the Court, some participants raised view that the Court should decline to exercise the jurisdiction as an advisory opinion could “[impede] political, negotiated solutions”.⁵ Consideration should be

¹ *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, Advisory Opinion, I.C.J. Reports 1962, p. 151, p. 155; *Differences Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, I.C.J. Reports 1999 (I), p. 62, pp 78-79, para. 29; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 136, p. 156, para. 44.

² *Ibid.*

³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 136, p. 156, para. 44.

⁴ *Western Sahara*, Advisory Opinion, I.C.J. Reports 1975, p. 12, at pp 24-25, para. 32.

⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion,

given with respect to this issue prudently.

10. China is of the view that, with regard to the present case, the Court has jurisdiction to give an advisory opinion, and there is no “compelling reasons” for the Court to decline to exercise jurisdiction in this case. The United Nations attaches importance to the issue of climate change. It is within its mandate and competence that the Court, as the principal judicial organ of the United Nations, provides advisory opinion on this matter. The issues involved in this request for advisory opinion are not aiming at dealing with specific disputes between specific States. There are no “compelling reasons” such as circumvention of the “principle of consent of States” to prevent the Court from giving an advisory opinion in the present case.

11. At the same time, China hopes that the Court, in fulfilling its functions and role as the main judicial organ of the United Nations, will focus on addressing legal issues rather than factual issues; identify, interpret and apply relevant *lex lata* on climate change; and refrain itself from creating new laws or imposing new obligations on States, thereby helping to achieve the purposes and objectives of the United Nations, strengthening international peace, security and cooperation, and promoting peaceful resolution of differences.

II. Essence of Addressing Climate Change and Applicable Laws

12. The issue of climate change has arisen as a result of a combination of natural processes and anthropogenic activities.⁶ Anthropogenic activities, especially long-term uncontrolled anthropogenic greenhouse gas (GHG) emissions since the eighteenth century, mainly from developed countries in the course of

I.C.J. Reports 2004 (I), p. 136, p. 159, para. 51; *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, *I.C.J. Reports 1996*, p. 226, p. 237, para. 17; *Western Sahara*, *I.C.J. Reports 1975*, p. 12, p. 37, para. 73.

⁶ See IPCC AR 6 Synthesis Report: Climate Change 2023, Annex I Glossary, p.122.

industrialization,⁷ have significantly increased the concentrations of GHGs in the atmosphere. These increases enhanced the natural greenhouse effect, causing and continuing to result on global warming. The issue of climate change arose much earlier than 1990s. The relationship between anthropogenic GHG emissions and climate change has been gradually clarified with the deepening of human scientific knowledge. The World Meteorological Organization (**WMO**) convened the first World Climate Conference (**WCC**) in 1979, which for the first time expressed concern at the global level about anthropogenic climate change and its adverse effects. The WCC appeals to all nations of the world to foresee and to prevent potential man-made changes in climate,⁸ which has built political consensus for advancing global climate governance. In 1988, the Intergovernmental Panel on Climate Change (**IPCC**) was established, and its first assessment report in 1990 confirmed warming had been observed in 1980s, and recognized that anthropogenic GHG emissions were an important factor leading to global warming.⁹ Thus, it lays a scientific foundation for global climate governance.

13. In order to control anthropogenic GHG emissions and effectively address the adverse effects of climate change, the United Nations General Assembly adopted resolution 45/212 in December 1990, formally established a single intergovernmental negotiation process for the preparation of an effective framework convention on climate change, which led to the adoption of the United Nations Framework Convention on Climate Change (**UNFCCC**) in May 1992, its Kyoto Protocol in December 1997 and Paris Agreement in December 2015. After more than three decades of development, the UNFCCC regime, which includes the UNFCCC, its 1997 Kyoto Protocol and 2015 Paris

⁷ See IPCC AR 6 Climate Change 2022: Mitigation of Climate Change, Summary for Policymakers, p.10.

⁸ See 1979 Declaration of the World Climate Conference, p. 3.

⁹ IPCC First Assessment Report Overview and Policymaker Summaries and 1992 IPCC Supplement, 1992, p.80, para. 8.0.3.

Agreement, and the decisions of Conferences of Parties, has been established. Such regime lays down the legal foundation for global climate governance and constitutes the core of international climate change law.

14. Climate change and response to it involve many aspects including economic and social development, ecology and environment, as well as people's well-being, and it is, at its essence, an issue of sustainable development.

15. The climate system is closely related to the survival and development of human beings, the economic and social development of States, and the protection and utilization of the environment and ecology. The issue of climate change has arisen in the course of human development, and has had adverse effects on the oceans, the environment, human rights, trade, transportation and so on. It has been an important factor in affecting the sustainable development of human beings.

16. Addressing climate change and its adverse effects is integral to achieve the United Nations sustainable development goals. The 1972 United Nations Stockholm Declaration on the Human Environment for the first time emphasized that environmental protection and economic development must be understood as compatible and mutually reinforcing goals.¹⁰ The 1992 United Nations Conference on Environment and Development (UNCED) adopted Rio Declaration on Environment and Development and Agenda 21, which explicitly stated the goal of “sustainable development” and placed it at its core. The UNCED also adopted “the three Rio Conventions”. The UNFCCC, which is an integral part of “the three Rio Conventions”, recognizes sustainable development as a principle that all States shall follow in

¹⁰ See United Nations Stockholm Declaration on the Human Environment, 1972, principle 9, principle 10, and principle 11.

addressing climate change and its adverse effects.

17. The UNFCCC regime provides institutional safeguards for and gives a strong boost to sustainable development. The international community has turned the challenge of addressing the risks of climate change into new opportunities for economic and social development by curbing the magnitude and rate of climate change through adopting measures to reduce GHG emissions, and averting or minimizing economic and social losses through taking proactive action to adapt to the adverse effects of climate change. Over the past three decades, global anthropogenic GHG emissions have been controlled on a sustainable development track, especially under the strong impetus of Sustainable Development Goals of the 2030 Agenda for Sustainable Development set in 2015. Although developing countries increased their emissions, which are within reasonable parameters and under effective control, they made important contributions to global poverty eradication¹¹ and access to electricity¹², and promoted a green and low-carbon transition, as well as effectively strengthened their capacity to respond to climate change and its adverse effects.

18. Therefore, addressing climate change and its adverse effects has its bearing on the economic and social development patterns and development space of all States, which needs to be promoted in the context of sustainable development, with a multi-pronged approach in political-diplomatic, socio-economic and legal aspects that anchored in economic and social development, the protection and utilization of the climate system and the enhancement of human well-being.

¹¹ According to the World Bank Report, in 1990, almost 36% of the global population lived on less than \$1.90 a day, but by 2015 this number had dropped to a new low of 10%. See *Going Above And Beyond To End Poverty: New Ways Of Measuring Poverty Shed New Light On The Challenges Ahead*, 17 October 2018, available at <https://www.worldbank.org/en/news/immersive-story/2018/10/17/going-above-and-beyond-to-end-poverty-new-ways-of-measuring-poverty-shed-new-light-on-the-challenges-ahead>.

¹² The global electricity access rate increased from 87% in 2015 to 91% in 2021, serving close to an additional 800 million people. However, 675 million people still lacked access to electricity in 2021, mostly located in LDCs. See *Sustainable Development Goals Report 2023: Special edition*, United Nations, p. 26.

19. The request for this advisory opinion relates to the obligations of States under international law to ensure the protection of the climate system, the environment, human rights from the adverse effects of GHG emissions, **with the international obligations of States in terms of anthropogenic GHG emissions control, adaptation to climate change and provision of support as the gist.** Accordingly, it concerns different branches of international law, including international climate change law, international law of the sea, international human rights law, general international law. Among them, **international climate change law is tailor-made to regulate the rights and obligations of States on controlling GHG emissions and its adverse effects. It ought to play a foundational and primary role in this regard.**¹³ Other branches of international law are not specially made to address climate change and its adverse effects, could only serve a complementary role, and be interpreted and applied in conformity with the provisions of the UNFCCC regime, following the principles of harmonization and systemic integration.¹⁴

III. Obligations of States under the UNFCCC Regime

20. As a tailor-made body of law, the UNFCCC regime is the primary legal basis for addressing climate change and its adverse effects, establishing objectives, principles and norms in respect of climate change for States.

A. Objectives

21. **The UNFCCC and its Paris Agreement have set long-term global temperature goal in response to climate change.** Article 2 of

¹³ See Resolution 74/219 adopted by the General Assembly on 19 December 2019, A/RES/74/219, preambular para. 2; Resolution 76/205 adopted by the General Assembly on 17 December 2021, A/RES/76/205, preambular para. 2.

¹⁴ Vienna Convention on the Law of Treaties, Article 31(3); Report of the Study Group of the International Law Commission, "Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law", 18 July 2006, A/CN.4/L.702, pp 13-14, paras 14(17)-14(18).

the UNFCCC stipulates that the ultimate objective of this Convention is “stabilization of GHG concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”. Article 2 of the Paris Agreement further sets the long-term temperature goal, which is “holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels”.

22. China is of the view that the aforementioned long-term temperature goal is a range instead of one fixed level. Article 2(1) of the Paris Agreement stipulates that its goal is “holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels”. Pursuant to the Outcome of the first global stocktake adopted by COP28, the above long-term temperature goal would “significantly reduce the risks and impacts of climate change”.¹⁵ It reaffirmed that “1.5°C to 2°C” set by the Paris Agreement is a range.

23. The aforementioned long-term temperature goal is a global collective goal, not for individual States. Article 3 of the UNFCCC provides that “[in] their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided”. Article 3 of the Paris Agreement stipulates that “all Parties are to undertake and communicate ambitious efforts ... with the view to achieving the purpose of this Agreement as set out in Article 2”. The above provisions indicate that it is incumbent upon the Parties as a whole instead of individual States to achieve relevant goal.

24. The aforementioned long-term temperature goal is a joint political commitment of the international community, instead of

¹⁵ Draft decision -/CMA.5 Outcome of the first global stocktake adopted at COP28 on 13 December 2023, FCCC/PA/CMA/2023/L.17, para. 3.

enunciating a concrete legal obligation for individual States. The UNFCCC regime points out the direction of collective efforts of all States without creating concrete legal obligations for individual States. Specifically, Article 2 of the UNFCCC uses the expression “is to achieve” when describing the ultimate objective of stabilization of GHG concentrations, and Article 2 of the Paris Agreement uses the expression “aims to” when describing the long-term temperature goal.

B. Principles

25. The UNFCCC regime establishes a set of principles that States shall be guided by in addressing climate change and its adverse effects.

Principle of Sustainable Development

26. The first principle is the principle of sustainable development. Pursuing sustainable development is of paramount significance and is the fundamental goal of human beings in tackling climate change and its adverse effects, which requires relevant climate actions to promote sustainable development. Article 3(4) of the UNFCCC provides that, in their actions to achieve the objectives of the Convention and to implement its provisions, the Parties shall be guided by promoting sustainable development. According to Article 2(1) of the Kyoto Protocol, each Party shall advance the implementation of their commitments “in order to promote sustainable development”. Article 2(1) of the Paris Agreement further stipulates that it enhances the implementation of the Convention including its objective “in the context of sustainable development”. Decisions adopted by Conference of the Parties to the UNFCCC, such as paragraphs 10, 16, 45, 94 of the Sharm el-Sheikh Implementation Plan adopted by COP27,¹⁶ paragraphs 6, 9,

¹⁶ Decision 1/CMA.4 Sharm el-Sheikh Implementation Plan adopted at COP27 on 20 November 2022, FCCC/PA/CMA/2022/L.21.

26, 32 of the Outcome of the first global stocktake,¹⁷ underline global response to climate change shall be enacted in the broader context of achieving sustainable development respectively.

27. The principle of sustainable development has multiple meanings. First, the principle requires all Parties to take an integrated and coordinated approach to promote social and economic development and climate change, avoiding its adverse impacts. Paragraph 21 of the preamble and Article 3(4) of the UNFCCC underline that “responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter” and “should be integrated with national development programmes” respectively. Article 4(1) of the Paris Agreement stipulates that the process of reaching carbon emissions peak and carbon neutrality should be advanced “in the context of sustainable development and efforts to eradicate poverty”. Both paragraph 8 of the preamble of the Sharm el-Sheikh Implementation Plan and paragraph 11 of the preamble of the Outcome of the first global stocktake reaffirm “the importance of international cooperation for addressing global issues, including climate change, in the context of sustainable development and efforts to eradicate poverty”. Therefore, measures and actions taken in addressing climate change should provide synergistic benefits, maximizing environmental, social and economic benefits.

28. Second, the principle of sustainable development requires respect of the right to development of all peoples, including supporting the realization of the right of all human beings to an adequate living standard and the equitable distribution of the benefits thereof. The right to development is a collective human right,

¹⁷ Draft decision -/CMA.5 Outcome of the first global stocktake adopted at COP28 on 13 December 2023, FCCC/PA/CMA/2023/L.17.

confirmed by Article 1(1) of the 1986 United Nations Declaration on the Right to Development. The Declaration provides that the right to development is “an inalienable human right” and only when “every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development” can “all human rights ... be fully realized”. The right to development is indispensable to developing countries and their peoples. Principle 3 of the 1992 Rio Declaration on Environment and Development emphasizes that “[the] right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”.

29. Third, the principle of sustainable development requires to take the legitimate priority needs of developing countries for sustained economic growth and eradication of poverty into consideration. Paragraph 21 of the preamble of the UNFCCC stipulates that the Parties “[take] into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty”. Furthermore, paragraph 22 clearly recognizes that developing countries’ “energy consumption will need to grow”, and emphasizes that “[developing countries] need access to resources required to achieve sustainable social and economic development”. Paragraph 14 of the preamble of the Decision 1/CP.21 further acknowledges “the need to promote universal access to sustainable energy in developing countries”.¹⁸

30. China believes that, the fundamental objective of addressing climate change and its adverse effects must serve and contribute to the realization of the goals of sustainable development and poverty eradication. Tackling climate change requires mankind to change

¹⁸ Decision 1/CP.21 Adoption of the Paris Agreement adopted at COP21 on 13 December 2015, FCCC/CP/2015/10/Add.1.

unsustainable production patterns persisting for more than 200 years since the Industrial Revolution, as well as unsustainable consumption patterns. The “luxury emissions” of developed countries should be ceased, whereas the “survival emissions” and “developmental emissions” of developing countries should be guaranteed.

Principle of Equity

31. **The second principle is equity.** Equity is the value pursued by global climate governance. The climate system is global resource that concerns the common interests of humankind as well as the benefit of present and future generations, which should be protected and utilized in an equitable and reasonable manner. Article 3 of UNFCCC requires that “the Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity”. Article 2(2) of the Paris Agreement further underlines that “[it] will be implemented to reflect equity”.

32. **The principle of equity embodies intragenerational equity and intergenerational equity. On one hand, the principle of equity calls for intragenerational equity, which requires to leave sufficient resources for sustainable development for present generation in an equitable way and to pay attention to the specific needs and circumstances of developing countries that are vulnerable to the adverse effects of climate change.** Paragraph 3 of the preamble of the UNFCCC “[notes] that the share of global emissions originating in developing countries will grow to meet their social and development needs”. Article 3 of the UNFCCC also provides that “[the] specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration”.

33. On the other hand, the principle of equity also requires intergenerational equity. States should protect the climate system in a manner that equitably balances the needs of present and future generations of humankind, keeping in mind that future generations have a legitimate expectation of equitable access to the Earth's resources. Pursuant to Article 11 of the preamble of the Paris Agreement, paragraph 7 of the preamble of the Decision 1/CP.21, paragraph 6 of the preamble of the Glasgow Climate Pact adopted by COP26,¹⁹ the Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on intergenerational equity. When it comes to the rights of the younger generation, Sharm el-Sheikh Implementation Plan “[recognizes] the role of children and youth as agents of change in addressing and responding to climate change and encourages Parties to include children and youth in their processes for designing and implementing climate policy and action, and, as appropriate, to consider including young representatives and negotiators into their national delegations”.²⁰

34. China is of the view that, in addressing climate change, the principle of equity is mainly applied through the implementation of the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC), taking into full consideration of various factors such as States' stage of development, national circumstances, responsibility and capability, historical cumulative emissions, per capita emissions and embedded emissions through international trade. In particular, great attention shall be given to the legitimate priority needs of developing countries to achieve economic growth and poverty eradication, as well as the need for energy consumption growth, so as to achieve a just economic and

¹⁹ Decision 1/CMA.3 Glasgow Climate Pact adopted at COP26 on 13 November 2021, FCCC/PA/CMA/2021/10/Add.1.

²⁰ Decision 1/CMA.4 Sharm el-Sheikh Implementation Plan adopted at COP27 on 20 November 2022, FCCC/PA/CMA/2022/L.21, para. 87.

social transformation and energy transition in a just, orderly and equitable manner.

Principle of CBDR-RC

35. The third principle is CBDR-RC, which is the cornerstone of global climate governance. This hallmark sets international climate change law apart from other areas of international law. The principle of CBDR-RC is the embodiment of the principle of equity, it means that all States should undertake the responsibility of protecting the climate system, while developed countries with historical responsibility and their capability advantages should take the lead in tackling climate change, shoulder more responsibility for emissions reduction, and help developing countries in mitigation and adaptation by providing technical and financial support. The principle was initially established in the UNFCCC, and reaffirmed by its Kyoto Protocol and Paris Agreement, among others. Paragraph 3 of the preamble of the UNFCCC “[notes] that the largest share of historical and current global emissions of GHGs have originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs”, thus the Parties “should” take actions “in accordance with their common but differentiated responsibilities and respective capabilities”. As provided by Article 2(2) of the Paris Agreement, it will be implemented to reflect the principle of CBDR-RC, in the light of different national circumstances.

36. The principle of CBDR-RC has two implications. On one hand, it requires States to contribute to the protection of the climate system. All States bear joint responsibilities toward climate change. Article 2 of the UNFCCC sets overall objectives concerning stabilizing atmospheric GHG concentrations for all Parties, and Article 2 of the Paris Agreement further sets long-term temperature goal and requires

States to submit “nationally determined contributions” to develop and implement measures relating to GHG emissions reduction, sink enhancement and climate change adaptation.

37. On the other hand, the principle of CBDR-RC requires developed and developing countries to assume different obligations and responsibilities in coping with climate change and its adverse effects. Developed countries and developing countries bear different responsibilities in tackling climate change and its adverse effects in light of their differing circumstances in relation to a series of factors such as historical responsibilities, development stage, response capacity and national conditions. Differentiated arrangements of developed countries and developing countries in relation to climate actions have been made in relevant paragraphs of Article 4 of the UNFCCC and Article 4(4) of the Paris Agreement, clearly stipulating the obligations and responsibilities of developed countries to take the lead in substantially reducing emissions, and providing financial resources and technology transfer to developing countries.

38. China believes that, when applying the principle of CBDR-RC, a distinction should be made between the obligations and responsibilities of developed countries and those of developing countries, which constitutes an essential feature of the international climate change law. The principle of CBDR-RC runs through the UNFCCC regime, presenting itself during the implementation process, serving as the legal basis for the obligations of States to deal with climate change.

Principle of National Determination of Climate Actions

39. The fourth principle is national determination of climate actions. It is a manifestation of national sovereignty in the global climate governance, whether be the agreement on the global

arrangement or the approach of “nationally determined contributions”. Nationally determined climate action is the principal approach of addressing climate change. Paragraph 9 of the preamble of the UNFCCC emphasizes “the principle of sovereignty of States in international cooperation to address climate change.” The Paris Agreement provides “nationally determined contributions” as the principal approach of addressing climate change. Meanwhile, Articles 4, 5, 7 and others also give States considerable discretion of actions to address climate change such as mitigation and adaptation, as evidenced by the use of terms such as “should” and “as appropriate”. These provisions reflect the prevailing States’ practices under the UNFCCC regime to galvanize States to respond to climate change in a nationally determined manner. Practice has shown that this principle contributes to increasing the ambition of States to address climate change.

Principle of International Cooperation

40. **The fifth principle is international cooperation.** Climate change is a common challenge for humankind and no State can remain unaffected. Solidarity is the only way forward. Paragraph 6 of the preamble of the UNFCCC emphasizes the global nature of climate change, calling for the widest possible cooperation by all States and their participation in an effective and appropriate international response. Article 4 of the UNFCCC, along with Articles 6 to 12 of the Paris Agreement set out in detail the scope of relevant international cooperation, covering various aspects such as mitigation, adaptation, science and technology, information exchange, education and training.

41. **China believes that the principle of international cooperation calls for extensive coordination on tackling climate change, joint efforts in building international cooperation mechanisms and sharing benefits of climate resources. Moreover,**

States should avoid unilateral and protectionist measures while preventing the shifting of blames or responsibilities.

Precaution

42. **In addition, precaution is an important approach adopted by the UNFCCC regime, emphasizing that in the face of threats of serious or irreversible damage, the lack of full scientific certainty should not be a reason to omit or postpone actions.** Article 3(3) of the UNFCCC provides that the Parties “should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors”.

43. **In applying precautionary approach, factors such as “cost-effectiveness”, “different socio-economic circumstances”, “comprehensiveness” should be taken into account.** Apart from the above, the appropriateness and effectiveness of climate actions should be assessed based upon the scientific, technological and economic considerations. With regard to developing countries, the evaluation of their climate actions should further consider factors like their national circumstances, capacities, support provided by developed countries and the environment for international cooperation.

C. Norms: Obligations or Responsibilities of States

44. In accordance with the above-mentioned objectives and principles, the UNFCCC regime established a set of obligations or

responsibilities for States to address climate change and its adverse effects within global framework.

Mitigation

45. Mitigation refers to control of the global temperature increase by reducing emission levels and stabilizing GHG concentrations in the atmosphere. It serves as the primary means to address climate change. Mitigation involves common obligations for all States and different obligations for developed countries and developing countries.

46. The common obligations of all States mainly include the obligations to formulate nationally determined contributions and to pursue domestic mitigation measures.

47. With regard to obligation to formulate nationally determined contributions, Article 4(2) of the Paris Agreement provides that each Party “shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve”. Additionally, Article 4(3) specifies that “each Party’s successive nationally determined contribution will represent a progression beyond the Party’s then current nationally determined contribution and reflect its highest possible ambition”. Article 4(9) further states that “each Party shall communicate a nationally determined contribution every five years”.

48. The above-mentioned obligation is an obligation of conduct rather than an obligation of result. The relevant provisions outlined above specify the legal obligation of States to “prepare, communicate and maintain” nationally determined contributions and to pursue “measures, with the aim of achieving the objectives of such contributions”. Nationally determined contributions are self-defined by States. However, States shall take appropriate measures to demonstrate

their efforts to pursue such objectives. The appropriateness of such measures depends on meeting the standard of “due diligence”, which will be assessed on a case-by-case basis, considering the specific circumstances of each State.

49. Whether successive nationally determined contributions require ratchet up ambition, concerns the interpretation of Article 4(3) of the Paris Agreement providing that “successive nationally determined contributions will represent a progression ... and reflect its highest possible ambition”. Such terms as “a progression” and “highest possible ambition” in this article shed light on the direction of efforts that States should ratchet up ambition in preparing successive nationally determined contributions, though detailed criteria are not specified. Such requirement for progression may serve as a factor in assessing whether a State has exercised “due diligence” in formulating its nationally determined contributions.

50. With regard to the obligation to pursue domestic mitigation measures, Article 4 of the Paris Agreement provides that Parties “shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions”.

51. The different obligations or responsibilities on mitigation of developed countries and developing countries are mainly reflected as follows:

52. Developed countries should take the lead to pursue economy-wide emission reduction. Article 4(2) of the UNFCCC sets out a series of mitigation obligations for developed countries. Those that have joined the Kyoto Protocol and its Doha Amendment shall undertake quantified emission reduction between 2008 and 2020.²¹ Article 3(1) of the UNFCCC requires that “developed country Parties should take the

²¹ Kyoto Protocol, Article 3(1); Doha Amendment, Article 1(F).

lead in combating climate change and the adverse effects thereof”. Article 3(1) of the Kyoto Protocol and Article 4(4) of the Paris Agreement provide that developed countries “should continue taking the lead by undertaking economy-wide absolute emission reduction targets”.

53. Developing countries undertake limited mitigation obligations or responsibilities under certain conditions and within a certain scope, which are specifically reflected in the following four aspects:

54. First, the ambition of developing countries’ mitigation actions depends on the fulfillment of developed countries’ obligations to support. Article 4(7) of the UNFCCC provides that “the extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology”. The preamble of the III(B) part of the Cancun Agreements adopted by 2010 United Nations Climate Change Cancun Conference further recognizes that “developing country Parties ... could enhance their mitigation actions, depending on provision of finance, technology and capacity-building support by developed country Parties”.²² Article 4(5) of the Paris Agreement also states that “enhanced support for developing country Parties will allow for higher ambition in their actions”.

55. Second, the mitigation action required of developing countries should not outweigh their priority need for economic and social development and poverty eradication. Article 4(7) of the UNFCCC indicates that the extent to which developing country Parties will effectively implement their commitments under the Convention will

²² Decision 1/CP.16 The Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention adopted at COP16 on 10-11 December 2010, FCCC/CP/2010/7/Add.1.

take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.

56. When assessing whether the nationally determined contributions of developing countries “reflect its highest possible ambition” and whether relevant domestic measures are sufficient, it is necessary to consider the stage of development, national circumstances and capabilities of developing countries. This includes the needs for development and poverty eradication,²³ and, in particular, the special difficulties in emission reduction in terms of higher costs of green transition due to their economies being highly dependent on fossil fuels.²⁴ It should strike a balance between emission reduction and development, energy transition and security,²⁵ and the support from developed countries and the actions of developing countries. International community should ensure legitimate emission space and necessary and reasonable time to achieve carbon peaking and carbon neutrality for developing countries.

57. Third, sufficient emission space should be ensured for the equitable development of developing countries and their people, which has a strong legal and factual basis.

58. In essence, carbon emissions come from the needs of human survival and consumption. Every individual should be entitled to equal right to development and emission space in an equitable manner. In reference to emissions of developing countries, paragraph 3 of the preamble of the UNFCCC highlights that “per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their

²³ UNFCCC, Preambular para. 22.

²⁴ UNFCCC, Article. 4(10).

²⁵ Decision 1/CMA.4 Sharm el-Sheikh Implementation Plan adopted at COP27 on 20 November 2022, FCCC/PA/CMA/2022/L.21, para. 13.

social and development needs”. Accordingly, the legitimate emission space for peoples in developing countries is not only a requirement for socio-economic development but also a right they are entitled to.

59. Historical cumulative emissions per capita are still much lower in developing countries than in developed countries. Many developed countries in Europe or North America have completed industrialization and achieved economic and social development with historical cumulative emissions per capita reaching over 1,000 tons.²⁶ In contrast, developing countries, even those experiencing increasing emissions due to the rapid progress towards industrialization, may not reach 1/9-1/5 of the historical cumulative emission per capita of developed countries.²⁷ It is predicted that by 2050, their historical cumulative emissions per capita may, at most, equal 1/5-1/2 of those in developed countries.²⁸

60. The emissions of developing countries mainly consist of “survival emission” and “developmental emission”, essentially different from the “luxury emission” of developed countries after meeting survival and development needs. Emissions in developing countries are predominately related to production and consumption

²⁶ According to the Madison database, the EU EDGAR database (1970-2022) and the relevant data of the UN Statistics Division, it is estimated that the historical cumulative emissions per capita in the US and the EU are as high as 1,250 tons and 815 tons respectively.

²⁷ According to the recent published scientific paper, the Umbrella countries (see note below) “emit five times more than developing country groups like ALBA, AOSIS and OPEC, and more than 100 times more than LDCs. The EU comes after the Umbrella and ranks much higher than the other country groups. EU also emits nearly 100 times more than LDCs ... LMDC and BASIC do not rank high even within the developing countries”. (Zhe LIU and Ying ZHANG. “The Start Matters: A Comparative Analysis of Climate Equity among UNFCCC Country Parties and Country Groups”, *Social Inclusion*, 12 Article 7540 (2024), at 1-19.) And according to the data shown in the figures, typical developing countries with rapid progress towards industrialization, e.g. BASIC countries (Brazil, South Africa, India, China), have their historical cumulative emissions per capita at the level of about 1/9 of the Umbrella countries. (Note: According to the UNFCCC, “the Umbrella Group is a coalition of Parties which formed following the adoption of the Kyoto Protocol. The Group is made up of Australia, Canada, Iceland, Israel, Japan, New Zealand, Kazakhstan, Norway, Ukraine and the United States. The United Kingdom formally joined the group in 2023”. [accessed at 2024-03-04] <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/parties/party-groupings>)

²⁸ YANG Lei, PAN Xunzhang, CHEN Wenying, “Fairness Evaluations of Carbon Neutrality Targets in Major Countries Based on Sharing Model”, *China Population, Resources and Environment*, 2023, 33(6), at 8. “In view of the current carbon neutrality goals and imitation paths of countries/regions. With 1850 as the starting year, China's per capita cumulative emissions by 2050 will be 475 t CO₂e, which amounts to 17% of the US, 45% of the EU, 63% of Japan, and 72% of the global average (1.5°C). If the largest emitters are defined in terms of cumulative carbon emissions per capita between 1850 and 2050, they are the US, Australia and New Zealand, Canada, Russia, the EU, South Africa, Japan, South Korea, Mexico, China, Brazil, and India.”

necessary for meeting basic survival needs and those required for social development and transformation, indicative of inadequate level of developments. Research pointed out that, from the perspective of consumption emissions, even in those developing countries in the process of rapid industrialization, the consumption emissions of the middle-income and poorest people amount to only 1/50-1/5 of those in high-income countries.²⁹ The historical cumulative consumption emissions of developing countries, comprising about 80% of the total number of States, account for only about 30% of global emissions.³⁰ The 2023 IPCC Sixth Assessment Report indicates that developed countries are net importers of carbon dioxide emissions,³¹ and the annual per capita consumption emissions of many developed countries far exceed those of developing countries.³²

61. Overburdening developing countries with unjustifiable responsibility of emission reduction would hinder their development and undermine global development interests. Developing countries are important driving forces for global economic growth and are of great significance to the sustainable development of human society. The crux of climate crisis is not the current emission increase from developing countries, but rather the result of the historical over-consumption of atmospheric resources by developed countries and their failure to bear their historical and current responsibilities. Imposing excessive emission reduction obligations on developing countries essentially transfers the responsibility from developed countries to developing countries.

²⁹ IPCC AR 6 Climate Change 2022: Mitigation of Climate Change, p 219. “The lifestyle consumption emissions of the middle-income and poorest citizens in emerging economies are between 5 and 50 times below their counterparts in high-income countries.”

³⁰ See Jason Hickel, “Quantifying National Responsibility for Climate Breakdown: An Equality-Based Attribution Approach for Carbon Dioxide Emissions in Excess of the Planetary Boundary”, *Lancet Planetary Health* 4: 9, 2020, e399–e404, p. 94.

³¹ See IPCC AR 6 Climate Change 2022: Mitigation of Climate Change, p. 21.

³² See IPCC AR 6 Climate Change 2022: Mitigation of Climate Change, Summary for Policy maker, p. 11, Figure C.

62. Finally, the Paris Agreement encourages developing countries to “move over time towards economy-wide emission reduction or limitation targets”. Unlike the requirement for developed countries to undertake economy-wide absolute emission reduction targets,³³ Article 4(4) of the Paris Agreement encourages developing country Parties “to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances”. Meanwhile, the pathways, methods, pace and intensity of such “move” should be independently determined by developing countries in the light of national circumstances.

63. Some States argue that the Paris Agreement had moved away from the principle of CBDR-RC, which is unfounded. On the contrary, the Paris Agreement confirms the differentiation between developed and developing countries in terms of obligations and responsibilities, particularly regarding mitigation, adaptation and support.

64. First, the rules for the application of the principle of CBDR-RC remain unchanged. The fundamental principles established by the UNFCCC, including CBDR-RC, are the basis of the global climate change governance regime and its rules. The 1992 Rio Declaration on Environment and Development articulates this principle as “common but differentiated responsibilities (**CBDR**) ”, emphasizing the different contributions of States to global environmental degradation. It specifically notes that developed countries “bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command”.³⁴ The principle of CBDR-RC has been consistently enshrined in the UNFCCC regime thereafter. While

³³ Paris Agreement, Article 4(4).

³⁴ 1992 Rio Declaration on Environment and Development, Principle 7.

Article 3 of the UNFCCC introduced “respective capabilities” to the original formulation of the CBDR, its provision persists in upholding the differentiated obligations and responsibilities between developed and developing countries in addressing climate change at its core. The Paris Agreement seeks to strengthen the implementation of the UNFCCC³⁵ and its relevant provisions shall be interpreted in conformity with the UNFCCC. Article 2(2) and Article 4 of the Paris Agreement further incorporate the term “in the light of different national circumstances”. As integral part of the UNFCCC regime, Paris Agreement underscores that actions to address climate change should be based upon the differentiation of responsibilities of developed countries and developing countries, acknowledging their different national circumstances. Furthermore, the Paris Agreement emphasizes that developed countries “should take the lead” in addressing climate change and its adverse effects following the principle of CBDR-RC.³⁶ This emphasizes that the responsibilities of developed countries under the principle of CBDR-RC differ from those of developing countries.

65. Second, the factual basis underlying the principle of CBDR-RC remains unchanged. Developed countries’ historical responsibilities and deficit in emission reduction clearly demonstrate that the principle of CBDR-RC remains essential to the global climate governance. Carbon dioxide, as the major GHG, could last in the atmosphere for 50 to 200 years. Historical cumulative CO₂ emissions is the main drive of current global warming and will continue to contribute to the global temperature rise. The fact that the historical cumulative emissions of developed countries have led to the climate crisis has not changed, and their historical responsibility cannot be shirked. As scientific findings indicated, the industrialization process in developed

³⁵ Paris Agreement, Article 2(1).

³⁶ UNFCCC, Article 3(1); Paris Agreement, Article 4(4).

countries contributed to 57% of global cumulative GHG emissions,³⁷ and consumption in developed countries contributed to 68% of global cumulative emissions and 92% of “excess emissions”.³⁸ Meanwhile, according to the IPCC report, developed countries are expected to cut emissions by 25-40%,³⁹ yet their actual GHG emission reductions are only 13.8%⁴⁰. At present, no developed country, based on its existing measures, is on track to achieving its nationally determined contributions by 2030. It is predicted that developed countries’ overall emissions will increase instead of decrease by 2030 compared to 2020.⁴¹ Besides, developed countries reduced their emissions by transferring large amounts of emissions to developing countries through transfer of industries and international trade.⁴² Developed countries’ commitments to achieve carbon peaking and net zero emissions earlier than developing countries are not in themselves sufficient proof of their high ambition. Accordingly, developed countries shall continue to take the lead in substantially reducing emissions in accordance with the principle of CBDR-RC.

66. Finally, the pressing need to apply the principle of CBDR-RC becomes more pronounced. Due to uncontrolled GHG emissions since the industrial revolution, developed countries have achieved industrialization and urbanization and already peaked GHG emissions, gaining significant economic and technological advantages. On the contrary, developing countries are faced with multiple challenging tasks, including poverty eradication, economic development,

³⁷ Historically, these three developing regions (Africa, Asia and Pacific, and Latin America and Caribbean) together contributed 28% to cumulative CO₂-FFI emissions between 1850 and 2019, whereas Developed Countries contributed 57%, and least developed countries contributed 0.4%. See IPCC AR 6 Climate Change 2022: Mitigation of Climate Change, p. 218.

³⁸ See Jason Hickel, “Quantifying National Responsibility for Climate Breakdown: An Equality-Based Attribution Approach for Carbon Dioxide Emissions in Excess of the Planetary Boundary”, *Lancet Planetary Health* 4: 9, 2020, e399–e404, p. 94.

³⁹ See IPCC AR 4 Climate Change 2007: Mitigation of Climate Change, p. 776.

⁴⁰ Without LULUCF (Land Use, Land Use Change, and Forestry). Greenhouse Gas Data Interface-Time Series-Annex I, https://di.unfccc.int/time_series

⁴¹ *Ibid.*

⁴² The 2021 OECD Report on Carbon Dioxide Emissions Embodied in International Trade shows that OECD countries transfer nearly 2 billion tons of carbon dioxide annually through trade and to non OECD countries.

livelihoods improvement, pollution control. They suffer from unbalanced and insufficient development, lacking necessary resources and capacity to respond to climate change. The principle of CBDR-RC remains a necessary guarantee for developing countries to achieve equitable development. According to estimations in the Outcome of the first global stocktake, the support needed for developing countries to implement their nationally determined contributions are currently estimated to be USD 5.8–5.9 trillion for the pre-2030 period.⁴³ The adaptation finance needs of developing countries are estimated to be USD 215–387 billion annually up until 2030, and that about USD 4.3 trillion per year needs to be invested in clean energy up until 2030.⁴⁴ However, in 2020 the real value of financial support provided by developed countries specifically aimed at climate action was only around USD 21-24.5 billion,⁴⁵ which falls far short of the actual needs by developing countries. To faithfully implement the principle of CBDR-RC is key to meaningful global cooperation in addressing climate change. In this regard, developed countries are required to effectively provide financial, technological and capacity-building support to developing countries based on the former's development stage, national capabilities and responsibilities and obligations.

67. China is of the view that developed countries should assume obligations and responsibilities different from those of developing countries based on the relevant rules of the Paris Agreement, the historical responsibility of developed countries and the pressing need to bridge the global climate governance deficits. The principle of CBDR-RC, as the cornerstone of global climate governance, shall remain firmly entrenched.

⁴³ Draft decision -/CMA.5 Outcome of the first global stocktake adopted at COP28 on 13 December 2023, FCCC/PA/CMA/2023/L.17, para. 67.

⁴⁴ Draft decision -/CMA.5 Outcome of the first global stocktake adopted at COP28 on 13 December 2023, FCCC/PA/CMA/2023/L.17, para. 68.

⁴⁵ Climate Finance Shadow Report 2023: Assessing the Delivery of the \$100 billion Commitment of Oxfam, p. 2.

Adaptation

68. Adaptation refers to strengthening the resilience of ecosystem and socio-economic system in order to reduce adverse impacts and potential risks caused by climate change. Adaptation involves the common obligations or responsibilities of all States, and different obligations for developed countries and developing countries.

69. Common obligations or responsibilities of States involve undertaking adaptation activities as appropriate. States are required to formulate, implement, publish, and regularly update their national adaptation plans,⁴⁶ to implement actions,⁴⁷ to submit periodically adaptation communications,⁴⁸ and to cover adaptation in nationally determined contribution.⁴⁹

70. Developed countries bear more adaptation obligations. Article 4(4) of the UNFCCC and Article 9(1) of the Paris Agreement both stipulate that developed countries “shall assist developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation to those adverse effects” and “shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligation under the Convention”.

71. “Continuous and enhanced international support shall be provided to developing countries for the implementation” to fulfill their adaptation obligations.⁵⁰ When assessing whether developing countries have fulfilled their adaptation obligations, it is necessary to consider the support the developed countries provided for adaptation.⁵¹

⁴⁶ UNFCCC, Article 4(1)(b).

⁴⁷ Paris Agreement, Art. 7(9).

⁴⁸ Paris Agreement, Article 7(10).

⁴⁹ Paris Agreement, Article 3.

⁵⁰ Paris Agreement, Article 7(13).

⁵¹ UNFCCC, Article 4(7); Paris Agreement, Articles 4(5) and 9(1).

Support

72. Support involves providing finance, technology, and capacity-building support for addressing climate change, which are important means to cope with climate change and its adverse effects. Support, serving as the important means and foundational condition for effectively tackling climate change, in essence, refers to the obligations of developed countries to provide finance and technology to developing countries, as well as their responsibilities to provide support for capacity-building.

73. The obligation of developed countries to provide financial resources. Developed country Parties shall provide financial resources to assist developing country Parties with respect to mitigation and adaptation,⁵² shall provide new and additional financial resources to meet the full costs of communication of information related to implementation incurred by developing country Parties,⁵³ and shall provide such financial resources for the transfer of technology to developing countries.⁵⁴ Glasgow Climate Pact, Sharm el-Sheikh Implementation Plan, and Outcome of the first global stocktake urge developed countries to fully deliver, with urgency, on the goal of mobilizing jointly USD 100 billion per year by 2020 and through to 2025.⁵⁵ The Glasgow Climate Pact “[u]rges developed country Parties to at least double their collective provision of climate finance for adaptation to developing country Parties from 2019 levels by 2025”.⁵⁶

⁵² Paris Agreement, Article 9(1); UNFCCC, Article 4(3).

⁵³ UNFCCC, Article 4(3).

⁵⁴ *Ibid*

⁵⁵ Decision 1/CMA.3 Glasgow Climate Pact adopted at COP26 on 13 November 2021, FCCC/PA/CMA/2021/10/Add.1, para. 46; Decision 1/CMA.4 Sharm el-Sheikh Implementation Plan adopted at COP27 on 20 November 2022, FCCC/PA/CMA/2022/L.21, para. 57; Draft decision -/CMA.5 Outcome of the first global stocktake adopted at COP28 on 13 December 2023, FCCC/PA/CMA/2023/L.17, para. 85.

⁵⁶ Decision 1/CMA.3 Glasgow Climate Pact adopted at COP26 on 13 November 2021, FCCC/PA/CMA/2021/10/Add.1, para. 18.

74. The obligation of developed countries to transfer technology. Developed countries shall transfer environmentally sound technologies and know-how technologies to developing countries.⁵⁷

75. The obligation of developed countries to support capacity-building. Developed country Parties should enhance support for capacity-building actions in developing country Parties.⁵⁸

Implementation and Compliance

76. The implementation and compliance rules involve the transparency obligation of the Parties, namely the obligation to communicate implementation information, to participate in facilitative multilateral reviews, as well as the Global Stocktake⁵⁹ and compliance mechanism, with a view to jointly ensuring the fulfillment of international treaty obligations.

77. The obligation of States to communicate implementation information. According to the UNFCCC and its Paris Agreement, each Party shall prepare and report the national inventory of all greenhouse gases and other relevant implementation information in accordance with the prescribed methods.⁶⁰ Additionally, each country shall publish and regularly update its national plans for mitigation and adaptation measures.⁶¹ Furthermore, each Party shall regularly provide information about its national GHG inventories and the progress of its nationally determined contribution.⁶² Finally, each Party shall, in accordance with the decision of the Conference of the Parties, communicate its nationally determined contribution every five years.⁶³

⁵⁷ UNFCCC, Article 4(5).

⁵⁸ Paris Agreement, Article 11(3).

⁵⁹ Global Stocktake is stipulated in Article 14(1) of the Paris Agreement as that “the Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress in achieving the purpose of this Agreement and its long-term goals”.

⁶⁰ UNFCCC, Article 12(1)(a).

⁶¹ UNFCCC, Article 4(1)(b).

⁶² Paris Agreement, Article 13(7).

⁶³ Paris Agreement, Articles 4(2), 4(8) and 4(9).

78. The obligation of States to participate in consideration of progress. According to the Paris Agreement, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under the Paris Agreement in relation to financing, and its respective implementation and achievement of its nationally determined contribution.⁶⁴

79. Developed countries bear more obligations on communicating implementation information. According to the UNFCCC and its Kyoto Protocol and Paris Agreement, Annex II Parties shall communicate information on their provision of finance, technology, and capacity-building support.⁶⁵ Developed countries shall communicate supplementary information such as the accounting of assigned emission amounts for fulfilling their obligations under the protocol.⁶⁶ Additionally, developed countries shall biennially communicate information about financial resources provided to developing country Parties,⁶⁷ and shall communicate information on financial, technology transfer and capacity-building support provided to developing country Parties.⁶⁸

80. Flexibility is provided to developing countries in fulfilling their information communication obligation. Article 4(7) of the UNFCCC stipulates that “the extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer technology”. This also applies to the matter of developing countries in fulfilling their information communication obligation. The Paris Agreement further stipulates that, “[t]he transparency framework

⁶⁴ Paris Agreement, Article 13(11).

⁶⁵ UNFCCC, Article 12(3).

⁶⁶ Kyoto Protocol, Article 7.

⁶⁷ Paris Agreement, Article 9(5).

⁶⁸ Paris Agreement, Articles 9(7) and 13(9).

shall provide flexibility in the implementation of the provisions of this article to those developing country Parties that need it in the light of their capacities”.⁶⁹ Additionally, it requires the provision of support for developing countries to fulfill this obligation.⁷⁰

81. The responsibility of States to participate in Global Stocktake. Global Stocktake is an important mechanism to promote the implementation of the Paris Agreement. According to Article 14 of the Paris Agreement, the Conference of the Parties shall periodically take stock of the implementation of the Agreement to assess the “collective progress” towards achieving the purpose of this Agreement and its long-term goals. It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science. Global Stocktake was undertaken for the first time at COP28 in 2023, and will be conducted every five years thereafter. The outcome of Global Stocktake shall inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of the Paris Agreement, as well as in enhancing international cooperation for climate action.

82. The responsibility of States under compliance mechanisms. The UNFCCC regime also provides for compliance mechanisms and establishes special assistance arrangement for addressing loss and damage caused by climate change. For specific details, please refer to chapter VII(C) “application of special systems to address loss and damage associated with adverse effects of climate change” in this statement.

International Cooperation

⁶⁹ Paris Agreement, Article 13.(2).

⁷⁰ Paris Agreement, Articles 13(14) and 13(15).

83. The obligation and responsibility for international cooperation are reflected throughout the UNFCCC regime, and it explicitly emphasizes the necessity of strengthening global response to climate change through international cooperation.

84. The responsibility of States to carry out mitigation cooperation. First, all Parties shall “promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems”.⁷¹ Second, States shall cooperate towards attaining the peaking of global and national emissions as soon as possible, achieving the objective set in Article 2 of the UNFCCC, and conservation and enhancement of sinks and reservoirs of all GHGs.⁷² Third, international cooperation allows the use of market-based mechanisms to promote global emissions reduction actions.⁷³

85. The obligation and responsibility of States to carry out adaptation cooperation. Parties shall cooperate in preparing for adaptation to the effects of climate change,⁷⁴ and should strengthen their cooperation on enhancing action on adaptation.⁷⁵

86. The obligation or responsibility of States to provide support for implementation. Parties shall cooperate in the development, application and diffusion, including transfer of technologies that control anthropogenic emissions of GHGs,⁷⁶ and promote communication and

⁷¹ UNFCCC, Article 4(1)(d).

⁷² Decision 1/CP.15 Copenhagen Accord agreed at COP15 on 18 December 2009. FCCC/CP/2009/11/Add.1, para. 2; Decision 1/CP.16 The Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention adopted at COP16 on 10-11 December 2010. FCCC/CP/2010/7/Add.1, para. 6.

⁷³ Kyoto Protocol, Articles 6 and 12; Paris Agreement, Article 6.

⁷⁴ UNFCCC, Article 4(1)(e).

⁷⁵ Paris Agreement, Article 7(7).

⁷⁶ UNFCCC, Article 4(1)(e).

training in data archives and others related to the climate system.⁷⁷ Furthermore, Parties should cooperate to enhance the capacity of developing country Parties to implement the Paris Agreement.⁷⁸

87. The responsibility of States to cooperate in tackling loss and damage. Parties should enhance understanding, action and support on a cooperative basis with respect to loss and damage associated with the adverse effects of climate change.⁷⁹

88. The obligation of States to engage in technological cooperation. Technology, including its deployment and dissemination, is crucial for mitigating and adapting climate change. Parties shall strengthen cooperative action on technology development and transfer.⁸⁰

89. Parties have responsibilities not to take unilateral measures, trade protection measures or any other actions that hinder the global efforts to address climate change. Measures taken to combat climate change, “including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade”.⁸¹ In terms of unilateral behaviors and discriminatory legislations, measures such as establishment of regional carbon tariffs, unilateral imposition of green supply chain standards, restrictions on investment and cooperation in green technologies, and sanctions on low-carbon products including photovoltaics, are actually shifting of climate costs to third countries, especially developing countries. Such actions not only violate the CBDR-RC principle, but also go against the World Trade Organization (**WTO**) rules.⁸²

Loss and Damage

⁷⁷ UNFCCC, Article 4(1)(g), (h) and (i).

⁷⁸ Paris Agreement, Article 11(3).

⁷⁹ Paris Agreement, Article 8(3).

⁸⁰ Paris Agreement, Article 10(2).

⁸¹ UNFCCC, Article 3(5).

⁸² E.g., General Agreement on Tariffs and Trade of 1947, Article 1 and Article 3.

90. Article 8 of the Paris Agreement stipulates that Parties should “enhance understanding, action and support, including through the Warsaw International Mechanism,⁸³ as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change”.⁸⁴ Such support may include but not limited to early warning systems, emergency preparedness, slow onset events, events that may involve irreversible and permanent losses and damages, comprehensive risk assessment and management.⁸⁵

91. Developed countries should bear special responsibilities to provide support, which includes financial support, among other measures. This has been confirmed by numerous decisions adopted under the UNFCCC regime.⁸⁶

D. UNFCCC Regime Is an Effective and Specialized Body of Law

92. The objectives, principles and norms of the UNFCCC regime serve as specialized laws tailored to address climate change and its adverse effects, and constitutes a *sui generis* body of law.

93. First, it is a unique institutional framework. The UNFCCC regime focuses mainly on addressing climate change and its adverse effects caused by anthropogenic GHG emissions, through international cooperation and nationally determined actions as its principal approaches. This involves mitigation, adaptation and provision of support as its primary means.

⁸³ The Warsaw International Mechanism was established at COP19. It has three main functions, i.e. (1) enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change; (2) strengthening the dialogue, coordination, coherence and synergy among relevant stakeholders; (3) enhancing action and support, including in finance, technology and capacity building, to address loss and damage associated with the adverse effects of climate change.

⁸⁴ Paris Agreement, Article 8(3).

⁸⁵ Paris Agreement, Article 8(4).

⁸⁶ Decision 1/CMA.3 Glasgow Climate Pact adopted at COP26 on 13 November 2021, FCCC/PA/CMA/2021/10/Add.1, paras 64 and 70; Draft decision -/CP.28 -/CMA.5 Operationalization of the New Funding Arrangements, Including a Fund, for Responding to Loss and Damage Referred to in Paragraphs 2-3 of Decisions 2/CP.27 and 2/CMA.4 adopted at COP28 on 29 November 2023, FCCC/CP/2023/L.1-FCCC/PA/CMA/2023/L.1, paras 12 and 13.

94. **Second, it has a unique set of rights, obligations and responsibilities.** The traditional approach of international agreements defines a common set of obligations for all Parties. The UNFCCC regime however represents a departure from that approach by emphasizing equity and setting out common but differentiated obligations and responsibilities for addressing climate change and its adverse effects among developed countries and developing countries. This differentiation is based on the facts of different historical responsibilities, development stages, national circumstances, capabilities and others. Accordingly, the nature and scope of the obligations and responsibilities of States under the UNFCCC regime vary. They encompass both common responsibilities as well as differentiated ones between developing and developed countries, and political commitment and legal obligations. Moreover, the relevant rules under the UNFCCC regime are different from other frameworks of international law dealing with climate change, such as the rules established under the auspices of the International Civil Aviation Organization (**ICAO**), the International Maritime Organization (**IMO**) and the WTO.

95. **Third, it establishes a unique assistance arrangement.** The UNFCCC regime provides a unique assistance arrangement to avert, minimize and address loss and damage, which is different from the rules regarding the responsibility of States for internationally wrongful acts or liabilities for damage caused by activities not prohibited by international law.

96. **The UNFCCC regime has been proved to be effective in practice.** Since the adoption of the Paris Agreement, 195 Parties, accounting for over 95% of the global GDP, population, and emissions, have communicated their nationally determined contributions. According to estimates by the International Energy Agency, if States delivered their existing commitments in full and on time, the projected global median

temperature rise in 2100 would be approximately 1.7°C.⁸⁷ This is in line with the global long-term temperature goal of the Paris Agreement. COP28 assessed the progress and identified the gaps in the implementation of the Paris Agreement, and made important decisions on a number of issues, including global stocktake, mitigation, adaptation, finance, technology, and loss and damage. In particular, COP28 reached a deal on the issue of transition away from fossil fuels in the energy system, which, for the first time in more than 30 years of negotiations, targets fossil fuels directly and marks a pivotal step in human society to gradually transition away from fossil fuel dependence. This fully demonstrates that the UNFCCC regime is not only effective but also constantly improving and developing. The global long-term temperature goal is achievable through the adept utilization of institutional arrangements of the UNFCCC regime.

IV. Obligations of States under International Law of the Sea

97. The request for an advisory opinion of the Court to clarify the obligations of States with regard to climate change gives particular regard to the duty to protect and preserve the marine environment under the United Nations Convention on the Law of the Sea (UNCLOS). This involves whether relevant provisions under part XII of UNCLOS are applicable to addressing climate change and its adverse effects.

98. UNCLOS does not provide for direct or specific obligations of States in relation to climate change. However, there is a growing international common understanding that climate change might have adverse effects on the marine environment. In this context, relevant provisions under part XII of the UNCLOS may apply to address climate change's adverse effects on the marine environment to some extent.

A. Relationship between the UNFCCC Regime and UNCLOS

⁸⁷ World Energy Outlook 2022, International Energy Agency, p. 64.

99. **The oceans and the climate system are inextricably linked.** The oceans are part of the hydrosphere of the climate system,⁸⁸ and serve as sinks and reservoirs of GHGs. The UNFCCC regime underscores the relationship between climate change and the oceans, and has integrated ocean-based climate actions into relevant areas of work.⁸⁹

100. **UNCLOS has some applicability to the protection and preservation of the marine environment in the context of climate change and its adverse effects.** Historical cumulative and excessive anthropogenic GHG emissions may adversely affect the marine environment. Article 192 sets out a general obligation for protection and preservation of the marine environment, along with other relevant provisions in part XII of UNCLOS may be applied to a certain extent to address the adverse effects of climate change on the marine environment.

101. **UNCLOS plays a subsidiary role in protecting and preserving the marine environment from the adverse effects of climate change.** In accordance with Article 311(2) of UNCLOS, “[t]his Convention shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Convention”. In addressing climate change and its adverse effects on the marine environment, UNCLOS can apply to the extent that its provisions are compatible with those of the UNFCCC regime. UNCLOS should not impose any obligation relating to the reduction of GHG emissions that is incompatible with the UNFCCC regime. The interpretation and application of UNCLOS shall fully respect the UNFCCC regime, and it shall not affect the rights and obligations of the Parties under the UNFCCC regime. The declaration adopted by the 2022 United Nations Ocean Conference emphasizes “the particular importance of implementing the Paris Agreement adopted under the United Nations

⁸⁸ UNFCCC, Article.1(3).

⁸⁹ Decision 1/CMA.3 Glasgow Climate Pact adopted at COP26 on 13 November 2021, FCCC/CP/2021/12/Add.1, para. 60.

Framework Convention on Climate Change”, and also “welcome[s] the invitation to relevant work programmes and constituted bodies under the Framework Convention to consider how to integrate and strengthen ocean-based action in relevant mandates and workplans”.⁹⁰

B. Identification of Anthropogenic GHG Emissions

102. Article 1(1)(4) of UNCLOS provides that “pollution of the marine environment” means “the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities”. There is a view that anthropogenic GHG emissions are “pollution of the marine environment”, which is a matter of controversy in the international community.

103. China takes the view that identifying anthropogenic GHG emissions as the “pollution of the marine environment” lacks both factual and legal basis, and is not supported by the general State practice. The rationale behind this viewpoint includes the following four reasons:

104. **First, UNCLOS does not stipulate on anthropogenic GHG emissions and there is no mandate or intention within its provisions to treat them as pollution.** The absence of terms like “climate change”, “ocean acidification” or “GHGs” in the preamble, 320 articles and nine annexes of UNCLOS indicates a lack of mandate to regulate these issues. UNCLOS was adopted in 1982 after nearly 10 years of negotiations. This was an era when climate change was not a prominent concern of the international community, and the connection between the oceans and climate change was not a topic of discussion during the negotiations. As

⁹⁰ Our Ocean, Our Future, Our Responsibility adopted at the United Nations Ocean Conference on 1 July 2022, A/CONF.230/2022/12, para. 6.

a matter of fact, climate change and its effects had not been assessed specifically until the establishment of IPCC in 1988. The connection between the oceans and climate change was not preliminarily established until the adoption of the UNFCCC in 1992. Apparently, according to the context of the negotiations and conclusion of UNCLOS, the drafters did not have the intention to address climate change through UNCLOS. Even when using an evolutionary interpretation approach, this interpretation should be consistent with the will of the States Parties rather than going beyond it. If there were a general desire to regulate anthropogenic GHG emissions through the application of UNCLOS provisions on “pollution of the marine environment”, it should be done through new international agreement by the States Parties to UNCLOS. Otherwise, the provisions of UNCLOS on “pollution of the marine environment” can not be applied to anthropogenic GHG emissions unless there is a common understanding among the States Parties to UNCLOS, backed by their consistent subsequent practice.⁹¹

105. Second, the identification of anthropogenic GHG emissions as “pollution of the marine environment” is inconsistent with the UNFCCC regime. According to the generally accepted “principle of harmonization”, as noted by the International Law Commission, “when several norms bear on a single issue, they should, to the extent possible, be interpreted so as to give rise to a single set of compatible obligations”.⁹² The identification of anthropogenic GHG emissions should be consistent with the UNFCCC regime, which has never treated GHG emissions as pollution. Article 4(1)(d) of the UNFCCC recognizes oceans as well as marine ecosystem as “sinks and reservoirs of GHGs”, emphasizing the need to “conserve and enhance” them. The

⁹¹ Draft Conclusions on Subsequent Agreements and Subsequent Practice in Relation to the Interpretation of Treaties adopted by the International Law Commission on 18 May 2018, A/CN.4/L.907, p. 3, Conclusions 9 and 10.

⁹² Report of the Study Group of the International Law Commission, “Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law”, 18 July 2006, A/CN.4/L.702, p. 8, para. 14(4).

identification of anthropogenic GHG emissions as the “pollution of the marine environment” is patently incompatible with the functions of oceans as provided in this article.

106. **Third, treating anthropogenic GHG emissions as “pollution of the marine environment” lacks consensus and general practice among States.** The IMO, the only body, through a majority vote, adopted the revised Annex VI to MARPOL to regulate GHG emissions reduction from ships. However, this revised Annex VI does not identify GHGs as air pollution. The negotiating history of this revised Annex VI indicates that no consensus was reached by States regarding the identification of GHGs. In terms of State practice, a smattering of States regulate GHGs as pollution in domestic law.

107. **Fourth, anthropogenic GHG emissions are different from “pollution of the marine environment”, and their adverse effects on the marine environment are *sui generis*.** It is the historical accumulation of excessive GHG emissions that might cause the indirect adverse effects. Their identification is different from “pollution of the marine environment” defined by UNCLOS. Moreover, response measures to adverse effects of anthropogenic GHG emissions also have their particularities. The UNFCCC regime does not make excessive GHG emissions “illegal”, it only requires precautionary measures to anticipate, prevent or minimize them, rather than prohibiting them. Furthermore, the UNFCCC regime provides unique assistance arrangement for loss and damage that do not rely on State responsibility for the damage and do not involve compensation. Significantly, UNCLOS provides enforcement measures, judicial procedures, monetary penalties for pollution of the marine environment as well as accountability mechanism based on State responsibility as means of relief.

C. Obligation of States to Protect the Marine Environment from

the Adverse Effects of GHG Emissions

108. Article 192 of UNCLOS imposes general obligation on States to “protect and preserve the marine environment”. This obligation encompasses not only the obligation to “protect” the marine environment from future damage, but also the obligation to “preserve” the current status of the marine environment. It involves both the positive obligation to take actions and the negative obligation to refrain from certain actions.

109. Per Article 192 and other relevant provisions of UNCLOS, there are mainly four specific obligations for protecting and preserving the marine environment from the adverse effects of climate change. These obligations include:

110. **The first pertains to the obligation to take mitigation and adaptation measures to protect and preserve the marine environment.** Pursuant to the UNFCCC regime and Article 192 of UNCLOS, States shall, guided by the principle of CBDR-RC, undertake all necessary mitigation and adaptation measures to prevent, control and reduce the adverse effects of climate change on the marine environment.

111. **The second concerns the obligation of international cooperation to protect and preserve the marine environment from the adverse effects of climate change.** States have broad obligations to cooperate in protecting and preserving the marine environment. Under Article 197 of UNCLOS, States shall cooperate on a global or regional basis, directly or through competent international organizations, in formulating and elaborating international rules and standards for the protection and preservation of the marine environment. In light of this provision, in addressing marine environmental issues caused by climate change, States shall cooperate mainly through the UNFCCC regime.

112. **The third is the obligation to provide scientific and technical assistance to developing countries.** Under Article 202 of

UNCLOS, States shall, directly or through competent international organizations, promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment. When addressing the adverse effects of climate change on the marine environment, States shall provide financial, technical and capacity-building support to developing States in light of the said article and the relevant provisions of the UNFCCC regime.

113. **The fourth refers to the obligation to assess the potential effects of planned activities which may cause sufficient and harmful changes to the marine environment, and to report results of such assessment.** Article 206 of UNCLOS provides for such environmental impact assessment obligation under specific circumstances and, at the same time, stipulates that such assessment shall be carried out “as far as practicable”. How to assess scientifically the adverse effects of activities related to GHG emissions on the marine environment, and how to implement relevant obligations are in need of further study.

V. Obligations of States under International Human Rights Law

114. The request for an advisory opinion of the Court to clarify the obligations of States with respect to climate change gives particular regard to the rights recognized in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Universal Declaration of Human Rights. It concerns the obligations of States under international human rights law.

115. **International human rights law does not explicitly provide for specific obligations of States to address climate change.** Instead, it mainly provides for the obligations of States to respect, protect and fulfil human rights within its territory or jurisdiction. It focuses on protecting individuals rather than climate system and environment.

116. There are inter-connections between human rights and climate change and its adverse effects. In law, the UNFCCC regime pays attention to the impact of climate change on human rights. While human rights are not mentioned in the UNFCCC, subsequent instruments gradually require the incorporation of human rights norms and principles into climate actions. According to the paragraph 11 of the preamble of the Paris Agreement, when taking action to address climate change, the Parties should respect, promote and consider their respective obligations on human rights. The decisions of the Conferences of the Parties to UNFCCC have repeatedly referred to the human rights obligations of States with expressions such as “recognize”, “recall”, “consider” and “urge”.⁹³

117. In practice, anthropogenic GHG emissions also have certain adverse effects on human rights indirectly. The climate crisis caused by anthropogenic GHG emissions has a series of indirect adverse effects on various human rights under international human rights law, including the right to life,⁹⁴ right to survival,⁹⁵ right to health,⁹⁶ right to housing,⁹⁷ right to work,⁹⁸ right to development,⁹⁹ and rights of indigenous people¹⁰⁰. The acts and omissions of States to address climate change may have an impact on the enjoyment of human rights, for

⁹³ Decision 1/CP.16 The Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention adopted at COP16 on 10-11 December 2010, FCCC/CP/2010/7/Add.1, para. 8 and para. 2 of the Appendix I; Decision 16/CP.22 on the Third Comprehensive Review of the Implementation of the Framework for Capacity Building in Developing Countries under the Convention at COP 22 in 2016, FCCC/CP/2016/10/Add.2, para. 4; Decision 1/CMA.3 Glasgow Climate Pact adopted at COP26 on 13 November 2021, FCCC/PA/CMA/2021/10/Add.1, preambular para. 6; Decision 1/CMA.4 Sharm el-Sheikh Implementation Plan adopted at COP27 on 20 November 2022, FCCC/PA/CMA/2022/L.21, preambular paragraph 11.

⁹⁴ Universal Declaration of Human Rights, Article 3; International Covenant on Civil and Political Rights, Article 6; Convention on the Rights of Child, Article 6.

⁹⁵ International Covenant on Civil and Political Rights, Article 6.

⁹⁶ Universal Declaration of Human Rights, Article 25; International Covenant on Economic, Social and Cultural Rights, Article 12; Convention on the Rights of Child, Article 24.

⁹⁷ Universal Declaration of Human Rights, Article 25; Convention on the Rights of Child, Article 27; Declaration on the Right to Development, Article 8.

⁹⁸ Universal Declaration of Human Rights, Article 23; International Covenant on Economic, Social and Cultural Rights, Articles 6 and 7.

⁹⁹ Universal Declaration of Human Rights, Article 22; International Covenant on Economic, Social and Cultural Rights, Article 1; International Covenant on Civil and Political Rights, Article 1; Declaration on the Right to Development, Article 1.

¹⁰⁰ Declaration on the Rights of Indigenous People, Article 1.

instance, actions taken by States to mitigate and adapt to climate change may also have unintended adverse effects on human rights.

118. **In general, it is often difficult to define the indirect adverse effects of anthropogenic GHG emissions on human rights as a violation of human rights.** First, the main type of GHG emissions, such as carbon dioxide, are inherently harmless and are indispensable for life and the Earth's ecosystem. It is only the historical accumulation of excessive GHG emissions that may result in indirect adverse effects on human rights. Second, according to existing international law and domestic laws, anthropogenic GHG emissions are not illegal activities. Finally, the causal relationship between anthropogenic GHG emissions and their adverse effects on human rights is complex. It is difficult to establish a causal link between the emissions and specific weather and climate events that affect human rights. Given the diverse sources of these emissions, attributing the adverse effects on human rights to specific States is difficult.

119. **International human rights law can play a subsidiary role in addressing climate change and its adverse effects. It might be applied to human rights issues regarding climate change within specific limits and scope.** International human rights treaties apply only to the territory of a State and its jurisdiction *extra territorium*. The so-called jurisdiction *extra territorium* refers to the area and persons under the authority and control of a State. It is only in limited circumstances where, for instance, the State exercise “effective control” over an area or persons *extra territorium*, that international human rights treaties could be applicable.¹⁰¹ In principle, mainly three specific

¹⁰¹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), p. 136, paras 110-112; Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion I.C.J. Reports 1971, p. 16, para. 118.*

obligations of States to address climate change could be derived from international human rights treaties as follows:

120. First, States are required to actively take domestic actions for mitigation and adaptation to address climate change and its adverse effects, aiming to respect, protect and fulfil human rights. However, international human rights treaties lack specific provisions on what constitutes appropriate measures States shall take to address climate change. To assess whether the actions taken by the state are “appropriate”, it should consider and apply the obligations and commitments of States on mitigation and adaptation under the UNFCCC regime, taking into account holistically relevant human rights, including the right to development.

121. Second, when taking domestic actions such as mitigation and adaptation, States shall, within its territory or jurisdiction, respect human rights and avoid impeding their realization. When adopting emission reduction and adaptation measures, States are required to address all issues of discrimination and inequality. States also bear a set of obligations in addressing climate change to safeguard the rights of people to participate,¹⁰² to have access to information,¹⁰³ to express opinions¹⁰⁴ and to exercise oversight¹⁰⁵.

122. Third, States shall engage in relevant international cooperation. International cooperation, as a human rights obligation, reflects the subsidiary role of international human rights law to UNFCCC.¹⁰⁶ International human rights treaties clearly emphasize the

¹⁰² Universal Declaration of Human Rights, Article 21; International Covenant on Civil and Political Rights, Article 25; Declaration on the Right to Development, Article 1; United Nations Human Rights Declaration on Indigenous People, Article.5; UNFCCC, Article 6; Convention on Biodiversity, Article 14.

¹⁰³ Universal Declaration of Human Rights, Article 19; International Covenant on Civil and Political Rights, Article 19; Rio Declaration on Environment and Development, Principle 10 and Principle 17.

¹⁰⁴ Universal Declaration of Human Rights, Article 19; International Covenant on Civil and Political Rights, Article 19.

¹⁰⁵ International Covenant on Economic, Social and Cultural Rights, Article 16; International Covenant on Civil and Political Rights, Article 40 and Article 41; Declaration on the Right to Development, Article 7.

¹⁰⁶ Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the United Nations High Commissioner for Human Rights and the Secretary General, 15 January 2009, A/HRC/10/61.

importance of international cooperation.¹⁰⁷ States should strengthen solidarity, share resources, knowledge and technology to cope with the challenges of climate change. Regarding international cooperation, the developed countries have additional obligations to provide financial and technology support to developing countries with respect to climate change.¹⁰⁸

123. International human rights law has limitations in addressing climate change. First, international human rights law is not specifically designed as a tailor-made legal regime for dealing with climate change issues. The obligations derived from international human rights law, such as mitigating and adapting to climate change, are applicable only to the extent that the provisions of international human rights law are compatible with those of the UNFCCC regime. They should not go beyond the scope of the obligations under the UNFCCC regime, which is specially designed to deal with climate change issues.

124. Second, international human rights treaties have a specific scope of application, confined to the territory of a State or its jurisdiction *extra territorium*. States have human rights obligations to address climate change and its adverse effects only within this scope.

125. Third, the administrative and judicial relief mechanisms established by international human rights treaties could hardly be utilized to hold States accountable for the adverse effects of climate change on human rights. It is difficult to establish clear link between anthropogenic GHG emissions of specific States and the adverse impacts on human rights. In general, the indirect adverse effects of anthropogenic GHG emissions on human rights cannot be legally defined as a violation of

para. 99.

¹⁰⁷ Universal Declaration of Human Rights, Article 22; International Covenant on Economic, Social and Cultural Rights, Article 11; Convention on the Rights of the Child, Article 24.

¹⁰⁸ Climate Change and the International Covenant on Economic, Social and Cultural Rights, Committee on Economic, Social and Cultural Rights, 31 October 2018, para. 7.

human rights, making them ineligible for the relief mechanisms in international human rights law.

VI. Obligations of States under General International Law

126. The request for an advisory opinion of the Court to clarify the obligations of States in respect of climate change gives particular regard to the principle of prevention of significant harm to the environment and the duty of due diligence. It concerns the obligations of States under general international law in addressing climate change and its adverse effects, including, in particular, the principle of prevention of significant harm to the environment and the duty of due diligence.

A. Principle of Prevention of Significant Harm to the Environment

127. **The well-established principle of prevention of significant harm to the environment as mentioned in the request for an advisory opinion, also known as the “no-harm rule”¹⁰⁹, addresses transboundary harm to the environment in international law.** The principle obligates States to ensure that activities within their territory or jurisdiction do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction.¹¹⁰ In accordance with this principle, States shall exercise the duty of due diligence and take all appropriate measures to prevent or minimize transboundary harm.

128. **The principle of prevention of significant harm to the environment is inapplicable to the issue of climate change.** The issue of climate change caused by anthropogenic GHG emissions differs from transboundary environmental harm due to its global, historical and cumulative nature. Its adverse effects cannot be attributed to any single

¹⁰⁹ 1972 United Nations Stockholm Declaration on the Human Environment, Principle 21; Rio Declaration on Environment and Development, Principle 2.

¹¹⁰ *Trail Smelter Arbitration (United States/Canada)*, *Reports of International Arbitral Awards (1938 and 1941) Volume III*, p. 1965.

anthropogenic GHG emission activity¹¹¹ or particular State. The International Law Commission in its report distinguishes between transboundary environmental pollution and global issues such as climate change on the basis of State practices and treaty practices,¹¹² and expresses the view that “[i]n the context of transboundary ... pollution, the obligation of States to prevent significant adverse effects is firmly established as customary international law”.¹¹³ However, with respect to climate change, “the existence of this an obligation in customary international law is still somewhat unsettled”.¹¹⁴ Therefore, there is no legal and factual basis to apply the principle of prevention of significant harm to the environment to climate change.

129. The principle of prevention of significant harm to the environment mentioned in the preamble of the UNFCCC does not impose any specific obligations on States to address climate change. The said preamble “[recalls] that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental 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”.¹¹⁵ The preambular language only recalls the sovereign right of States to exploit their own resources and the limitations thereof, i.e. the no-harm rule, and has no intention and specific provision to extend its application to climate change. Application of the principle of prevention of significant harm to the environment in the context of climate change, if needed, is still to be

¹¹¹ Third Report on the Protection of the Atmosphere by Shinya Murase, Special Rapporteur of the International Law Commission, 25 February 2016, A/CN.4/692, para. 37.

¹¹² Draft Guidelines on the Protection of the Atmosphere adopted by International Law Commission, Report of the International Law Commission seventy-second session, A/76/10, p. 21, para. 6.

¹¹³ Draft Guidelines on the Protection of the Atmosphere adopted by International Law Commission, Report of the International Law Commission seventy-second session, A/76/10, pp 27-28, para. 8.

¹¹⁴ *Ibid.*

¹¹⁵ UNFCCC, preambular para. 8.

confirmed by international agreements or developed through State practice.

B. Duty of Due Diligence

130. **The duty of due diligence in international law is an obligation of conduct, other than an obligation of result.** In the field of international environmental law, the duty of due diligence is “the standard basis for the protection of the environment from harm”.¹¹⁶ The duty of due diligence “is not intended to guarantee that significant harm be totally prevented”¹¹⁷. Instead, State is required “to exert its best possible efforts to minimize the risk”¹¹⁸, “to exercise best possible efforts, to do the utmost, to obtain this result”¹¹⁹, and “not only adopt 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”¹²⁰. The specific standards for the duty of due diligence may vary over time, depending on technological development level, the risks involved in the activities, as well as the economy and development level of each State.¹²¹

131. The duty of due diligence requires States to “take appropriate measures in accordance with applicable rules of international law”.¹²² **China is of the view that, the duty of due diligence is applicable to address climate change and its adverse effects in principle. In assessing whether States have fulfilled their duty of due diligence by**

¹¹⁶ Prevention of Transboundary Harm from Hazardous Activities adopted by the International Law Commission in 2001, A/CN.4/SER.A/2001/Add.1 (Part 2), p. 154, para. 8.

¹¹⁷ Prevention of Transboundary Harm from Hazardous Activities adopted by the International Law Commission in 2001, A/CN.4/SER.A/2001/Add.1 (Part 2), p. 154, para. 7.

¹¹⁸ *Ibid.*

¹¹⁹ *ITLOS Seabed Disputes Chamber, Advisory opinion on the responsibilities and obligations of states sponsoring persons and entities with respect to activities in the Area, 1 February 2011 (2001) ITLOS Report 10*, p. 41, paras 110–112.

¹²⁰ *Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, I.C.J. Reports 2010*, p. 14, p. 79, para. 197.

¹²¹ *ITLOS Seabed Disputes Chamber, Advisory opinion on the responsibilities and obligations of states sponsoring persons and entities with respect to activities in the Area, 1 February 2011 (2001) ITLOS Report 10*, pp 43-44, paras 115, 117; Prevention of Transboundary Harm from Hazardous Activities adopted by the International Law Commission in 2001, A/CN.4/SER.A/2001/Add.1 (Part 2), p. 155, para. 13.

¹²² Draft Guidelines on the Protection of the Atmosphere adopted by International Law Commission, Report of the International Law Commission seventy-second session, A/76/10, p. 11, Guideline 3.

their actions to address climate change and its adverse effects, it should follow the relevant benchmarks set by the provisions of the UNFCCC regime, in particular, the principles such as sustainable development, equity, common but differentiated responsibilities and respective capabilities, national determination of climate actions, and international cooperation, among others.

VII. Legal Consequences of Breach of Obligations

132. In the request for an advisory opinion, the second question pertains to the legal consequences under the obligations of States in respect of climate change where States, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment. This involves whether responsibility of States for internationally wrongful acts or liability for damage is applicable to the adverse effects of climate change.

133. Due to the special nature of the question of loss and damage caused by anthropogenic GHG emissions, the regimes of responsibility of States for internationally wrongful acts and the international liability for injurious consequences arising out of acts not prohibited by international law are not applicable to the question of loss and damage.

A. Inapplicability of the Regime of Responsibility of States for Internationally Wrongful Acts

134. Issue of loss and damage caused by anthropogenic GHG emissions cannot be solved by applying the regime of responsibility of States for internationally wrongful acts, due to the uniqueness of the issue of climate change. It could be argued as follows:

135. **First, under existing international law, anthropogenic GHG emissions are not internationally wrongful acts.** Existing international law does not prohibit States from emitting GHGs, nor does it generally

set specific obligation on quantified emission limitation or reduction for all States. The Kyoto Protocol only imposes quantified emission limitation or reduction obligation on developed countries.¹²³ Although anthropogenic GHG emissions cause climate change and its adverse effects, at the current stage of technological development, it is integral to sustaining peoples' survival and global economic development and thus it materially enhances the capacity to addressing climate change as a matter of fact.

136. **Second, loss and damage from the adverse effects of climate change can hardly be attributed to a particular State.** The internationally wrongful act shall be attributable to a particular State.¹²⁴ Moreover, the sources of anthropogenic GHG emissions are complex and multifaceted. Not only is it difficult to identify the emitters that caused the adverse effects of climate change, but it is also difficult to prove the particular State that caused the loss and damage.

B. Inapplicability of International Liability for Injurious Consequences Arising out of Acts Not Prohibited by International Law

137. **First, international liability for injurious consequences arising out of acts not prohibited by international law applies to transboundary harm rather than loss and damage from the adverse effects of climate change.** As mentioned above, the adverse effects of climate change is different from transboundary harm. It is difficult to identify and attribute the loss and damage. In its reports on the relevant drafts, the International Law Commission repeatedly indicates that the liability applies only to transboundary harm instead of issues of global

¹²³ UNFCCC, Article 4(2); Kyoto Protocol, Article 2; Paris Agreement, Article 4(4). See further chapter III "Obligations of States under the UNFCCC regime" in this statement.

¹²⁴ Draft Articles on Responsibilities of States for Internationally Wrongful Acts with Commentaries adopted by the International Law Commission in 2001, A/CN.4/SER.A/2001/Add.1 (Part 2), p. 26, Article 2.

nature such as climate change.¹²⁵ Therefore, such liability, as reflected in the International Law Commission's 2001 Draft Articles on Prevention of Transboundary Harm from Hazardous Activities and the 2006 Draft Principles on the Allocation of Loss in the Case of Transboundary Harm Arising Out of Hazardous Activities, is inapplicable.

138. **Secondly, it was difficult to establish the causal link between anthropogenic GHG emissions and the loss and damage, as well as to identify those liable for such activities.** In the International Law Commission's 2006 Draft Principles on the Allocation of Loss in the Case of Transboundary Harm Arising out of Hazardous Activities, the operator shall bear the civil liability for damage caused by its hazardous activities, with the State of origin assuming supplementary liability, provided that there is a sufficient causal link between the damage and the hazardous activities.¹²⁶ With respect to loss and damage associated with adverse effects of climate change, the causal link between specific anthropogenic GHG emissions and the loss and damage is difficult to be proved and quantified in the context of such liability. Furthermore, it is difficult to identify those liable for the loss and damage, as well as to allocate the liability between the operator and the State of origin. Therefore, such liability could hardly be utilized to address the said loss and damage.

C. Application of a Special Regime to Address Loss and Damage Associated with Adverse Effects of Climate Change

¹²⁵ Draft Guidelines on the Protection of the Atmosphere adopted by International Law Commission, Report of the International Law Commission seventy-second session, A/76/10, pp 27-28, para. 8; Draft Principles on the Allocation of Loss in the Case of Transboundary Harm Arising out of Hazardous Activities adopted by the International Law Commission on 8 August 2006, A/CN.4/SER.A/2006/Add.1(Part 2), p. 58, Principle 1, p. 60, para. 7.

¹²⁶ Draft Principles on the Allocation of Loss in the Case of Transboundary Harm Arising out of Hazardous Activities adopted by the International Law Commission on 8 August 2006, A/CN.4/SER.A/2006/Add.1(Part 2), p. 58, Principle 1, p. 70, Principles 2 and 4.

139. The UNFCCC regime has provided tailor-made solutions to facilitate compliance by States and to effectively address loss and damage.

140. **The compliance mechanism of the UNFCCC regime is designed to be facilitative, promoting the fulfillment of State’s obligations and responsibilities with respect to climate change in a cooperative manner.** Different from the compliance mechanism of the Kyoto Protocol which is both facilitative and punitive, the compliance mechanism of the Paris Agreement emphasizes a “transparent, non-confrontational and non-punitive” approach that promotes compliance through cooperation. The Rules of Procedure of the Committee to Facilitate Implementation and Promote Compliance Referred to in Article 15, paragraph 2, of the Paris Agreement provides that, with the consent of the Party concerned, the Committee may initiate facilitative consideration of issues and take measures such as engaging in a dialogue with the Party concerned with the purpose of identifying challenges, making recommendations and sharing information, assisting the Party concerned, recommending the development of an action plan, assisting the Party concerned in developing the plan, and issuing findings of fact in relation to matters of implementation and compliance.¹²⁷

141. **The UNFCCC regime provides for tailor-made assistance arrangement for loss and damage.** It has gradually established a system to address loss and damage associated with climate change, featuring key components such as the Warsaw International Mechanism for Loss and Damage (**WIM**) as the coordinating body, the Santiago Network (**SNLD**) as the technical assistance body,¹²⁸ and the Loss and

¹²⁷ Decision 24/CMA.4 Rules of Procedure of the Committee to Facilitate Implementation and Promote Compliance Referred to in Article 15, paragraph 2, of the Paris Agreement adopted at COP27, FCCC/PA/CMA/2022/10/Add.3, Rule 19 and Rule 22.

¹²⁸ Decision 2/CMA.2 Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts and Its 2019 Review, FCCC/PA/CMA/2019/6/Add.1, para. 43; Decision 19/CMA.3 Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts, FCCC/PA/CMA/2021/10/Add.3, para. 9.

Damage Fund and the funding arrangements as the financial support mechanism.¹²⁹ The above mechanisms do not involve or provide a basis for any liability or compensation,¹³⁰ while highlight the important role of sustainable development and international cooperation in addressing loss and damage associated with climate change.

142. The practice has demonstrated that the relevant arrangements of the UNFCCC regime have effectively promoted the joint efforts of States to address climate change. With respect to compliance, such facilitative arrangements have alleviated the concerns among Parties about committing to higher ambitions, and helped to encourage the gradual enhancement of actions on mitigation, adaptation and means of implementation. Outcome of the first global stocktake indicates that 68 Parties have communicated long-term low GHG emission development strategies. Additionally, it notes that 87% of the global economy in terms of share of gross domestic product is covered by targets for climate neutrality, carbon neutrality, GHG neutrality or net zero emissions. Full implementation of these strategies makes it possible to achieve a temperature increase below 2°C.¹³¹ Furthermore, States have also reached agreement on a loss and damage fund, with financial pledges made already, marking the formal launch of such a fund.

VIII. China Has Actively, Fully, and Effectively Fulfilled Its International Obligations and Responsibilities in Addressing Climate Change

143. As the largest developing country, China has taken a constructive part in the negotiations of the UNFCCC, its Kyoto Protocol and Paris Agreement since the 1990s, making significant contributions to

¹²⁹ Draft decision -/CP.28 -/CMA.5 Operationalization of the New Funding Arrangements, Including the Fund, for Responding to Loss and Damage Referred to in Paragraphs 2–3 of Decisions 2/CP.27 and 2/CMA.4, FCCC/CP/2023/L.1 – FCCC/PA/CMA/2023/L.1.

¹³⁰ Decision 1/CP.21 Adoption of the Paris Agreement, FCCC/CP/2015/10/Add.1, para. 51.

¹³¹ Draft decision -/CMA.5 Outcome of the first global stocktake adopted at COP28 on 13 December 2023, FCCC/PA/CMA/2023/L.17, para. 20.

the establishment of the international climate change law regime. Since 2012, guided by Xi Jinping Thought on Ecological Civilization, China has taken the lead in ratifying the Paris Agreement, worked actively to take domestic actions and conduct international cooperation on climate change, and fully fulfilled its obligations under the UNFCCC regime in good faith, with a view to jointly building a fair and equitable system of global climate governance for win-win cooperation and building a community with a shared future for mankind.

A. China's Complete Victory in Poverty Alleviation Provides a Solid Foundation for Addressing Climate Change

144. Poverty alleviation and economic and social development are the top and overriding priorities of developing countries. China has been committed to poverty reduction for a long time. In particular, since 2012, China has carried out the most extensive and aggressive anti-poverty campaign that has benefited the largest number of people in human history. In 2021, China secured a comprehensive victory in the fight against poverty and accomplished the arduous task of eliminating extreme poverty. This marks a historic end to extreme poverty which plagued China for more than 2,000 years. Since the start of reform and opening up more than 40 years ago in 1979, China has lifted more than 770 million rural poor people out of poverty, accounting for over 70% of the global total over the same period, and meeting the poverty eradication target set out in the United Nations 2030 Agenda for Sustainable Development ten years ahead of schedule. While making important contributions to international poverty reduction, China has also enhanced its climate response capability. At the same time, China remains the world's largest developing country and is still in the process of industrialization and urbanization. It has a large population, fragile ecology, relatively scarce resources, coal-rich energy and resource endowment, a heavy industrial structure, as well as unbalanced and

inadequate development. China still faces multiple tasks such as boosting economy, improving livelihoods, controlling pollution, and ensuring energy security. It still has a long way to go in tackling climate change.

B. China Attaches Equal Importance to Mitigation and Adaptation and Has Made Significant Progress in Addressing Climate Change

145. China has strictly performed and fulfilled its obligations under relevant treaties, making important contributions to the global temperature goals in the long term. In 2009, China put forth its climate action goals by 2020, and exceeded those goals ahead of schedule in 2019. In 2015, China submitted its nationally determined contributions, setting clear climate action goals by 2030. In 2020, Chinese President Xi Jinping announced China's initiative to scale up its nationally determined contributions and strive to peak carbon dioxide emissions before 2030 and achieve carbon neutrality before 2060. As the world's largest developing country, China will cut carbon emission intensity by the biggest margin in the world in the shortest time frame in history. In 2021, China further updated its nationally determined contributions and announced further commitments for 2030: lower its carbon dioxide emissions per unit of GDP by more than 65% from the 2005 level, increase the share of non-fossil fuels in primary energy consumption to around 25%, increase the forest stock volume by 6 billion cubic meters from the 2005 level, and bring its total installed capacity of wind and solar power to over 1.2 billion kilowatts.

146. China has strictly fulfilled its obligation to submit national communications under the UNFCCC regime, and has already submitted four national communications and three biennial update reports. China has also reported national GHG inventories for 1994, 2005, 2010, 2012, 2014, 2017 and 2018, and has reported timely to the international community on the progress of China's implementation.

147. **China has provided strong support to green and low-carbon transition through policy measures, legislation and judicial practices.** In terms of policy measures, China has established the “1+N” policy system to meet the carbon peaking and carbon neutrality goals¹³², implemented the Ten Actions for Carbon Dioxide Peaking, and promoted emissions reduction in key sectors such as energy, industry, construction, and transportation, as well as in key industries such as coal, electricity, steel, and cement. In addition, China has strengthened the control of non-CO₂ GHG emissions and implemented the Methane Emissions Control Action Plan. China has established the largest carbon market in terms of the volume of GHG emissions and unveiled the Management Measures for Voluntary Greenhouse Gas Emissions Reduction Trading (Trial) to effectively safeguard the orderly operation of the national GHG voluntary emissions reduction trading market. **In terms of legislation**, China’s legal system on ecological and environmental protection has been gradually developed and improved. There are more than 30 ecological and environmental protection laws, over 100 State Council administrative regulations, and 1,000+ local environmental regulations. China is working on formulating a special law on climate change. **In terms of judicial practices**, the Supreme People’s Court has released the Opinions on Fully and Faithfully Implementing the New Development Philosophy and Providing Judicial Services to Actively and Steadily Promote Carbon Peaking and Carbon Neutrality, and published 11 typical cases in this regard, providing judicial guidance for people’s courts at all levels when handling carbon-related cases.

¹³² The “1” in the “1+N” policy system refers to the Working Guidance for Carbon Dioxide the Peaking and Carbon Neutrality in Full and Faithful Implementation of the New Development Philosophy, released on 24 October 2021. the “N” refers to a series of policies released thereafter, including the Action Plan for Carbon Dioxide Peaking before 2030, released on 26 October 2021. After such policy system was promulgated, relevant departments formulated implementation plans and policies in various sectors and industries, and governments of provinces, autonomous regions and municipalities formulated implementation plans for carbon peaking in their own regions.

148. **China has made remarkable achievements in addressing climate change by promoting the coordinated development of economy, society and the environment.** In the past decade, China achieved an average annual growth rate of over 6.6% with an annual energy consumption growth rate of 3%. China's carbon intensity in 2022 was over 51% lower than the 2005 level. Over the past ten years, China's energy intensity declined by 26.4%, one of the fastest in the world. It is equivalent to reducing the consumption of 1.4 billion tons of standard coal and avoiding the emission of 2.94 billion tons of CO₂. **China has continuously improved and upgraded its industrial structure,** upgrading and transforming traditional industries to conserve energy and reduce carbon emissions, and actively developing strategic emerging industries. China's production and sales of new energy vehicles have ranked first in the world for nine consecutive years. **China has consolidated and enhanced its ecosystem's carbon sink capacity,** and is the country with the largest increase in forest resources in the world. In the past decade, China contributed 25% of the world's newly added green area. Its forest area has reached 227 million hectares. Its forest carbon sink amounts to 839 million tons of carbon dioxide equivalent annually.

149. **China has made significant contributions to the global energy transition by vigorously developing renewable energy.** China has the largest installed capacity of renewable energy in the world, and its investment in renewable energy has topped the world for seven consecutive years. By December 2023, the total installed capacity of renewable energy in China had reached 1.45 billion kilowatts. This figure represented more than half of the country's total installed capacity, exceeded that of thermal power for the first time in China's history, and accounted for one-third of the world's total. Over 50% of global wind power and over 80% of photovoltaic equipment components

come from China. The rapid development of renewable energy in China has steadily reduced the costs for global wind and photovoltaic power generation, laying a solid foundation for the large-scale deployment of renewable energy globally.

150. China actively improves climate adaptability, and has made remarkable progress in strengthening the ability to resist climate risks. In 2013, China issued its first National Climate Change Adaptation Strategy, which defined the goals and key tasks for climate change adaptation action from 2014 to 2020, providing overall guidance for adaptation work. China published its Action Plan for Urban Adaptation to Climate Change in 2016 and launched pilot projects for climate-adaptive cities in 2017. In 2022, China released the National Climate Change Adaptation Strategy 2035, which identifies the goals and tasks of adaptation, strengthens climate risk assessment, and continuously deepens the development of pilot projects for climate-adaptive cities. Key sectors such as agriculture and infrastructure have become increasingly climate-resilient. Through unremitting efforts over many years, China has steadily improved its climate monitoring and early warning systems, effectively enhanced the climate adaptability of key areas, and made solid progress in climate change adaptation pilot and demonstration programs. Furthermore, people's awareness of the need for climate change adaptation is gradually increasing, and international cooperation on climate change adaptation is deepening.

C. China Comprehensively Advances Coordinated Governance in Climate Change Response, and Promotes the Harmonious Coexistence between Man and Nature

151. China strives to strengthen the coordinated governance of climate and oceans. China has set marine ecological conservation red lines of no less than 150,000 square kilometers. In 2020, China issued the Special Action Plans for Mangrove Protection and Restoration

(2020-2025). China is one of the few countries in the world with a net increase in mangrove forest area. By carrying out the Blue Bay remediation action and the coastal zone protection and restoration project, the regional marine ecological environment and the coastal blue carbon ecosystems have significantly improved. International scientific programs such as the Ocean to Climate Seamless Forecasting System and the Ocean Negative Carbon Emissions led by Chinese research institutes have been included in the Ocean Decade Actions of the United Nations.

152. China spares no effort in promoting biodiversity conservation and ozone layer protection. During its presidency of COP15 to the Convention on Biological Diversity, China contributed a lot to the adoption of the Kunming-Montreal Global Biodiversity Framework. During the COP28, China took the lead in launching the Kunming-Montreal Global Biodiversity Framework Implementation Initiative which promotes coordinated responses to global biodiversity and climate change. China has cumulatively eliminated approximately 504,000 tons of ozone depleting substances (**ODS**), equivalent to avoiding the emissions of GHGs amounting to approximately 23 billion tons of carbon dioxide. This has brought enormous benefits to both ozone layer protection and climate change mitigation.

153. China fully respects and safeguards human rights in the process of addressing climate change. The Chinese government discharges its obligations to respect, protect and fulfill human rights in accordance with its Constitution and the human rights treaties to which China is a party. China follows a people-centered approach, puts the people and their lives front and center, and takes effective adaptation and mitigation measures to protect basic human rights such as the rights to life, health and development. So far, the Chinese government has formulated four national human rights action plans. Among them, the

Human Rights Action Plan of China (2021-2025) clearly states in its third section that in order to constantly meet people's increasing demands for a beautiful environment and ensure harmony between man and nature, China will reduce GHG emissions, increase its adaptability to climate change, actively participate in global climate governance and realize sustainable development.

D. China Widely Engages in International Cooperation to Jointly Address Climate Change and Build a Community with a Shared Future for Mankind

154. China has maintained close coordination and communication with fellow developing countries, including the BASIC Countries and Like-Minded Developing Countries, and held the BRICS High-level Meeting on Climate Change. China has firmly upheld the objectives, principles and institutional arrangements established by the UNFCCC and its Paris Agreement, and resolutely safeguarded the rights and interests of developing countries. In particular, China fully understands the climate challenges faced by small island developing States and least developed countries, and supports their reasonable demands. Through international cooperation on climate change, China has provided support to developing countries to the best of its ability, thereby jointly enhancing the ability to tackle climate change.

155. **China actively participates in South-South cooperation and provides support for fellow developing countries to the best of its capability, especially small island developing States, African countries and least developed countries, to help enhance their capacity to address climate change.** China has followed through on the Ten-Hundred-Thousand Initiative of South-South cooperation on climate change, and already allocated more than RMB1.2 billion. At the same time, China has prioritized cooperation among developing countries in addressing climate change under the framework of the Global

Development Initiative and the Belt and Road Initiative, and has helped other developing countries improve their capacity to tackle climate change through jointly building low-carbon demonstration zones and providing material assistance and training. By December 2023, China has signed 48 South-South cooperation documents with 40 developing countries on addressing climate change, carried out 75 climate mitigation and adaptation projects, held 57 training programs on South-South climate cooperation and trained over 2,400 professionals in the field of climate change for more than 120 developing countries. China has also carried out climate cooperation with African, Caribbean, and Pacific island countries.

156. China continuously supports fellow developing countries in improving early warning capabilities and developing new energy. China has actively implemented the agreement signed with the World Meteorological Organization on cooperation in support of the Early Warnings for All Initiative, and helped enhance the extreme climate disaster response and early warning capacity of developing countries through material assistance and climate disaster risk warning training. In addition, China has implemented the Africa Solar Belt program and established a demonstration zone for cooperation in the utilization of photovoltaic resources between China and Africa, to help African countries realize energy transition and sustainable development.

157. China also engages in climate policy dialogue with developed economies and international organizations. China engages in policy exchanges with the United States, the European Union, Germany, Canada and other countries through high-level dialogues, establishment of working groups, publication of joint documents and co-hosting meetings. China has carried out exchanges and cooperation with the United Nations, the World Meteorological Organization, the International Energy Agency and other international organizations on

advanced technology feasibility studies, capacity-building and pilot demonstrations by signing MOUs and hosting multilateral conferences.

Conclusion

158. Climate change and its adverse effects are a common concern of the international community and bear on the common interests of mankind. This challenge requires a collective, united response from the international community. All countries should rally behind the banner of the United Nations, help each other out and jointly move toward a green and low-carbon future, with special attention given to the special concerns of developing countries including small island developing States. As a responsible major developing country, China stands ready to work with all countries to follow the vision of building a community with a shared future for mankind, promote a fair and equitable system of global climate governance for win-win cooperation, safeguard the common home for mankind and jointly build a clean and beautiful world.

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