

INTERNATIONAL COURT OF JUSTICE

**REQUEST FOR AN ADVISORY OPINION FROM
THE GENERAL ASSEMBLY OF THE UNITED NATIONS**

STATE OBLIGATIONS WITH REGARD TO CLIMATE CHANGE

RESPONSES OF THE REPUBLIC OF CAMEROON TO JUDGES' QUESTIONS

20 DECEMBER 2024

Question put by Judge Cleveland

“During these proceedings, a number of participants have referred to the production of fossil fuels in the context of climate change, including with respect to subsidies. In your view, what are the specific obligations under international law of States within whose jurisdiction fossil fuels are produced to ensure protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases, if any?”

Response of Cameroon

In principle, the States within whose jurisdiction fossil fuels are produced have obligations identical to those of States within whose jurisdiction no fossil fuels are produced in respect of fulfilling relevant climate change obligations, whether under the Paris Agreement, the UNFCCC or other relevant treaties or customary international law. However, there exist obligations of cooperation, as explicitly stated in the Paris Agreement and UNFCCC to reach relevant climate objectives. As the ITLOS recalled in its recent advisory opinion, these obligations also apply generally (ITLOS Advisory Opinion of 21 May 2024, paras. 296, 321, **Exhibit 16** of Cameroon). By reference to Cameroon’s response to Judge Tladi’s question, all States have an obligation under Article 4 of the Paris Agreement, not to act in a manner that defeats the object and purpose of Article 4 and of the Paris Agreement, that is, in a way that helps to try to reach the climate objectives set out in Article 2. This means that States within whose jurisdiction fossil fuels are produced may need to pay special attention to the production of fossil fuels, including any subsidies to such production, in order to ensure protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases. At the same time, differentiated obligations apply to all sectors of the economy, while recalling that no State can act in a manner that defeats the object and purpose of the Paris Agreement. As such, developed countries, or any State with relevant technology or know-how, would have an obligation to cooperate with States where the production of fossil fuels needs the relevant technology and/or know-how to exploit fossil fuels in the manner least harmful for the environment, and most aligned with the obligation to ensure protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases. States having such technology or being able to ensure its application would have an obligation to do so. Similar obligations of technical assistance exist in respect of marine pollution caused by anthropogenic emissions of greenhouse gases (ITLOS Advisory Opinion of 21 May 2024, para. 339, **Exhibit 16** of Cameroon).

Question put by Judge Tladi

“In their written and oral pleadings, participants have generally engaged in an interpretation of the various paragraphs of Article 4 of the Paris Agreement. Many participants have, on the basis of this interpretation, come to the conclusion that, to the extent that Article 4 imposes any obligations in respect of Nationally Determined Contributions, these are procedural obligations. Participants coming to this conclusion have, in general, relied on the ordinary meaning of the words, context and sometimes some elements in Article 31 (3) of the Vienna Convention on the Law of Treaties. I would like to know from the participants whether, according to them, “the object and purpose” of the Paris Agreement, and the object and purpose of the climate change treaty framework in general, has any effect on this interpretation and if so, what effect does it have?”

Response of Cameroon

If a State having signed a treaty cannot act in a manner that defeats its object and purpose prior to its entry into force, then obligations in a treaty which has come into force cannot also be interpreted or applied in a manner that defeats the relevant object and purpose. As such, whether Article 4 of the Paris Agreement contains merely procedural obligations, or rather some obligations of due diligence, as pointed out in Cameroon’s written submissions, those obligations cannot be merely procedural if Nationally Determined Contributions are adopted and implemented in a manner that defeats the object and purpose of the Paris Agreement and of its Article 4. The object and purpose of the Paris Agreement, as well as relevant context, which includes Article 2 in respect of climate objectives, must be taken into account when interpreting Article 4. This means that no State can act in a manner, when adopting and implementing its Nationally Determined Contributions, that would defeat the object and purpose of the agreement.

Question put by Judge Aurescu

“Some participants have argued, during the written and/or oral stages of the proceedings, that there exists the right to a clean, healthy and sustainable environment in international law. Could you please develop what is, in your view, the legal content of this right and its relation with the other human rights which you consider relevant for this advisory opinion?”

« Certains participants ont fait valoir, dans leurs écritures et/ou lors de la phase orale de la procédure, que le droit à un environnement propre, sain et durable existe en droit international. Pourriez-vous expliciter, de votre point de vue, quel est le contenu juridique de ce droit et quelle est sa relation avec les autres droits de l'homme que vous considérez pertinents aux fins du présent avis consultatif ? »

Response of Cameroon

As set out at paragraphs 83-86 of Cameroon's second written submission, there exists in international law the right to a clean, healthy and sustainable environment, or at least it should be recognized by the Court.

In respect of its content, the right to a clean, healthy and sustainable environment gives the right to all peoples to a general satisfactory environment favourable to their development. Moreover, the right to a clean and safe environment is closely linked to economic and social rights since the environment affects the quality of life and safety of the individual. The right to a clean and safe environment also has a fundamental link with the right to life of each person, as well as of existing and future generations.

As recalled by the African Commission of Human and Peoples' Rights in the matter of *The Action Centre for Social and Economic Rights and the Centre for Economic and Social Rights* (**Exhibit 11** of Cameroon), the right to a healthy environment requires States to take reasonable and other measures to prevent pollution and ecological degradation to promote conservation, and to secure an ecologically sustainable development and use of natural resources. This right to a clean, healthy and sustainable environment requires that States ordering or at least permit independent scientific monitoring of threatened environments, requiring and publicising environmental and social impact studies prior to any major industrial development, undertaking appropriate monitoring and providing information to those communities exposed to hazardous materials and activities and providing meaningful opportunities for individuals to be heard and to participate in the development decisions affecting their communities.

Also, to the extent of their respective capacities, States have an obligation to act, as recalled by the European Court of Human Rights in *Verein KlimaSeniorinnen Schweiz and others* (**Exhibit 23** of Cameroon):

the State's primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change. This obligation flows from the

causal relationship between climate change and the enjoyment of Convention rights [...] effective respect for the rights [...] requires that each Contracting State undertake measures for the substantial and progressive reduction of their respective GHG emission levels with a view to reaching net neutrality within.

The right to a clean, healthy and sustainable environment is a peremptory norm of international law. The Paris Agreement and the UNFCCC constitute means to respect this peremptory international law norm. States must cooperate to put an end, through lawful means, to any serious breach of such a peremptory norm. No State shall recognize as lawful a situation created by such a serious breach, nor render aid or assistance in maintaining that situation.

As indicated in its written and oral pleadings, a serious violation of the right to a clean, healthy and sustainable environment, which may affect the rights of individuals and peoples alike, or the territorial integrity of States, may be qualified as ecocide and requires the cooperation of all States in the sense indicated and required by international law.

Question put by Judge Charlesworth

“In your understanding, what is the significance of the declarations made by some States on becoming parties to the UNFCCC and the Paris Agreement to the effect that no provision in these agreements may be interpreted as derogating from principles of general international law or any claims or rights concerning compensation or liability due to the adverse effects of climate change?”

Response of Cameroon

Those declarations recall the positions of those States as well as the status of the law. They also recall that the UNFCCC and Paris Agreement are not *lex specialis* in the sense of precluding the application of general international law, including on State responsibility, where relevant and applicable.

Done at Yaoundé, Cameroon, this 20th day of December 2024.



MOUGNAL SIDI
Ministre Plénipotentiaire

Dr. Mougna Sidi

Minister Plenipotentiary

Director of Legal Affairs and the State's International Commitments

Ministry of External Relations

Republic of Cameroon